

**MODEL #3 [Québec]
FIRST NATION
FAMILY REAL PROPERTY LAW**

This Model Law was prepared for use by a First Nation in Quebec only.

It is based upon the following principles:

- 1. Common-law partners will have the automatic right to apply for exclusive occupation of the family home, but must make a contract to have any of the other rights to family real property that married spouses or civil union spouses have.**
- 2. The rules for dealing with family real property (immovables) on First Nation land should otherwise be similar to those under the Civil Code of Quebec and the Code of Civil Procedure.**
- 3. When spouses or common-law partners separate or divorce, taking care of the best interests and welfare of children is most important.**
- 4. Members only hold CPs or other formal ways of holding real property on the reserve.**
- 5. Disputes between spouses or common-law partners should be resolved amicably through an alternative dispute process, like mediation.**
- 6. If spouses or common-law partners cannot resolve their disputes, the Québec court should do so and decide how to apply this Law to their family real property.**

Important Notes:

- The First Nation must find a lawyer who is appropriately knowledgeable to draft its First Nation's matrimonial real property law. Drafting laws is a unique type of legal task that differs from litigating in court or drafting contracts or agreements.**
- The information in this document is to be used only by a qualified lawyer who is knowledgeable in the Civil Code of Quebec and First Nation's family real property law. *You must not rely on the information in this document as an alternative to legal advice from a qualified lawyer.***

- **This draft contains notes in boxes where the First Nation's lawyer may want to consider changes or add extra provisions.**
- **In some cases, the First Nation may need to make a choice about certain provisions. These choices are indicated by text in square brackets, e.g. inserting the name of the First Nation or changing a number.**

MODEL LAW

[NAME OF FIRST NATION]

FAMILY REAL PROPERTY LAW

First Reading on [date]
Second Reading on [date]
Third Reading on [date]
Approved on [date]

In Force on [date]

Note: This part can be changed if the First Nation does not have a process for three readings.

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Model First Nation Family Residence and Patrimony Law

Preamble

WHEREAS [*name of the First Nation*] has from time immemorial used and occupied its lands;

WHEREAS [*name of the First Nation*] has the inherent right to govern itself, its members and its lands;

WHEREAS [*name of the First Nation*] has [*pursuant to Treaty #*] reserved certain lands for the exclusive use and benefit of its members;

WHEREAS [*name of the First Nation*] desires to protect its members living on its reserve lands in accordance with its culture and traditions;

WHEREAS [*name of the First Nation*] does not wish to be bound by the default provisions of the federal *Family Homes on Reserves and Matrimonial Interests or Rights Act* (Canada);

WHEREAS Quebec's laws respecting real property do not apply to reserve lands;

WHEREAS [*name of the First Nation*] desires to provide a law appropriate to our culture and traditions, and in harmony with the general principles of the Civil Code of Quebec, respecting family residences and the partition of patrimony on its reserve lands;

WHEREAS spouses and common-law partners should be enabled to resolve their disputes amicably;

WHEREAS [*name of the First Nation*] believes that the best interests and welfare of the children should be paramount when determining the occupation of the family residence, which should be a place of safety and comfort for children;

Note: The First Nation can add other relevant sentences to the Preamble, e.g. a reference to any applicable Treaty. Since a Preamble is just an introduction that gives some context to the Law, matters of substance should be put into the Law itself, rather than the Preamble.

The Chief and Council of the [name of the First Nation] enacts as follows:

Title

1. The title of this Law is the [name of the First Nation] *Family Real Property Law*.

Definitions

2. For the purposes of understanding this Law, the following definitions apply:

"Act" means the *Family Homes on Reserves and Matrimonial Interests or Rights Act* (Canada).

"alienate" includes to give, to sell, to exchange and any other method of alienation, or disposal, including by a will.

"child" means

- (a) a child of the spouses or common-law partners, whether born in wedlock or not;
- (b) a child adopted by the spouses or common-law partners in accordance with the law of a province or territory or in accordance with Aboriginal custom;
- (c) a child of one spouse or common-law partner and adopted by the other spouse or common-law partner; or
- (d) a child whom the spouses or common-law partners have demonstrated a settled intention to treat as their child.

"Civil Code" means the Civil Code of Québec, chapter CCQ-1991.

"civil union" has the meaning given to it under the Civil Code.

"Code of Civil Procedure" means Québec's Code of Civil Procedure, chapter C-25.01.

"common-law partner" means an individual who, in respect of another person, is not married to the other person or in a civil union with the other person but is in a marriage-like relationship with the other person.

Note: This Law uses the term "common-law partner", because that is the term people normally use in English. However, the Civil Code uses the legal term "common-law partner".

"common-law relationship" means the relationship between common-law partners as interpreted under section 3.6.

"Council" means the Council of the [name of the First Nation].

"contract" means a marriage contract, a civil union contract or other contract governing the relationship and property of spouses or common-law partners.

"court" means the Superior Court of Québec.

Note: Instead of using the court, a First Nation could decide to have another body make decisions under this Law, e.g. a First Nations Tribunal. This would be appropriate if such a body already exists or the First Nation has the resources to establish one. However, courts have existing powers of granting orders and enforcing them.

Note: The Act allows provincial governments to designate justices of the peace (JPs) and judges to hear emergency protection applications. An application to the "court" may be difficult to access for a remote community. However as of September 1, 2016, Quebec has not designated any. If Quebec does eventually designate JPs and judges, a First Nation may want to include the following definition in its Law and allow them to hear applications for an exclusive occupation order under s. 8.4 of this Law. As an alternative, a First Nation could consider itself designating and using a local justice of the peace, after making appropriate arrangements with the authorities responsible in Québec.

"designated judge" means a justice or the peace or judge who is authorized under the Act for the purposes of the Act;

"family patrimony" has the meaning given to it under the Civil Code.

Note: The concept of "family patrimony" is unique to the Civil Code. This Law only applies to the following property, regardless of which spouse owns it:

- *All residences used by the family on reserve (including houses, cottages, apartments and other dwellings).*

"family residence" means all residences of the family and all rights that confer use of these residences.

"[*name of the First Nation*] land" means [*describe the reserve lands of the First Nation*].

Note: This definition should be in the correct alphabetical order. If the legal description of the reserve is long, the description can be placed in a Schedule to the Law. Also the First Nation should consider whether to accommodate additional future reserve lands.

"member" means a person whose name appears on the membership list of [*name of First Nation*].

"real right" means [*delete any of the following that are not applicable*]

- (a) a Certificate of Possession;
- (b) a Certificate of Occupation;
- (c) any other right to possession allotted in accordance with section 20 of the *Indian Act* (Canada);
- (d) a permit referred to in subsection 28(2) of the *Indian Act* (Canada);
- (e) a lease under section 53 or 58 of the *Indian Act* (Canada);
- (f) a right or interest in or to land that is subject to the [*name of the First Nation*] Land Code / any Kanesatake Mohawk law; or
- (g) any other right or interest in or to a structure or property recognized by the Council or by the court under section 7.4 or 9.6.

Note: The First Nation should include only those rights and interests above that are used on its reserve. The rights and interests set out in s. (g) should be included for special cases.

"spouse" means an individual who, in respect of another person,

- (a) is married to the other person; or
- (b) is in a civil union with the other person.

Note: This definition does NOT include common-law partners. This Law will only refer to common-law partners in those section where they also have rights.

Rules of Interpretation

3.1 The rules in sections 3.2 to 3.8 apply to the interpretation and application of this Law.

3.2 The provisions of this Law that incorporate or refer to articles of the Civil Code or the Code of Civil Procedure shall be interpreted as having the same meaning as those articles, unless a contrary intention is clear. A reference to an article of the Civil Code or the Code of Civil Procedure in this Law includes any subsequent amendment, revision or replacement of the article.

3.3 A person ceases to be considered a child upon reaching full age, unless he or she is dependent upon one of the spouses or common-law partners for care or financial support because he or she is

- (a) attending school; or
- (b) suffering from an illness or disability.

3.4 A marriage is also considered to be valid if performed in accordance with Aboriginal custom.

3.5 The sex or gender of a person is not relevant to the interpretation of "spouse" or "common-law partner" or to the application of this Law.

3.6 A common-law relationship is considered to start when two people

- (a) have been living together in a marriage-like relationship continuously for a period of at least [one] year;
- (b) have been living together in a marriage-like relationship and together they are the natural or adoptive parents of a child; or
- (c) have agreed by contract to treat their relationship as marriage-like.

Note: The one-year period of living together in s. 3.6(a) is the same as in the Indian Act (Canada). A First Nation could change this period, but would have to assess the

implications of any difference between this Law, the Civil Code and the effects of the Indian Act.

3.7 Separation from bed and board is terminated upon the spouses or common-law partners voluntarily resuming living together. But it is not considered terminated only because they resumed living together for the purpose of reconciliation during one or more periods totalling not more than [90] days.

Note: The 90 day period is a period used in other similar provincial legislation. A First Nation could choose a different period.

3.8 This Law does not limit or preclude any right or remedy available under any other law, including the legislation of [*name of the First Nation*], the Civil Code, the Code of Civil Procedure and the other laws of Québec or Canada.

Application of this Law

4.1 This Law applies in respect of family residences, real rights and other immovables on [*name of the First Nation*] land.

4.2 This law does not apply to

- (a) any personal property or movables; or
- (b) any immovables not on [*name of the First Nation*] land.

Note: This Law does NOT apply to bank accounts, vehicles, pensions or other personal property. It only applies to real property on the reserve.

4.3 This Law applies to spouses and common-law partners only if at least one of them is a member.

Note: This Law would NOT cover non-member couples living on the reserve. For example, it does not cover a non-Aboriginal couple or couples who are members of other First Nations, Métis or Inuit living on the reserve on leased land. This Law will not apply to real property owned or occupied by these other couples.

Note: If the First Nation wants to also cover couples where one of the spouses is a member of another First Nation or an "Indian" (within the meaning of the Indian Act), use this alternative option:

4.3 This Law applies to spouses and common-law partners only if at least one of them is

- (a) a member;
- (b) a person who is a member of another First Nation; or
- (c) registered, pursuant to the Indian Act (Canada), as an Indian or is entitled to be registered as an Indian.

4.4 This Law applies in respect of

- (a) marriages, civil unions and common-law relationships that began before and after this Law came into force; and
- (b) real rights, immovables and other real property acquired before and after this Law came into force.

Contracts

5.1 Spouses, common-law partners and people entering into a marriage, civil union or common-law relationship are encouraged to enter into a contract for the management of their affairs.

5.2 For greater certainty, under the Civil Code spouses cannot by way of their contract or otherwise, renounce their rights in the family residence or any real rights, immovables or other real property that are part of the family patrimony.

5.3 For greater certainty, under the Civil Code a spouse may renounce some or all of their rights referred to in section 5.2 after the death of the other spouse, divorce, separation from bed and board or nullity of the marriage. It must be done by notarial act en minute or by a judicial declaration that is recorded, in the course of proceedings for divorce, separation from bed and board or nullity of marriage. Renunciation shall be entered in the Québec register of personal and movable real rights in accordance with the Civil Code.

5.4 For greater certainty, under the Civil Code any kind of stipulation may be made in the contract, subject to the imperative provisions of law and public order and the inability to renounce rights to family patrimony.

5.5 The contract is only enforceable if

- (a) it is made in writing;
- (b) it is signed by the parties; and
- (c) in the case of spouses, it is signed by the parties in front of a notary and, in the case of common-law partners, the signatures of the parties are witnessed.

The Family Residence

6.1 A family residence is for use, enjoyment and occupation by the family, namely the spouses, common-law partners and their children, if any.

6.3 A child has a right to use, enjoy and occupy the family residence regardless of any change in the relationship between the child's parents and the child's right is

- (a) paramount over the right of a parent, spouse or common-law partner to use, enjoy and occupy the family residence; and
- (b) continues until the court makes an order, or other accommodation is arranged, in the best interests and welfare of the child.

6.4 A spouse or common-law partner who is occupying the family residence when the other spouse or common-law partner dies is entitled to continue to occupy the family residence for 180 days after the other's death.

6.5 To avoid uncertainty, spouses and common-law partners may designate a structure as their family residence in a contract.

Note: A First Nation with a developed registry system may add the following section to allow a spouse to designate a structure as his or her family residence.

6.6 *To avoid uncertainty, a spouse may, in a form approved by Council, designate a structure as the family residence, if at least one spouse has a right or interest in it.*

Restrictions on Alienation of Family Residence

7.1 No spouse or common-law partner shall, without the written consent of the other, alienate a family residence, charge it or lease any part of it.

7.2 Any act contrary to section 7.1 has no legal effect.

Note: This rule is absolute. A third party purchaser would not be protected. A First Nation could allow a third party purchaser who buys in good faith without notice of the contravention of s. 7.1 to obtain rights, but that would work against the injured spouse.

7.3 For greater certainty, any alienation, charging or leasing of a family residence is also subject to the laws of the First Nation and the *Indian Act* (Canada).

Note: A First Nation with a Land Code would include a reference to their Land Code here.

7.4 On application, the court has the power to

- (a) determine what is a family residence and its extent;
- (b) authorize the alienation, charging or lease of the family residence without the consent of a spouse or common-law partner, if that person
 - (i) cannot be found or does not contest the application,
 - (ii) is not capable of giving or withholding consent, or
 - (iii) is unreasonably withholding consent; or
- (c) declare as of no effect and annul any act respecting a family residence made contrary to section 7.1.

Exclusive Occupation of Family Residence

8.1 The court may, on the application of a spouse or common-law partner, order that

- (a) one spouse or common-law partner or any children be given exclusive rights to use, enjoy and occupy a family residence or part of it for the period that the court directs and release any other property that is a family residence from the application of all or part of this Law;
- (b) a spouse, common-law partner or other person preserve and deliver up the family residence to a spouse, a common-law partner, a child, [another person or the First Nation];
- (c) a spouse, common-law partner or other person not disturb the occupants of the family residence;
- (d) the person having exclusive use, enjoyment and occupation of the family residence pay an equalizing sum, in a lump sum or instalments, to the other;
- (e) some or all of the contents of the family residence remain in the residence or be removed from the residence;
- (f) a spouse or common-law partner pay for all or part of the repair and maintenance of the family residence and other related liabilities, or to pay compensation to the other for these purposes; and
- (g) the exclusive rights extend to land contiguous to the family residence where necessary for the use and enjoyment of the family residence.

8.2 When making an order under section 8.1, the court shall consider all the circumstances of the parties, including

- (a) the best interests and welfare of any affected children and their paramount right to use, enjoy and occupy the family residence;
- (b) any existing orders under this Law and the Civil Code;
- (c) the financial position and medical condition of the parties;
- (d) the provisions of any contract between the parties;

- (e) the availability of other suitable and affordable accommodation;
- (f) the length of time each party has resided in the family residence;
- (g) whether any third party holds a right or interest in the family residence;
- (h) the interests of any elderly person, or person with a disability, who habitually resides in the family residence, if one of the parties is that person's caregiver;
- (i) any other exceptional circumstances related to a person, other than the parties or children, who is occupying the family residence; and
- (j) the collective rights of the First Nation and any financial interest of the First nation in the family residence.

8.3 If the family residence was occupied under a lease, the terms of the lease apply to any persons granted exclusive occupancy during the period of the order.

8.4 For greater certainty, an order made under this section does not

- (a) affect the family patrimony or change other legal rights in the family residence; and
- (b) affect the power of an executor of a will or an administrator of an estate from dealing with the property.

Note: A First Nation could include the following section in the Law, if

- *Quebec does eventually designate JPs and judges; or*
- *the First Nation does make an arrangement for a local JP to hear emergency applications.*

8.5 *If an order under this section is needed urgently, the application may be made to a designated judge, instead of the court, and the designated judge may make the order on a temporary or emergency basis and without prior notice to another party pursuant to sections 14.2 and 14.3.*

Partitioning the Family Patrimony

9.1 In the event of separation from bed and board, or the dissolution or nullity of a marriage or civil union, the value of the family residences, real rights and other immovables that are included in the family patrimony of the spouses, after deducting the debts contracted for the acquisition, improvement, maintenance or preservation of the property composing it, is equally divided between the spouses or between the surviving spouse and the heirs, as the case may be.

9.2 Those family residences, real rights and other immovables included in the family patrimony shall be partitioned in accordance with articles 416 to 421 of the Civil Code respecting partition of the family patrimony.

9.3 A spouse may apply to the court to partition the family patrimony when the spouse believes the will to live together is gravely undermined, particularly when

- (a) further living together is hardly tolerable;
- (b) the spouses are living apart; or
- (c) the other spouse has seriously failed to perform an obligation resulting from the marriage or civil union.

9.4 On application, the court may make any order that it considers necessary to stop or restrict the irresponsible depletion of the family patrimony.

9.5 For greater certainty, when partitioning the family patrimony, the following real rights cannot be transferred to or held by a person who is not a member:

- (a) a Certificate of Possession;
- (b) a Certificate of Occupation; or
- (c) any other right to possession allotted in accordance with section 20 of the *Indian Act* (Canada).

9.6 On application, the court has the power to determine

- (a) what the family patrimony is and its value;
- (b) the date for fixing the value of the family patrimony under section 11.4;
- (c) the partitioning of the family patrimony; and

- (d) how the partition is to be effected, including any combination of the following methods:
 - (i) the payment of an amount in a lump sum or by instalments,
 - (ii) the transfer of property or a right, subject to section 9.5,
 - (iii) the set-off or compensation of any amounts owed by one spouse to the other.

9.7 Despite section 9.1, the court may partition the family patrimony in unequal shares, where authorized to do so for family patrimony under the Civil Code because it would result in an injustice considering, in particular, the brevity of the marriage or civil union, the waste of certain property by one of the spouses, or the bad faith of one of them.

Note: Instead of referring to provincial law generally, the Model Law for First Nations in other provinces has a long list of circumstances where an unequal payment is allowed. If a First Nation prefers such a list, it can use the alternative s. 9.7 set out below in italics.

Alternate s. 9.7:

9.7 Despite section 9.1, the court may partition the family patrimony in unequal shares, if the court considers that would be unfair and inequitable after considering the following:

- (a) *the best interests and welfare of any affected child, including the need to provide accommodation or to properly support any affected child;*
- (b) *any payments payable for the support of a child and any financial responsibility related to the care and upbringing of the child;*
- (c) *any contract between the spouses;*
- (d) *any agreement between one or both spouses and a third party;*
- (e) *the length of time that the spouses have lived together;*
- (f) *the length of time, if any, that the spouses have lived separate and apart;*
- (g) *the date when the property was acquired;*

- (h) *any significant change in the value of the property in question between the day for fixing the value date and the day on which the order is made;*
- (i) *whether one spouse has exclusive occupation of the family residence by agreement or order;*
- (j) *any contribution, whether financial or in some other form, made directly or indirectly by a third party on behalf of a spouse to the acquisition, disposition, operation, management or use of the property;*
- (k) *any direct or indirect contribution made by one spouse to the career or career potential of the other spouse;*
- (l) *the extent to which the financial means and earning capacity of each spouse have been affected by the responsibilities and other circumstances of the marriage or civil union;*
- (m) *any a substantial gift of property by a spouse to a third party or any transfer of property by a spouse to a third party other than a bona fide purchaser for value;*
- (n) *any previous distribution of property between the spouses by gift or agreement or pursuant to an order of any court;*
- (o) *any tax liability that may be incurred by a spouse as a result of any transfer or sale of property or any order made by a court;*
- (p) *any dissipation or reduction in value of the property caused by a spouse;*
- (q) *any benefit received or receivable by the surviving spouse as a result of the death of his or her spouse;*
- (r) *any financial or other interests of the First Nation or third parties in the property;*
- (s) *any debts or liabilities of a spouse, including debts paid during the course of the marriage or civil union;*
- (t) *the value of other property that is subject to partition or has been divided under the applicable family law of a province or territory;*

(u) *any other relevant fact or circumstance.*

Other Property

10.1 This section applies to any real right, immovable or other real property on [*name of First Nation*] land owned by a spouse that is not part of the family patrimony.

10.2 When there is separation from bed and board or the dissolution or nullity of a marriage or civil union, any property owned by a spouse before entering into the marriage or civil union remains the private property of the spouse, subject to any contract agreed upon between them.

10.3 When there is separation from bed and board or the dissolution or nullity of a marriage or civil union, any property acquired by a spouse during the marriage or civil union is governed by their contract, if any, or by the matrimonial regime, civil union regimes or rules otherwise applicable to them under the Civil Code.

Valuation of Property

11.1 The net value of property that is included in the family patrimony is determined under this Law according to the market value of the property and the debts contracted for the acquisition, improvement, maintenance or preservation of the property composing it.

11.2 Any other property must be valued at the amount that a buyer would reasonably be expected to pay for comparable property minus the amount of any outstanding debts or other liabilities assumed for acquiring the rights or interests or for improving or maintaining the property, unless the court determines that another value is more appropriate in the circumstances.

Note: Valuation of real property on reserve will be difficult to determine, since there is little market for these rights and interests and there is little market data available. This is particularly true for remote First Nations. A First Nation may choose another more appropriate method of valuation, if one is available.

11.3 For greater certainty, the value of property does not [necessarily] mean its insured value or the value of equivalent property off reserve.

11.4 The date for determining the value of property under this Law is the earliest of the following dates:

- (a) the date a divorce is granted;
- (b) the date the marriage or civil union is declared a nullity;
- (c) the date of separation from bed and board;
- (e) the date one spouse dies;
- (f) the date an application is made to the court for exclusive occupation of the family residence or for separation from bed and board, divorce or nullity of the marriage or civil union.

Other Rights of Common-law Partners

12.1 For greater certainty, common-law partners may, by contract, agree to give each other some or all of the same rights to property as a spouse under this Law, including

- (a) the same rights as a spouse in relation to partitioning the family residences, real rights and other immovables included in the family patrimony under section 9; and
- (b) the same rights as a spouse respecting other property under section 10.

12.2 For greater certainty, the rights referred to in section 12.1 shall be recognized and enforced in the same manner as for a spouse.

Mediation

13.1 Spouses and common-law partners who have a dispute about matters under this Law should make a reasonable attempt to resolve it through

- (a) the efforts of a mutually agreed upon certified family mediator; or
- (b) a dispute resolution process conducted in accordance with the traditions, customs and practices of the [*name of First Nation*].

Note: Family mediators must be certified under Québec law, which also requires mediation before any trial of a family issue. Québec's Ministère de la Justice may pay the cost of the mediator's fees. But the First Nation may want the parties to be able to use a more traditional method, especially if the First Nation has an alternate dispute resolution method available, e.g. an Elders Committee.

13.2. Using a mediation or dispute resolution process does not prevent a party from seeking a remedy from the court, especially in urgent circumstances.

General Powers of the Court

14.1 Subject to this Law, the court has all the powers in respect of family residences, real rights and other immovables on [First Nation] land as it has respecting family residences, real rights and other immovables under the Civil Code.

14.2 For greater certainty, the court may make an order, injunction or decision under this Law on an emergency or temporary basis.

14.3 For greater certainty, the court may make an order, injunction or decision under this Law without prior notice to another party, if the court believes that it is justified in the circumstances.

14.4 The applicant for any orders, injunctions and decisions under this Law shall serve a copy of the application and a copy of the court's subsequent decision, order or injunction on the [name of First Nation], subject to section 14.3.

14.5 The [name of First Nation] is entitled to make representations on any application made by a party to the court under this Law, subject to section 14.3 of this Law and article 15 of the Code of Civil Procedure.

14.6 In determining the best interests and welfare of a child, the court shall also consider

- (a) the possible disruptive effects on the child of a move to other accommodation; and
- (b) the child's views and preferences, if they can reasonably be ascertained.

14.7 For greater certainty, the court may, on application, confirm, vary or revoke any orders, injunctions and decisions made under this Law.

14.8 For greater certainty, the Code of Civil Procedure applies in respect of orders, injunctions and decisions under this Law.

Appeals

15.1 An appeal from an order, injunction or decision made under this Law does not operate as a stay or suspend its operation, unless the judge hearing the matter decides otherwise.

Enforcement

16.1 For greater certainty, a person who fears that another person may injure them, their spouse or common-law partner, or a child, or may damage their property may obtain a peace bond under section 810 of the *Criminal Code* (Canada).

Note: If you are afraid for your safety, you may be able to get a peace bond. This is an order under the Criminal Code that sets conditions on the person who behaved abusively. For example, that person may be forbidden to see you, write to you, or telephone you. If the person who behaved abusively disobeys the order, the police may arrest them.

16.2 For greater certainty, under the Code of Civil Procedure a person who disobeys a court order or injunction under this Law or acts in such a way as to interfere with the orderly administration of justice or undermine the authority or dignity of the court is guilty of contempt of court in accordance with the.

16.3 On the request of an applicant or if directed by the court, a court bailiff acting, as court officer, shall assist in the enforcement of any order, injunction or decision made under this Law, including

- (a) serving notice of an order, injunction or decision upon any person; and
- (b) accompanying the applicant or any specified person to the family residence or other location in order to supervise compliance with the order, injunction or decision.

16.4 For greater certainty, under the Code of Civil Procedure the sanctions that may be imposed for contempt of court are

- (a) payment of a punitive amount not exceeding \$10,000 for contempt committed by a natural person, or \$100,000 for contempt committed by a legal person, a partnership or an association or another group not endowed with juridical personality, in which case the judgment is executed in accordance with Chapter XIII of the Code of Penal Procedure (chapter C-25.1); and
- (b) performance, by the person or the person's officers, of compensatory community work the nature, terms and duration of which are determined by the court.

16.5 For greater certainty, if a person refuses to comply with the order, injunction or decision, in addition to the sanction imposed, the court may order imprisonment for the term it specifies.

Administration

17.1 A copy of this Law appearing to be certified as a true copy by an officer of the [*name of First Nation*] is proof of the original without proof of the officer's signature or official character.

17.2 The Council shall ensure that a copy of this Law, as amended from time to time, is available for public inspection at locations designated by the Council and may make it public any other means of communication that the Council considers appropriate.

17.3 An applicant who obtains a court order or decision under this Law shall, without delay, send a copy of it to the Reserve Land Register, established under the *Indian Act*.

Amendment or Repeal

18.1 This Law may be amended or repealed only by a subsequent law made by the [*name of First Nation*].

18.2 The Council must hold at least three meetings that are open to all members to consider and discuss any amendment or repeal of this Law.

18.3 The Council must, at least 30 days in advance of the first meeting, take reasonable measures that are in accordance with the traditions, customs and practices of [*name of the First Nation*] to inform its members of

- (a) the time and place of all the meetings;
- (b) their right to attend and participate in these meetings;
- (c) a summary of the proposed amendments or repeal; and
- (d) the requirements for approval under sections 18.4 and 18.5.

18.4 Every member who is 18 years of age or over, whether or not resident on [*name of the First Nation*] land, is eligible to vote on whether to approve the amendment or repeal.

18.5 An amendment or repeal of this Law is not valid unless approved by a majority of the eligible members who participated in the final meeting.

Note: A First Nation may use another method of approval. For example, the same method required under the Act to approve this Law.

Transitional Provisions

19.1 If an application to apply the provisional federal rules under the Act has been made to the court or a designated judge before this Law comes into force, the application shall continue to be determined in accordance with those federal provisional rules, unless

- (a) the court is satisfied that applying the provisions of this Law would be more just and fair in the circumstances; or
- (b) the parties agree that the provisions of this Law should be applied instead.

Note: The federal provisional rules came into force on December 16, 2014. So it is possible that some marital breakdowns are being dealt with under those rules. This transitional provision makes it clear that any application to deal with family property that was started before this Law comes into force continues to use the federal provisional rules. The court may make an exception if using this Law is more just.

Coming Into Force

20.1 This Law comes into force on [*date*].

Note: A First Nation should choose a convenient date that is after the approval vote.