

PROJECT PEACEMAKER

JUVENILE PROCEDURES FOR TRIBAL COURT



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For Turtle Mountain Community College
Accredited by: The Higher Learning Commission
and A Member of the North Central Association
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This procedure manual is meant to be used as a practical tool for Tribal Advocates, Attorneys and Judges. This book demonstrates the different types of petitions, procedures, orders and responsibilities of a Tribal Advocate or Attorney within most Tribal Court systems.

As a Tribal Advocate or Attorney, you should always utilize the Tribal Code and procedures of your respective jurisdictions and incorporate them in all petitions and orders. This handbook merely demonstrates a general example for the most litigated issues in a juvenile division. All Tribal Courts may vary with their own procedures and that is why this book was designed for any Tribal Advocate and Attorney to follow as a overall tool to complete a proper petition and order.

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Editorial Review-Shirley M. Cain, Attorney at Law

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Definitions

There are many different definitions in Tribal Courts that a Tribal Advocate or Attorney should understand while preparing documents for the Court. However, these are just a few of the most important terms that need to be recognized. *Note: These terms are taken from the Turtle Mountain Tribal Code.

Child- means any Indian person less than eighteen (18) years of age.

Petition- means a written request to the Court that it take an action, usually in a case involving juvenile or civil matters. It is the only way to get the Court moving in any proceeding.

Juvenile Court- means that a Tribal Court has jurisdiction over a child welfare matter.

Indian Child- means a child of an Indian descendent who is enrolled or eligible for enrollment in an Indian Tribe, Band, or Community, or is eligible to utilize existing services within the community such as school, public health services, or any Tribal program.

Physical Custody- means that a person has actual possession and control of the child.

Abandon- means to leave a child for a prolonged period of time without the parent or legal custodian making proper arrangements for his/her care and nourishment.

Jurisdiction- (in Juvenile Court) means that a Tribal Court shall have exclusive jurisdiction of any child custody proceedings involving a child residing on or domiciled within the boundaries of the Tribal Reservation and adjacent Tribal lands except where jurisdiction is already vested in the state by existing Federal Law.

Adjudication- means the giving or pronouncing of a judgment or decree in a case.

Summons

A Summons from the Juvenile Division is written the same as any other Summons of any other department.

A Summons should always be attached with the petitions from the Juvenile Division.

Summons will not have a Court date on them and that is something that continually confuses Petitioners and Respondents. The Summons is only used to inform the parties that there are a number of days that the Respondent is entitled to in order to answer to the petition they were served and to inform the parties an action has begun in court.

Once a Summons is signed by a Clerk (when the Petitioner comes to file the petition), this shows the Respondent that the petition was properly filed and the date is the start of the given days to file a Response.

A Tribal Advocate or Attorney will not schedule the hearing. They are usually allowed to request certain days within their busy schedules; however, a Court Clerk is the only person that will schedule the actual time and date of a hearing.

A client should always know that a Summons is their indication that they should answer to the petition attached.

Dated and signed this _____ day of _____, 20____.

Clerk of Court
Indian Reservation
Address
City, State ZIP

Notice to Appear and Affidavit of Service by Mail

A general Notice to Appear for Hearing is sent to all parties involved and who must be notified of a scheduled hearing.

Along with every Notice to Appear for Hearing, an Affidavit of Mailing must be attached. Actually, anything that is sent out must have an Affidavit of Mailing or Certified Action Record attached to it to show who exactly got mailed or served the documents.

Notices to Appear for Hearings must be sent out with a sufficient amount of time for the parties to prepare for the hearing.

If the Court file doesn't have an Affidavit of Mailing, the case cannot be heard in front of the Judge because of the lack of evidence that the Notice was even sent to the appropriate parties.

Tribal Attorneys or Advocates will prepare their own Certification of Service. This can be done with a standard form of Affidavit of Mailing or with an Action Record. It is extremely important for a Tribal Advocate or Attorney to supply the Tribal Court with all documentation that the parties have been served properly as this is a due process consideration.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____))
Petitioner,)
VS.)
_____))
Respondent,)

**NOTICE TO APPEAR
FOR HEARING**

Case No. _____

To: (Enter all the names that need to be at the hearing)

YOU ARE HEREBY notified and required to appear before this Court in the above entitled matter on the (enter the day, month, and year), at (enter time of hearing).

This hearing is scheduled to be heard before the Honorable (enter Judge's name), (enter Judge's title), and will be on: (enter what the hearing is about)

1. You may appear with or without legal representation.
2. You are responsible for notifying your own witnesses.
3. You are responsible for notifying your client (applies only to Attorneys or Advocates).

PETITIONER'S FAILURE to appear when duly served will result in a dismissal of the case.

RESPONDENT'S FAILURE to appear when duly served may result in a judgment by default.

Dated: _____

Clerks Signature

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent,)

AFFIDAVIT OF MAILING
Case No. _____

(Enter name of person mailing the affidavit), after being duly sworn under oath, deposes and says that the Affiant is more than twenty-one years of age; and on the (enter the day, month, and year) said Affiant deposited in a sealed envelope a true copy of the following:

NOTICE OF HEARING

In the above entitled action, in the United States Post Office, in (enter city and state), postage prepaid, and directed to:

NAME
ADDRESS
CITY, STATE and ZIP CODE

NAME
ADDRESS

CITY, STATE and ZIP CODE

Affiant

Witnessed by: _____ Dated: _____

Visitation Petition

A standard visitation petition can be used by anyone who would like to petition a Court for a visitation schedule.

Visitation petitions more than likely will have an instructional sheet so that the Petitioner will know the specific procedures that the Court in which they are filing their petition with are followed.

Some Tribal Courts will request a filing fee or a related cost with all filings in the Court, so a Petitioner will need to make sure that it is paid in order to get a scheduled hearing. In some courts, this fee may be waived if a Petitioner can show she or he is indigent (too poor) by filing an Informa Pauperis (hereinafter “IFP”) Petition. A Judge must sign the Order that grants the IFP.

A Petitioner (or Tribal Advocate or Attorney) must always try to include the Respondent’s address to insure that they are also notified properly of the Court proceedings. Thus, the hearing cannot be delayed for the lack of proper service.

If the Petitioner and Respondent can negotiate a visitation agreement prior to the scheduled Court hearing, they must still present their case before the Judge in order to obtain an official Court Order. A notarized statement from either party doesn’t count as a legal document and neither party will receive an actual Court Order until the Judge finalizes the decision after hearing the provided testimony.

Once a petition is filed with the Tribal Court, the Respondent should always take the opportunity to file a Response with the Court. In addition, with a Response filed by the Respondent, a Judge can clearly see that there is interest in the case by both parties. In some jurisdictions, a Respondent who does not answer within the given time frame, waives their right to answer later

Once a visitation hearing is scheduled by the Court, a Tribal Advocate or Attorney should keep in mind that if the Respondent has not filed any type of response with the Court, the case could be at least an hour long to sort out the times of visitation that coincides with the schedules and convenience of both parties. Note: In some visitation cases, transportation on or off the Reservation can be a factor that the court may have to consider. If both parties have an agreement, a visitation hearing can often be as short as fifteen minutes. That is why it is important as a Tribal Advocate or Attorney to keep communication lines open between both parties and try to act as a mediator (if possible) to help create an agreed upon schedule. By doing this, time will be saved by the parties, the Tribal Advocate or Attorney, and most importantly, the Judge and the Court staff.

A Petitioner or Tribal Advocate or Attorney can encourage the Respondent to file a response with the Court if she or he wishes to obtain a timely hearing. Also, they show the Judge that they are interested in the matter being discussed in the petition by actually supplying them with a standard Response form while serving the actual petition.

List Reservation
P.O. Box
City, State ZIP
Phone Number
Fax Number

Directions to Complete your Petition for Visitation

1. You have the right to hire a licensed Attorney or Tribal Advocate for assistance in this matter.
2. A Tribal Court fee of (enter dollar amount) is required at the time of filing.
3. After fully completing and filing of the Visitation Petition, you will receive two copies. **One to keep for your self and one to have served to the Respondent.** (Legal service includes either certified mail once the green card is returned to the Court Clerk, hand delivered by a Police Officer and once the Action Record is returned to the Court Clerk, or hand-delivered by a NON-interested third party once an Affidavit of Personal Service (written & notarized statement) is provided to the Court by the individual who actually served the documents with the exact time and date of delivery.
4. As soon as the Court Clerk receives proof of service, the amount of days that the Tribal Court Summons states will be counted from the date of service. Then, a Court date will be scheduled once the Court calendar is open for a hearing.
5. Immediate temporary visitation will not usually be granted from a basic petition filed with the Court. In most cases, if immediate visitation is granted with only one party present, this is an Exparte order and is not legal in most jurisdictions. If

there is proof of neglect or abuse, documentation or assistance from a local Law Enforcement Agent or Tribal Child Welfare must be submitted at the time of filing and then approved by the Tribal Judge for an emergency hearing.

- 6. Proof of service must be brought to the Court within (Tribal Codes should require a certain amount of time stated in the Tribal Court) a number of days of filing your petition. If this is not received, your petition will be DISMISSED and a NEW petition and NEW filing fee will be required by the Court.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

In the matter of: _____, DOB: _____
(list child’s name) (child’s date of birth)
_____, DOB: _____
(list child’s name) (child’s date of birth)
_____, DOB: _____
(list child’s name) (child’s date of birth)

_____)
Petitioner,)
VS.)
_____)
Respondent.)

SUMMONS FOR VISITS
JV- _____

TO THE ABOVE NAMED RESPONDENT:

You are hereby summoned and required to appear and defend against the Petitioner in this action, which is on file with the “Indian Reservation Court” in “CITY, STATE,” and herewith served upon you, by serving upon the undersigned an answer or other proper response, within twenty (20) days of the service of this summons upon you exclusive of this date of service. If you fail to do so, judgment by default will be taken against you for the relief and demand in this complaint.

Dated and Signed this _____ day of _____, 20____.

Clerk of Court
Indian Reservation
Address
City, State ZIP

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

In the matter of: _____, DOB: _____
(list child's name) (child's date of birth)
_____, DOB: _____
(list child's name) (child's date of birth)
_____, DOB: _____
(list child's name) (child's date of birth)

_____)
Petitioner,)
VS.)
_____)
Respondent.)

VISITATION PETITION
JV-_____

Comes now the Petitioner hereby deposes and swears the following:

The Petitioner hereby makes this request to have a visitation schedule granted by the Tribal Court as follows:

1. That the Petitioner is an (CIRCLE WHAT APPLIES) enrolled member of the following Tribe:
 - A. Indian Tribe, located in _____
(List the city and state)
 - B. The Petitioner is not enrolled in any Indian Tribe.

The Petitioner's address is: _____

(list address, city, and state)

2. That the Respondent is an (CIRCLE WHAT APPLIES) enrolled member of the following Tribe:
 - A. Indian Tribe, located in _____
(List the city and state)
 - B. The Respondent is not enrolled in any Indian Tribe.

The Respondent's address is: _____

(List address, city, and state)

3. The Petitioner is related to the minor child(ren) by being their:

PLEASE CIRCLE WHICH ONE APPLIES

Father Mother Aunt/Uncle Grandmother/Grandfather Cousin

_____ (fill in if applicable)
Other extended family, relative, friend, etc.

The Petitioner requests the Court grant this Petitioner his or her request for visitation of the above-listed minor child(ren) based on the attached affidavit with the following facts:

Date: _____

Petitioner's Signature

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
 Petitioner,)
)
 VS.)
)
)
)
)
)
 _____)
 Respondent.)

**AFFIDAVIT FOR
VISITATION PETITION**
JV-_____

COMES NOW, the above captioned Petitioner(s), and being first duly sworn upon his/her oath, deposes, states, and alleges as follows, to wit:

TRIBAL COURT

JUVENILE DIVISION

INDIAN JURISDICTION

INDIAN RESERVATION

In the Matter of:

**ORDER FOR
VISITATION**

(Child's name)

(Child's date of birth)

File No. JV- _____

Petitioner's name(s),

VS.

Respondent's name(s),

A hearing was held on the _____ day of _____, 20____ at the
_____ Reservation Tribal Court. Judge _____ presided.

Present at the hearing was _____,
Petitioner, _____ and _____ Advocate or Attorney for the
Petitioner, _____ Respondent and _____, Advocate
or Attorney for the Respondent.

Based on the Evidence presented, the Court hereby enters the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Petitioner is an enrolled member, eligible for enrollment, a descendant of an enrolled member or not a Tribal member (use the applicable provision).
2. That the Petitioner(s) resides within the territorial jurisdiction of the _____ Reservation and his/her address is:

 (List Box # or Street Address)

 (List Town or City, State & Zip Code)
3. That the minor child _____ is:
 (List child's name)
 enrolled in the _____ Tribe, is eligible for enrollment in the _____ Tribe, is a lineal descendant of the _____ Tribe or is not a Tribal member. ***Note: if there is more than one child, list all children and enrollment status.**
4. That this court has jurisdiction pursuant to _____ *Tribal Code Sections* _____.
5. That the Petitioner(s) brings this action pursuant to _____ *Tribal Code Section* _____, et. seq. which applies to Visitation actions.
6. That the Petitioner(s) is related to the minor child by being his or her (list applicable relationship in Findings): Mother or Father.
7. That the Respondent's address as follows:

 (Respondent(s) Box # or physical address)

 List the town or city with zip code
8. That the Petitioner was unable to locate the Respondent(s) and did publish the Notice in the local newspaper for three (3) consecutive weeks and did submit an Affidavit of Publication. Note: The order can alternatively include: That the Petitioner has duly served the Respondent and did submit an Affidavit of Service by Mail or an Affidavit of Personal Service.
9. That the Petitioner seeks visitation.
10. That the parties have agreed on visitation and have a visitation schedule as follows:

Respondent will have visits from Friday at 5:00 p.m. until Sunday at 5:00 p.m. If either party is unable to meet the visitation schedule, he or she must contact the other party within 24 hours before the arranged visit.

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby enters the following:

ORDER FOR VISITATION

1. That the Petitioner is hereby granted visitation with the minor child(ren)as follows:

From Fridays at 5:00 p.m. until Sunday at 5:00 p.m.

2. That the drop off and pick up will occur at the _____ Police Department, at a relative's house, at the Petitioner's house, etc.

IT IS SO ORDERED.

BY THE COURT:

Date: _____

Tribal Judge

COURT SEAL

Custody Petition

A standard custody petition can be used by anyone who would like to petition a Court for custody.

Custody petitions more than likely will have an instructional sheet so that the Petitioner will know the specific procedures that the Court in which they are filing their petition with are followed.

Some Tribal Courts will require a filing fee or a related cost with all filings in the Court, so a Petitioner will need to make sure that it is paid in order to get a scheduled hearing. Note: A Petitioner may also file an IFP to waive the filing fees.

A Petitioner (or Tribal Advocate or Attorney) should always try to include the Respondent's address to insure that they are notified properly of the Court proceedings. Thus, the hearing cannot be delayed for the lack of proper service.

If the Petitioner and Respondent can obtain a custody agreement prior to the scheduled Court hearing, they will still have to appear before the Judge in order to get an official Court Order. A notarized statement from either party doesn't count as a legal document and neither party will receive an actual Court Order until the Judge finalizes the decision after hearing the provided testimony.

Once a petition is filed with the Tribal Court, the Respondent should always take the opportunity to file a Response with the Court. This will ensure the case to be heard timely. Also, with a Response filed by the Respondent, a Judge can clearly see that there is interest in the case by both parties. A Tribal Advocate or Attorney may want to supply the Respondent with a standard Response for them in order to get the case moving

through the Court faster by not having to wait the entire twenty days before the clerk schedules the case.

Any Response submitted to the Court by the Respondent must be sent to the Petitioner with proper proof of service just as the Petitioner made sure the Respondent was served. Both parties in any case are entitled to ALL documents submitted to the Court at anytime during the duration of a case.

The Petitioner who is requesting custody must list the actual person who has legal and physical custody of the child(ren) as the Respondent.

Anyone is allowed to file for custody as long as the case is not involved with the Tribal Child Welfare. If it has already been filed by the Child Welfare Agency, the Petitioner or interested party will have to work with the assigned case worker in order to receive any information that they about the child(ren).

Custody hearings can be closed and adjudicated the day of the hearing if full custody is granted; however, many times temporary custody is granted and the case will end up in Court any number of times.

Custody hearings need a Motion for Review Hearing Notice filed by either party in order to be heard in front of the Judge once a Court Order has been made at a prior hearing.

All new custody petitions need to have a case number assigned to them, but if a case has already been heard and assigned a number, anything relating to the initial case will remain under the same case number and all continued documents should remain in the same file. The Petitioner or Tribal Advocate or Attorney should always be aware of the case numbers assigned to cases. This will ensure that the case stays organized and documents remain with the proper file. Also by knowing the file numbers, a Clerk can usually locate the files more efficiently.

A Tribal Advocate or Attorney can encourage the Respondent to file a response with the Court by supplying a standard Response form while serving the actual petition. By doing this the Court hearing maybe scheduled sooner because the Clerk will not have to wait the entire twenty days before scheduling the case.

Many times, either the Petitioner or Respondent request a statement from the Tribal Court stating that they are getting custody or have filed documents within the Court. However, the Court usually will not give any documents determining the custody issue until it has been heard and adjudicated in front of a Tribal Judge. Many times the party requesting the document will have to wait for the Court Order.

Any Response submitted to the Court by the Respondent must be sent to the Petitioner along with a Notice to Appear or within a sufficient amount of time before the actual hearing.

List Reservation
P.O. Box
City, State ZIP
Phone Number
Fax Number

Directions to Complete your Petition for Custody

1. You have the right to hire a licensed Attorney or Tribal Advocate for assistance in this matter.
2. A Tribal Court fee of (enter dollar amount) is required at the time of filing.
3. After fully completing and filing of the Custody Petition, you will receive two copies. **One to keep for your self and one to have served to the Respondent.** (Legal service includes either certified mail once the green card is returned to the Court Clerk, hand delivered by a Police Officer and once the Action Record is returned to the Court Clerk, or hand-delivered by a NON-interested third party once a written statement is provided to the Court by the individual who actually served the documents with the exact time and date of delivery.
4. As soon as the Court Clerk receives proof of service, the amount of days that the Tribal Court Summons states will be counted from the date of service. Then, a Court date will be scheduled once the Court calendar is open for a hearing.
5. Immediate temporary custody will not usually be granted from a basic petition filed with the Court. If the Judge grants custody to one side without a full hearing, this is considered an Exparte Hearing. If there is proof of neglect or abuse, documentation or assistance from a local Law Enforcement Agent or Tribal Child

Welfare need to be submitted at the time of filing and then approved by the Tribal Judge for an emergency hearing.

- 6. Proof of service must be brought to the Court within (Tribal Codes should require a certain amount of time stated in the Tribal Court) a number of days of filing your petition. If this is not received, you petition will be DISMISSED and a NEW petition and NEW filing fee will be required by the Court.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

In the matter of: _____, DOB: _____
(list child's name) (child's date of birth)
_____, DOB: _____
(list child's name) (child's date of birth)
_____, DOB: _____
(list child's name) (child's date of birth)

_____)
Petitioner,)
VS.)
_____)
Respondent.)

SUMMONS
JV- _____

TO THE ABOVE NAMED RESPONDENT:

You are hereby summoned and required to appear and defend against the Petitioner in this action, which is on file with the "Indian Reservation Court" in "CITY, STATE," and herewith served upon you, by serving upon the undersigned an answer or other proper response, within twenty (20) days of the service of this summons upon you exclusive of this date of service. If you fail to do so, judgment by default will be taken against you for the relief and demand in this complaint.

Dated and signed this _____ day of _____, 20____.

Clerk of Court
Indian Reservation
Address
City, State ZIP

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

In the matter of: _____, DOB: _____
(list child's name) (child's date of birth)
_____, DOB: _____
(list child's name) (child's date of birth)
_____, DOB: _____
(list child's name) (child's date of birth)

_____)
Petitioner,)
VS.)
_____)
Respondent.)

CUSTODY PETITION
JV- _____

Comes now the Petitioner hereby deposes and swears the following:

1. That the Petitioner is an (CIRCLE WHAT APPLIES) enrolled member of the following Tribe:
 - A. Indian Tribe, located in _____
(List the city and state)
 - B. The Petitioner is not enrolled in any Indian Tribe.

The Petitioner's address is: _____

(list address, city, and state)

2. That the Respondent is an (CIRCLE WHAT APPLIES) enrolled member of the following Tribe:

a. Indian Tribe, located in

(List the city and state)

b. The Respondent is not enrolled in any Indian Tribe.

3. The Respondent's address is: _____

(list address, city and state)

4. The Petitioner(s) herein makes the request for: (CIRCLE WHAT APPLIES):

TEMPORARY CUSTODY- in effect for six months and may be extended for an additional six months. If this is not renewed, the parent will automatically have custody returned to him or her.

FULL CUSTODY- one of the parties is granted sole legal (this means the right to decide issues like education, medical, religion, etc.) and physical custody (this means actually physically having the child(ren) with them).

JOINT CUSTODY- both the Petitioner and Respondent have legal and physical custody of the child(ren).

STIPULATED CUSTODY- an agreement where the Petitioner and Respondent both agree to joint, full, or temporary custody of the child(ren) with visitation agreed upon.

5. The Petitioner is related to the minor child(ren) by being their:

PLEASE CIRCLE WHICH ONE APPLIES

Father Mother Aunt/Uncle Grandmother/Grandfather Cousin

(fill in if applicable)

Other extended family, relative, friend, etc.

The Petitioner requests the Court grant this Petitioner his or her request for custody of the above-listed minor child(ren) based on the attached affidavit with the following facts:

Date: _____

Petitioner's Signature

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent.)

**AFFIDAVIT FOR CUSTODY
PETITION**
JV-_____

COMES NOW, the above captioned Petitioner(s), and being first duly sworn upon his/her oath, deposes, states, and alleges as follows, to wit:

If more room is needed, continue on another sheet of paper and attach to the Petition.

Response/Answer to Petition

A Response Form is for clients (mainly Respondents) to answer to a petition and Summons that they were served.

All Responses filed with the Court need to be legally served to the Petitioner and Respondent individually or with the Notices of Hearing sent out by the Court Clerk. Either way, both parties are entitled to a copy of all Responses filed before the scheduled Court hearing.

To keep Responses and all other documents filed with the Court correctly, a Petitioner or Tribal Advocate or Attorney must include the docket or file number to insure that the continuing documents are filed with the correct case file.

A Response is used to inform the Judge what the Respondent may and may not agree with in the petition filed with the Court. A Response will show the Judge that the Respondent is interested in the matter discussed in the petition and it will also ensure that the case continues and moves towards a scheduled hearing date a lot sooner than the twenty days given in the Summons.

A Tribal Advocate or Attorney should encourage the Respondent to fill out the Response form by serving it along with the petition.

Usually a client will not fully understand what the purpose of a Response is. A clerk or a Tribal Advocate or Attorney can let them know that they are used to answer to the allegations made in the petition (example: what is agreed with and what is not agreed with).

If a Respondent or Tribal Advocate or Attorney feel that it would be in their best interest to use their own Response rather than a standard form that is accepted by most Tribal Courts. However, it should be typed and state all the important points like the standard form does.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____))
 Petitioner,))
))
))
))
))
))
))
))
))
_____))
 Respondent.))

VS.

**RESPONSE/ANSWER
TO CUSTODY PETITION**

JV-_____

TO: Petitioner(s) and the Indian Tribal Court

That I, _____, respectively submit this Response/Answer under no coercion or duress and to the best of my knowledge as follows:

I.

That I, _____, was served with the Petition in the above mentioned case on _____.

II.

That I, _____, agree with the following section(s) in the Petition;

III.

That I, _____, disagree with the following sections in the Petition, and my reasons are set forth;

IV.

That the following is certain information relative to additional issues that need to be considered in this matter and heard in front of the Judge:

V.

That I, _____; understand that it is my responsibility to have a copy of this Response/Answer to the Tribal Court as soon as possible, but no later than the twenty (20) days that the summons indicates.

Date: _____

Respondent(s)

Address

Filed on this _____ day of _____, 20____.

TRIBAL COURT

JUVENILE DIVISION

INDIAN JURISDICTION

INDIAN RESERVATION

In the Matter of:

**ORDER FOR
CUSTODY**

(Child's name)

(Child's date of birth)

File No. JV-_____

Petitioner's name(s),

VS.

Respondent's name(s),

A hearing was held on the _____ day of _____, 20____ at the
_____ Reservation Tribal Court. Judge _____ presided.

Present at the hearing was _____,
Petitioner, _____ and _____ Advocate or Attorney for the
Petitioner, _____ Respondent and _____, Advocate
or Attorney for the Respondent.

Based on the Evidence presented, the Court hereby enters the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Petitioner is an enrolled member, eligible for enrollment, a descendant of an enrolled member or not a Tribal member (use the applicable provision).

2. That the Petitioner(s) resides within the territorial jurisdiction of the _____ Reservation and his/her address is:

(List Box # or Street Address)

(List Town or City, State & Zip Code)

3. That the minor child _____ is:
(List child's name)

enrolled in the _____ Tribe, is eligible for enrollment in the _____ Tribe, is a lineal descendant of the _____ Tribe or is not a Tribal member. ***Note: if there is more than one child, list all children and enrollment status.**

4. That the biological parent(s) is or are enrolled members, eligible for enrollment, is or are a lineal descendant(s) of an enrolled member and have a significant connection with the _____ (insert applicable Tribal provision here).

5. That this court has jurisdiction pursuant to _____ *Tribal Code Sections* _____.

6. That the Petitioner(s) brings this action pursuant to _____ *Tribal Code Section* _____, et. seq. which applies to Custody actions.

7. That the Court proceeds with this Custody Action by the parent(s) _____ pursuant to
(List biological parent(s) names)
_____ *Tribal Code Section* _____ because:

***Note: insert applicable provision in the Findings.**

a. the minor child _____ has been out of the physical
(List child's name)
custody of the parent or Respondent (s) for more than one year.

b. That Respondent(s) has not had any contact with the minor child for more than one year.

c. That the minor child _____ has been in
(List child's name)

the physical custody of the Petitioner(s) for -

(List duration in years/ months)

8. That the Petitioner(s) is related to the minor child by being his or her (list applicable relationship in Findings:

Grandmother, Grandfather, Aunt, Uncle, Step-parent(s), Mother, Father, Cousin, not a relative, etc.

9. That the Respondent(s) has failed to provide child support for a period of:

(List # of years/months) (List only if this applies).

10. That the biological parent(s) have also done the following acts to the minor child that indicate neglect, abuse or dependency: (If applicable, list any other facts committed by the parent(s).

11. That the Respondent's address as follows:

(Respondent(s) Box # or physical address

List the town or city with zip code

12. That the Petitioner was unable to locate the Respondent(s) and did publish the Notice in the local newspaper for three (3) consecutive weeks and did submit an Affidavit of Publication. Note: The order can alternatively include: That the Petitioner has duly served the Respondent and did submit an Affidavit of Service by Mail or an Affidavit of Personal Service.

13. That the Petitioner seeks sole legal and physical custody, joint legal and sole physical custody or joint legal and physical custody.

14. That the Petitioner seeks supervised visits between the Respondent and The minor child(ren) due to the following _____.
(list applicable acts)

Note: in the alternative, the parties could agree on visitation. The Order would then read, the parties have agreed on a visitation schedule as follows: Respondent will have visits from Friday at 5:00 p.m. until Sunday at 5:00 p.m. If either party is unable to meet the visitation schedule, he or she must contact the other party within 24 hours before the arranged visit.

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby enters the following:

ORDER FOR CUSTODY

1. That the Petitioner is hereby granted sole legal and physical custody of The minor child(ren).
2. That the Respondent shall have visitation as follows:
From Fridays at 5:00 p.m. until Sunday at 5:00 p.m.
3. That the drop off and pick up will occur at the _____ Police Department, at a relative's house, at the Petitioner's house, etc.

IT IS SO ORDERED.

BY THE COURT:

Date: _____

Tribal Judge

COURT SEAL

Motion for Review Hearing

Either party of a filed case is able to file a Motion for Review Hearing.

The purpose of this Motion is to allow either party to come before the Court and inform the Judge on issues relating to a prior Court hearing and order.

The Motion for Review Hearing should include the docket or case number just like all other documents submitted to the Court. Once a Tribal Advocate or Attorney labels the document with it's number, it enables the Court Clerk to find the file more efficiently.

The Motion for Review Hearing needs to be attached to the Notice to Appear for the opposing party to review and prepare for the next scheduled hearing.

A Motion for Review Hearing will mostly be used in the Juvenile Division if a prior Court order is not being followed by either party. If this is the case, the Petitioner, Respondent, or Tribal Advocate or Attorney needs to be specific on how the directions of the Judge are not followed and what they suggest to be changed to insure the issue is suitable for both parties.

A Court order cannot be changed until it is heard by a Judge and a Motion for Review Hearing enables documentation to be presented to the Judge. Once this has been heard and changed by the Judge, a Tribal Advocate or Attorney may be asked by the Tribal Judge to prepare an Amended Order to replace the prior Court Order.

Always remember, when filing a Motion for Review Hearing, it is up to the Judge to grant the hearing. The party filing the Motion needs to understand that a hearing may or may not be scheduled within the Court depending the Judge's decision.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent.)

**MOTION FOR
REVIEW HEARING**

Case No. _____

Comes now, the Petitioner or Respondent to ask the Court to issue a Notice to Appear Order summoning _____ (enter the name of the person, agency, or council) to appear before the Tribal Court to review the above mentioned case.

This Motion is based on the previous Court Order entered on _____ (enter date given on prior order). The following information show why the request for a Review Hearing is given and asked to be scheduled as soon as the Court allows:

Wherefore, related facts having been given, the moving party asks that the Court to grant the Motion and issue a Notice to Appear Order to have this case reviewed by a Tribal Judge.

Dated: _____

Signature of person filing

Current address

Motion for Continuance/Notice of Continuance

A Motion of Continuance is for either party of a scheduled hearing to notify the Court that they need to reschedule the set hearing for whatever reason they express to the Court.

Usually Tribal Courts need the Motions for Continuance to be filed by the certain number of days that the Tribal Court specifies before the scheduled hearing.

The opposing party needs to be given a copy of the Motion for Continuance either by proper service from the party filing it or by the Clerk if the Motion is granted by the Judge.

A Continuance will not be granted by a Tribal Judge unless submitted to the Court in writing. A Petitioner or Tribal Advocate or Attorney can do this with a standard form or type up their own document. Either way the document should always look professionally typed because a Continuance is not always granted and professionalism will demonstrate to the Judge that the party requesting the Continuance respects the Court and their decision and hectic schedule.

It is only up to the Judge to grant the Continuance and just because a Motion is filed that does NOT mean the case will be continued and granted by the Tribal Judge.

When filing the Motion for Continuance a Tribal Advocate or Attorney should attach any supporting documents of why they are requesting the Continuance (example: medical documentation, appointment) when filing the Motion.

If the Motion for Continuance is granted and the Judge continues the case, a Notice of Continuance needs to be prepared and mailed to ALL parties. However, a Tribal Advocate or Attorney can already have the Notice of Continuance prepared with blank lines that a Court Clerk can fill in and mail out with the new Court date and time.

The Notice of Continuance needs to be specific on why the case is being continued.

The Notice of Continuance will have a new Court date and time so that both parties are aware of the new date and reasons why it was continued. A Tribal Advocate or Attorney never schedules the new date and time, they only can request the change. Only the Court Clerk will issue the new date and time.

Many times clients will call the Tribal Courts to reschedule a Court hearing, this is not an acceptable procedure and all Motions need to be submitted in writing. Once it is submitted by a Petitioner or Tribal Advocate or Attorney, the Court Clerk will always present the written documents to the Tribal Judge prior to the scheduled hearing for their decision on the Continuance.

If the Judge continues the case, the Tribal Advocate or Attorney may be asked to prepare a Notice of Continuance which a Court Clerk will mail out. That is why it is in the best interest of a Tribal Advocate or Attorney's client to have the Notice of Continuance already prepared.

A Motion for Continuance needs to be submitted to the Judge who is hearing the case after reviewing the petition. The only way that another Judge should continue a case that is not their original case, is if the assigned Judge will not be available in time to properly reschedule and the Chief Judge approves this action.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____))
Petitioner,)
VS.)
_____))
Respondent,)

MOTION FOR CONTINUANCE
Case No. _____

Comes now, (CIRCLE WHAT APPLIES) the Petitioner or Respondent to request that the Tribal Court grants a continuance of the hearing in the above entitled matter based on the reasons:

_____.

That this Motion is supported by the following facts:

_____.

Wherefore, after stating reasons and facts, the pursuing party prays that the Court grant this Motion for Continuance as requested above.

Signature of Pursuing Party

_____ GRANTED _____ DENIED

Tribal Court Judge

Filed on this _____ day of _____ 20_____.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent,)

NOTICE OF CONTINUANCE
Case No. _____

The above captioned matter was scheduled to be heard on the (**enter the day, month, year, and time (a.m./p.m)**) before the Honorable Judge (**enter first and last name**), and;

THAT the Court has continued this hearing based on the fact that (**put the exact reason why the case is being continued. Also attach the written Motion for Continuance for the opposing party to view with this Notice of Continuance**).

IT IS THE ORDER OF THIS COURT that the hearing in the above entitled matter is hereby CONTINUED, and rescheduled to (**enter the new Court date and time or leave open with blanks for the Court Clerk to fill out**).

Dated: _____

Judge Name
Judge's Title

S E A L

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent,)

NOTICE OF CONTINUANCE
Case No. _____

The above captioned matter was scheduled to be heard on the 6th day of January, 2004 at 2:30 p.m. before the Honorable Judge Smith, and;

THAT the Court has continued this hearing based on the fact that the Petitioner, submitted a Motion of Continuance. Judge Smith will continue the case based on the fact that the Petitioner requested more time to seek legal council and to notify her witnesses and prepare all supporting documents.

IT IS THE ORDER OF THIS COURT that the hearing in the above entitled matter is hereby CONTINUED, and rescheduled to 21st day of January, 2004 at 10:00 a.m.

Dated: _____

Judge Smith
Special Tribal Judge

S E A L

Petition for Name Change

Anyone can file a petition for a Juvenile name change; however, both biological parents (or whomever has legal custody) need to be served the petition and notified of any Court hearings dealing with the name change.

The only way that a biological parent does not need to be notified is if there was a Termination of Parental Rights done through Court. A Tribal Advocate or Attorney should always submit a sealed copy of the Termination of Parental Rights to the petition if the Petitioner states that it was legally completed.

If for some reason the Petitioner cannot contact the biological parents to serve them the petition, the Petitioner will have to put the summons in the newspaper and advertise it for whatever duration of time that their Tribal Code specifies. Remember, a juvenile's name should never be put in the newspaper publication and the Petitioner should only put the first and last initial of the child's name.

Once the publication has been completed, the Petitioner must submit proof to the Court. Proof could consist of the actual newspaper clippings or a receipt from the newspaper company that the time was paid for and the Summons was publicized.

The Petitioner should always submit a copy of the child's birth certificate too prove who the biological parents are.

Just like any petition, the Name Change Petition may require a standard filing fee.

The Name Change Petition notifies the biological parents or anyone interested in contesting the action that they have ten days (this can vary depending on the Tribal Code) to do so. Furthermore, a Petitioner or Tribal Advocate or Attorney can replace the given time in the Petition by attaching a Summons with the appropriate time indication given. The party objecting to the action can type a statement on why they object or use the standard Response form.

NOTE: A Summons is not included in this particular section. You may use a similar format previously given.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

IN THE MATTER OF:

_____))
(Minor child's name)))
))
))
_____))
(Date of birth)))

PETITION FOR NAME CHANGE
Case No. _____

I, _____, petition the Tribal Court of (city and state), to have the minor child's name changed from _____ to _____.

My relationship to the minor child is _____.

I, _____, would like to ask the Court to change the minor child's name because of the following reasons: _____

_____.

I request that all legal documents reflect this change of name if it is so granted by the Tribal Court.

Any person desiring to object to the granting of this petition may do so by filing any objections in writing with the Tribal Clerk no later than ten days (this may vary) after the date of filing this petition.

Dated: _____

Parent's name and address

Parents name and address

TRIBAL COURT

JUVENILE DIVISION

INDIAN JURISDICTION

INDIAN RESERVATION

In the Matter of:

**ORDER FOR
NAME CHANGE**

(Child's name)

(Child's date of birth)

File No. JV- _____

Petitioner's name(s),

VS.

Respondent's name(s),

A hearing was held on the _____ day of _____, 20____ at the _____ Reservation Tribal Court. Judge _____ presided.

Present at the hearing was _____,
Petitioner, _____ and _____ Advocate or Attorney for the
Petitioner, _____ Respondent and _____, Advocate
or Attorney for the Respondent.

Based on the Evidence presented, the Court hereby enters the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Petitioner is an enrolled member, eligible for enrollment, a descendant of an enrolled member or not a Tribal member (use the applicable provision).
2. That the Petitioner(s) resides within the territorial jurisdiction of the _____ Reservation and his/her address is:

(List Box # or Street Address)

(List Town or City, State & Zip Code)

3. That the minor child _____ is:
(List child's name)
enrolled in the _____ Tribe, is eligible for enrollment in the _____ Tribe, is a lineal descendant of the _____ Tribe or is not a Tribal member.

4. That this court has jurisdiction pursuant to _____ *Tribal Code Sections* _____.

5. That the Petitioner(s) brings this action pursuant to _____ *Tribal Code Section* _____, et. seq. which applies to Name Changes or civil actions.

6. That the Petitioner(s) is related to the minor child by being his or her (list applicable relationship in Findings): Mother or Father.

7. That the Respondent's address as follows:

(Respondent(s) Box # or physical address)

List the town or city with zip code

8. That the Petitioner was unable to locate the Respondent(s) and did publish the Notice in the local newspaper for three (3) consecutive weeks and did submit an Affidavit of Publication. Note: The order can alternatively include: That the Petitioner has duly served the Respondent and did submit an Affidavit of Service by Mail or an Affidavit of Personal Service.

9. That the Petitioner seeks a Name Change based on the following reason(s):

(List reason, example: Step-parent adopted, etc.)

10. That the minor child's name will be changed from _____ to _____
(List child's name) (List child's prospective name)

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby enters the following:

ORDER FOR NAME CHANGE

1. That the Petitioner's request for Name Change is hereby granted.
2. That the Minor Child's name shall be _____.
(List child's name)
3. That all relevant agencies shall change the Child's name as requested by the parent, relative, etc.

IT IS SO ORDERED.

BY THE COURT:

Date: _____

Tribal Judge

COURT SEAL

Petition for Involuntary Commitment

In many Tribal Courts, only the biological parent, guardian, or the person who has a Court order for physical custody of the minor child can fill out the Petition for Involuntary Commitment and attempt to get the minor child signed up for treatment.

Most Tribal Courts have a standard petition to file for the Petitioner to fill out in order to try and get their minor child help for drug/alcohol dependence or mental health. However, each and every Tribal Court will have their own procedures for filing an involuntary commitment printed in their Tribal Code. Note: In most State Courts, the standard of review may be more stringent than in Tribal Court.

A standard filing fee may be required when filing a Petition for an Involuntary Commitment.

There are several different ways that a Tribal Judge or Tribal Advocate or Attorney may prepare an order for treatment.

A Tribal Advocate or Attorney should encourage his or her client to have all information for a treatment facility ready for the Judge to review. Financial payment should always be figured out prior to the Court hearing (meaning if insurance, Medicaid, or parent's will pay for the treatment). Many times, Tribal Courts do not have the funding for treatment centers and just because a Court order is in place does not mean that a Tribal Court will cover the cost.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent,)

**PETITION FOR INVOLUNTARY
COMMITMENT**

Case No. _____

Comes now the Petitioner, and respectfully alleges:

1. That the Petitioner is under eighteen (18) years or older.
2. That the Respondent presently resides in the Tribal Jurisdiction of the (enter name) Reservation.
3. That the Respondent is an enrolled member/descendent of the (enter name) Tribe.
4. That the Petitioner believes that the Respondent is (please CIRCLE the following that apply); and as a result of this condition, there is a reasonable expectation of a serious risk of harm if the Respondent is not helped.

Severely Ill

Mentally Ill

An Alcoholic

A Drug Addict

5. To the best knowledge of the Petitioner because of the foregoing condition, the Respondent requires some type of treatment or hospitalization.
6. That the Petitioner feels that it may be necessary to take the Respondent into immediate custody or emergency treatment it can be requested ONLY if the Respondent is seriously mentally impaired, an alcoholic, a drug addict, or is likely to injure him/himself or other people if not in a confined environment.
7. That the Petitioner believes after an evaluation of the Respondent's condition is completed, the Respondent should be required to follow all recommendations provided by the facility.

The Petitioner's relationship to the Respondent: _____

Petitioner's address: _____

Petitioner's home phone: _____ Work phone: _____

Name and addresses of witnesses who will verify that the Defendant is in need of treatment: _____

GENERAL INFORMATION ABOUT THE RESPONDENT

Full name: _____

Address: _____

Telephone number: _____

Present whereabouts: _____

Age: _____ Date of birth: _____ Sex: _____

Health insurance (please circle): YES or NO

Petitioner's Signature

Date

Clerk of Court

Date

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent,)

**AFFIDAVIT FOR
INVOLUNTARY COMMITMENT**
JV- _____

COMES NOW, the above captioned Petitioner(s), and being first duly sworn upon his/her oath, deposes, states, and alleges as follows, to wit:

If more room is needed, continue on another sheet of paper and attach to the Petition.

Release of Information

A Release of Information is the only way that a Court can retrieve any information from any Treatment Facility or hospital on a Court Client. In North Dakota, for example, at the Devils Lake Treatment Facility, they need a signed Release in proper format. This Release has been approved by the Lake Region Human Services Center in Devils Lake, North Dakota.

Different states have different guidelines to follow for the exact information that is needed before ANY information regarding a client can be released.

A Court order does not have the power to invade with any privacy acts that have been passed in specific states. Once the Court order is completed or at a Court hearing, a Tribal Judge may demand for the person in question to sign a Release of Information so that the Court can track the progress of the client in treatment. Like stated in the order, if a client doesn't follow the Court order, they will be held in Contempt of Court and a Release of Information is the only way that a Court can obtain the information it needs to see that the client is following all recommendations.

A Release of Information should be used at all Involuntary Commitment Hearings to avoid trying to track the client and their signature once they may have been discharged from a facility.

AUTHORIZATION TO DISCLOSE INFORMATION

PRIVACY STATEMENT:

Disclosure of the social security number is voluntary and is requested for the purpose of accurate identification. Failure to disclose a social security number will not affect the disclosure of other information.

INSTRUCTIONS: Provide information as it existed when the service was provided.

Name of Client: (Last, First, Middle Initial)	Social Security Number:	Date of Birth:	
Street Address:	City:	State:	Zip Code:

CLIENT RELEASE AND SIGNATURE

1. I Hereby Authorize:			
Name of Person/Agency to Release Information:			
Street Address:	City:	State:	Zip Code:
2. To Release Information To:			
Name of Person/Agency to Receive Information:			
Street Address:	City:	State:	Zip Code:
3. The Following Information Is Requested: (Be Specific)			
4. The Information Identified Above Will Be Used For: (List Each Purpose)			
5. This Authorization to Disclose Information Remains in Effect Until: (Date)			
OR: (Specific Event Terminating Operations of the Release)			
This consent ends 60 days after date of last service with agency			

CLIENT CONSENT:

This authorization is voluntary and remains in effect until the above date or event, unless specifically revoked by written notice to the agency or person. Any information disclosed prior to written revocation of this authorization shall not be a breach of confidentiality. A photocopy of this authorization is as effective as the original. Unless otherwise agreed in writing, information may be disclosed under this authorization in any form or medium, including oral, written, or electronic transmission.	
Signature of Client:	Date:
Signature of Parent/Guardian or Custodian (if needed and Relationship):	Date:
Signature of Witness (if needed):	Date:
<input checked="" type="checkbox"/> CHECK IF APPLICABLE - NOTICE TO WHOMEVER DISCLOSURE IS MADE CONCERNING ADDICTION RECORDS This information has been disclosed to you from records protected by Federal confidentiality rules (42 CFR Part 2). The Federal rules prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written authorization of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2. A general authorization for the disclosure of medical or other information is NOT sufficient for this purpose. The Federal rules restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.	

NOTICE: Except for information subject to 42 CFR Part 2, information disclosed to another entity may potentially be re-disclosed, in which case it may not be protected by state or federal law.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____))
 Petitioner,)
 VS.)
 _____))
 Respondent,)

ORDER FOR DRUG TREATMENT
 Case No. _____

To: Petitioner(s), Respondent, and (list the name of the facility to attend)

Be it remembered that the Tribal Court has received on the (enter the day, month, and year) a request for Involuntary Commitment for an Evaluation and/or Treatment for the dependency of alcohol/drug.

WHEREFORE, the Respondent is an enrolled member of the (enter name of Reservation) residing within the boundaries of the (enter Reservation) in the County of (enter county and state). And;

This Court has considered the matter in view of all circumstances and feels that the above named Respondent is in need of dependency treatment.

AFTER CAREFUL CONSIDERATION IT IS THEREFORE THE ORDER OF THIS COURT that the said, (put the Juvenile's name), of (enter state) be ordered to (put

facility that the juvenile will be attending) a treatment facility for specific procedures and care as recommended by the hospital staff. (add the mode of transportation here if needed).

IT IS FURTHER THE ORDER OF THIS COURT that the Respondent must complete any and all necessary recommendations and must remain at the said establishment until such time that the Respondent is medically released by the hospital staff. Failure to complete any and all recommendations will result in a Contempt of Court for the Respondent's immediate arrest.

IT IS ALSO THE ORDER OF THIS COURT that a report be submitted to the Tribal Court upon completion of the Evaluation and Treatment.

Date: _____

S E A L

Tribal Judge
Judge's Title

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
VS.)
_____)
Respondent,)

ORDER
Case No. _____

To: Petitioner(s), Respondent, and (list the name of the facility to attend)

Be it remembered that the Tribal Court has received on the (enter the day, month, and year) a request for Involuntary Commitment for psychological/drug evaluation and/or assessment.

WHEREFORE, the Respondent is an enrolled member of the (enter name of Reservation) residing within the boundaries of the (enter Reservation) in the County of (enter county and state). And;

This Court has considered the matter in view of all circumstances and feels that the above named Respondent is in need of dependency treatment.

AFTER CAREFUL CONSIDERATION IT IS THEREFORE THE ORDER OF THIS COURT that the said, (put the Juvenile's name), of (enter state) be ordered to (put

facility that the juvenile will be attending) a treatment facility for specific procedures and care as recommended by the facilities staff. (add the mode of transportation here if needed).

IT IS FURTHER THE ORDER OF THIS COURT that the Respondent must complete any and all necessary recommendations and must remain at the said establishment until such time that the Respondent is medically released by the hospital staff. Failure to complete any and all recommendations will result in a Contempt of Court for the Respondent's immediate arrest.

IT IS ALSO THE ORDER OF THIS COURT that a report be submitted to the Tribal Court upon completion of his/her Psychiatric needs.

Date: _____

S E A L

Tribal Judge
Judge's Title

Petition for Restraining Order

Once a petition for a Juvenile Restraining Order is filed, the Judge of the Tribal Court may either issue a Temporary Restraining Order that day or have a Show Cause Hearing scheduled to hear testimony on why the Restraining Order should or should not become permanent.

If a Temporary Restraining Order is not issued, then both the parties (including parents of minor child) need to be given a Notice to Appear for a Restraining Order Show Cause Hearing by an affidavit of service or an action record. At the hearing, a Permanent Restraining Order can be issued once the evidence is presented to the Judge.

If the Restraining Order is not permanently issued at the hearing and the Judge dismisses the complaint, then an Order of Dismissal needs to be completed and mailed out to both parties. If a Tribal Advocate or Attorney is representing a client in this case, he or she will be asked to prepare the Order of Dismissal. An Order of Dismissal should include the specifics of why the case was dismissed (examples: lack of evidence, lack of immediate danger, or if Petitioner was not present at the scheduled hearing).

A Permanent Restraining Order will read the same as the Temporary except the date will be changed to the date of the hearing and it will be titled Permanent rather than Temporary. Of course, the date of the scheduled hearing should be deleted too.

A standard filing fee may be required when filing the Restraining Order Petition.

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____))
(Minor child of))
_____))
Petitioner,)
VS.)
_____))
(Minor child of))
_____))
Respondent,)

**PETITION FOR
RESTRAINING ORDER**
Case No. _____

COMES NOW, the Petitioner(s) being duly sworn under oath and says that the following are true and correct:

1. That the Petitioner and/or child is/are enrolled members of the (enter Tribe) and/or reside within Jurisdiction of the (enter Tribe) Court.
2. That the Respondent IS or IS NOT (please circle) an enrolled member of the (enter Tribe). And DOES or DOES NOT reside within Jurisdiction of (enter Tribe) Court.
3. The Respondent has assaulted, verbally abused, or threatened the Petitioner.
4. That the Petitioner(s) are asking the (enter Tribe) Court to grant a Permanent Restraining Order to guarantee the restraint of the above named Respondent(s) for the reasons listed.

WHEREFORE, Petitioner request that the (enter Tribe) will grant this petition and/or issue a Show Cause Hearing.

Dated: _____

Petitioner(s)

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____)
Petitioner,)
)
VS.)
)
_____)
Respondent,)

**AFFIDAVIT FOR
RESTRAINING PETITION**
JV- _____

COMES NOW, the above captioned Petitioner(s), and being first duly sworn upon his/her oath, deposes, states, and alleges as follows, to wit:

If more room is needed, continue on another sheet of paper and attach to the Petition.
WHEREFORE, the Petitioner(s) request the following relief:

1. That the Temporary Restraining Order is issued to restrain the Respondent from participating in the conduct stated, pending a hearing held on the relief requested by the Petitioner.
2. That the Tribal Court schedules a hearing for this matter.
3. For all such other relief as the Tribal Court deems just and fair.

Dated: _____

Petitioner's Signature

Address

Phone Number

Subscribed and Sworn before me on this date: _____

Clerk of Court

TRIBAL COURT
INDIAN JURISDICTION

JUVENILE DIVISION
INDIAN RESERVATION

_____))
(Minor child of))
_____))
Petitioner,)
VS.)
_____))
(Minor child of))
_____))
Respondent,)

**TEMPORARY
RESTRAINING ORDER**
Case No. _____

This matter having come before the Honorable Judge (enter first and last name of Judge), (enter title of Judge), on the (enter day, month, and year) in the (enter city, county, and state) by a filed affidavit.

Based on the verified affidavit and motion of the above Petitioner(s), the Respondent is hereby ORDERED from the following:

1. From any contact with the Petitioner(s) or any member of their family, for the purpose of bothering, annoying, or harassing the Petitioner(s) at any place or at any time.
2. From making any telephone calls for the purpose of annoying the Petitioner(s) or any member of his/her family, at their home or place of employment.
3. From making any type of contact for the purpose of annoying, harassing, or threatening, the other party by or through any third party.

VIOLATION OF THIS RESTRAINING ORDER MAY RESULT IN (ENTER THE PUNISHMENT STATED IN TRIBAL CODE).

Further you are ORDERED to appear before the above Court on the (enter day, month, and year) at (enter time) to show cause, if any, why this Temporary Restraining Order should not be made permanent.

FAILURE TO COMPLY WITH THIS COURT will be a violation of Chapter (enter the chapter and section of Tribal Code) and Contempt of Court will be dealt with in accordance with the Tribal Law.

Date: _____

Tribal Judge
Title of Tribal Judge

S E A L

PROCEDURES FOR CHILD PROTECTION CASES

By Shirley M. Cain

Child Protection Procedures and Guidelines

****Note: These guidelines may not suit every Tribal Court as Tribal Codes differ according to the Tribe. These guidelines only apply to Child Protection cases which usually begin at the filing of a Petition and end with a reunification or termination of parental rights and adoption. These child protection procedures are much more formalized for state court.***

1. To begin a child protection case, the following must happen:
 - A. Tribal Social Services or another Tribal agency must file an Exparte Petition which lists in detail the reason(s) why the child(ren) were removed from the parent(s). The reasons must match the applicable Tribal Code provision for grounds for removal. In addition, the worker must submit an Affidavit signed either before a clerk or a notary that lists, in detail, the reasons the child(ren) were removed. The parent(s) must be duly notified of the hearing date and must be served a copy of the Petition and Affidavit.
2. The clerk assigns a file number to the case. Every case is identified by a Court file number. This same file number must be used for all documents submitted

to the Court regarding this particular file. Every piece of information in this file is confidential and cannot be reviewed by outside agencies.

3. The clerk schedules an Emergency Protective Hearing within three (3) days or however long the applicable Tribe has mandated. In most cases, this hearing can only be continued under emergency circumstances.
4. A. At the Emergency Protective Hearing, the Judge explains the rights to the parents, i.e. the right to counsel, the right to be notified, the right to a hearing and the possibility of a termination of parental rights if non-compliance occurs.
B. The Judge also informs the parties about the procedures they will use during the hearing, i.e. the Social worker/Petitioner/Prosecutor presents their case with witnesses, documents, pictures, etc. The Petitioner must prove up their case to the Court. The applicable burden of proof for a child protection and removal is clear and convincing.
5. Then, the Parents/Respondent presents their case with witnesses, documents, pictures, etc. *Note: in some jurisdictions, the Tribe mandates that the Tribal Social Service Agency make every effort to prevent removal from the home. Then, the Judge rules on whether the children will return home with the parents or continue in removal in an out-of-home placement.
6. In Tribal Court, the Tribal Social Services most often looks to responsible relatives for out-of-home placement. However, if a child is special needs, the Court may use Professional Association of Treatment Homes (hereinafter called "PATH") to place the child in one of their foster homes.
7. In addition, if the social worker presents pictures or documents, each individual picture and/or document must be marked for identification as Exhibit #1, Exhibit #2, or Exhibit A, Exhibit B, etc. The clerk will label each exhibit as it is presented to the Court. If Exhibit # 1 is a picture of a living room that an officer or the social worker took, it must be labeled and identified as such in the Court notes.
8. In most jurisdictions, the clerk will be taking notes during the entire hearing.

9. The social worker gives their version of the events that prompted the removal. Then, the Petitioner calls their first witness. The witnesses are sworn in under oath by the bailiff or the clerk of Court. The Petitioner can introduce the pictures or documents through the witness that is testifying. If that witness is the picture taker, the Petitioner must ask the witness if he or she took the picture and if the picture accurately depicts the event in question. Then, the Petitioner must lay a proper foundation to introduce the item into evidence. If the Petitioner is introducing a picture, a document or other tangible item, he or she must give the Respondent the opportunity to object to the introduction of the evidence. If the Respondent objects, the Judge rules on whether the evidence comes in or is inadmissible.
10. The Respondent then testifies or not. In some jurisdictions, there is a companion criminal matter pending against the parents, in some jurisdictions it is called Child Endangerment. If this is the case, the Judge must inform the Respondent(s) that anything he or she testifies to in Court can be used against him or her in the criminal case. Therefore, this makes the process somewhat tricky for the Respondents. Then, the Respondent may call witnesses in their defense. Most often, the Respondent is not ready for this hearing and does not call witnesses. Then, they rebut what is presented by the Petitioner. These cases are confidential and only the parents, their Attorney, or their Advocates are allowed into the hearing. The Judge has the power to exclude other non-parties from the Courtroom.
11. Once both parties have presented their version of the events, the Judge decides whether the child(ren) are continued in out-of-home placement, in relative placement or returned home to the parent(s). In some jurisdictions, the Tribal Social Workers must make every reasonable effort to keep the child(ren) in the parent(s) home. However, the usual standard for removal from the home is imminent harm or danger to the child(ren).
12. If the child(ren) are returned home, the Judge will dismiss the matter and should do an Order for Dismissal.

13. Note: All words in bold must be in the Court order for the Tribal Social Services to receive reimbursement under Title IV-E federal regulations. If the child(ren) are removed from the home of the parent(s), the Judge must state these operative words during the hearing: **It is contrary to the welfare of the child(ren) to be returned home to the parents.** The Judge then will ask social services what type of reasonable efforts they have made to prevent removal. After Social Service tells the Judge what type of reasonable efforts they have made, then, other words the Judge must state are: **Reasonable efforts have been made by social services to prevent the child(ren)'s removal from the home.** If Social Services does not make reasonable efforts, this must be in the order as well. There are usually aggravating reasons for not making reasonable efforts, which could be: the parents are in jail, the parents on drugs, the children were abandoned or abused, etc. Then, the Judge must also state these words: **That the child(ren) are without proper parental care and control and are considered deprived children.**
14. The Judge must also make specific findings that: The Tribal Court now has custody of the minor child(ren) for approximately six (6) months. In some jurisdictions, the Court may order the Social Services to have care and control with the authority to place the child(ren) in a foster care placement, in a relative placement or PATH home, in a group home or in an institution to address their special needs, if applicable. In addition, in some jurisdictions, once the Court grants Tribal Social Services care and control, Social Services also has the power to sign any necessary documents for the minor child(ren) including medical releases, school records or other document parent(s) might be responsible for signing.
15. Once the Judge makes the decision to remove, the Social Worker makes recommendations to the Judge regarding a case plan for the parents. A case plan usually consists of chemical dependency treatment, parenting class for both parents, counseling for the parents, if applicable, to obtain suitable housing for the parents, chemical dependency or other mental health treatment for the child(ren), a psychological assessment for the parent(s) and/or child or

other appropriate case plan. Case plans may be different because there are different reasons for removal of the child(ren). If the Judge agrees with the recommendation, the case plan must be a part of the order.

16. At the end of the hearing, the Judge and clerk may schedule a review hearing date before the end of the six-month period. Note: this eliminates missed review hearing dates. The clerk will notify the parties at least two weeks before the hearing date.
17. The clerk is responsible for insuring the drafter of the Court Order receives the Notes from the Hearing. The clerk usually prints the Judgment provision at the end of the Notes so the drafter knows what the Judge ordered.
18. Once the order is drafted, the Judge signs it. The clerk certifies it by sealing it with the Court seal, sends it to the parties and files the original in the Court file.
19. Before the Review hearing, the Social Worker should submit a written report to the Court. If the Social Worker requests a review, he or she must submit it in writing to the clerk well before the hearing date or the expiration date of the previous order. Note: there are times when it may be appropriate to send notice to the foster parent(s). If unsure or uncertain, the Clerk should ask the Judge. At the Review Hearings, the Judge will request that the Social Worker give a verbal report on any additional information the Court should know. Most often, the Judge wants to know if the parent(s) have been in compliance with the case plan. If the parents have not been in compliance, the social worker will request an additional six (6) months of out-of-home placement. Then, the clerk and Judge will schedule another review hearing at the end of this hearing.
20. If the review hearing is a Permanency Hearing, the Judge must state: **a finding has been made that the agency has made reasonable efforts to finalize the permanent plan.** The permanency plan may be to reunify the family or to secure a new permanent home for the children. This finding must be made within twelve (12) months from when the child(ren) first enter the foster care system. The permanency plan should be in detail and spell out

clearly what it will be, i.e. adoption, transfer custody to a relative, returning home to the parent(s), etc. Once the order is done, the Judge signs it. The clerk seals it and sends a copy to the parties and files the original.

21. If the parent(s) are not in compliance, then, the case is probably moving towards either a transfer of custody to a relative, a voluntary termination of parental rights or an involuntary termination of parental rights. If it is a voluntary termination of parental rights, both parents, if known and if living, must sign a notarized relinquishment of their parental rights that states they understand they are giving up all their parental rights. In most jurisdictions, the Judge prefers the parents to be at the hearing and to be ready to testify. If the parent(s) cannot be located, the Social Worker must file a Notice of Termination of Parental Rights in the local newspaper for at least three (3) consecutive weeks. Then, the Social Worker must file an Affidavit of Publication which will be signed by the Editor of the newspaper. If a putative father's paternity rights have not been established, then, a Social Worker cannot file on him.
22. If this action is an involuntary termination of parental rights, the Social Worker must file the Petition in Court. Once the clerk receives the Petition, the clerk schedules a Termination of Parental Rights Hearing. If the parent(s) addresses are known, the Clerk sends notice to the parent(s) at least two weeks or more before the scheduled hearing date.
23. At the Termination of Parental Rights hearing, the Social Worker/Petitioner has the burden of proof which is, in most jurisdictions, the burden of proof is either clear and convincing or beyond a reasonable doubt. Most often, the Social Worker presents testimony regarding the parent's non-compliance with the case plan. The Petitioner must also present any evidence that lists in detail why they are seeking the termination of parental rights. The Judge must follow the applicable law that lays out the procedures in a termination of parental rights case. Once the Petitioner has presented their case, the Respondent(s) presents their side. After both parties have presented their case, the Judge makes a ruling on whether he or she will grant the termination of

parental rights. Note: in some jurisdictions, a Tribal Court may utilize a customary adoption process where a termination of parental rights does not occur on paper. However, in customary cases, a Judge may suspend a parent(s) parental rights. In some states, the state adoption agencies recognize customary adoptions and will pay the adoption subsidy.

24. After the Termination of Parental Rights, the order will be drafted. The Judge signs the order. Then, the clerk seals it, sends out a copy to the parties and files the original.
25. After the Termination of Parental Rights order is completed, the Social Worker or a party most often files an Adoption Petition in Court. The filing party should wait at least thirty (30) days to file in the event of an appeal. In these types of cases, after the Termination of Parental Rights Order is sent out and done, only the potential adoptive parents and social services are usually sent notice by the clerk of Court. In addition, if there is going to be an adoption subsidy, the Court must receive a Final Report or Assessment or Recommendation from the State. Then, the Clerk schedules an Adoption Hearing and sends notice to the parties involved.
26. At the Adoption Hearing, the Petitioner presents their case including any witnesses, documents or other tangible evidence. Once the Petitioner presents, if there is an adverse party, he or she presents their witnesses or other evidence. After both sides present their case, the Judge decides whether to grant the adoption or not. After the hearing, the order is submitted to the Judge. The Judge signs it. The clerk seals it, sends to the parties and files the original. The Petitioner is responsible for sending out the Order to the State for Name Changes, etc.
27. Once the adoption is done, the case is considered closed and archived. However, some Courts have separate adoption files that are cross-referenced to the child protection files.
28. Another point where the case is closed is when the child(ren) are returned to the parent(s), the parents complete the Court ordered requirements or the child turns the age of majority and “ages out” of the foster care system.

Termination of Parental Rights

Termination of Parental Rights means the voluntary or involuntary severance of a parent's rights, duties, or responsibilities to a child by the Court.

Before any proceedings are completed, a petition needs to be filed within the Court and all Court filing fees need to be paid.

In most Courts, if the Petitioner doesn't know the Respondent's mailing address, it is up to the Petitioner to publish the Summons in the local newspaper for a number of consecutive weeks (the Tribal Code should determine the amount of time needed for the publication to be considered proper service). Proof will need to be given to the Court that it was published, either with the actual clippings from the newspaper or a receipt showing the amount of time that the Summons was published for.

Before a Termination of Parental Rights can be completed, both biological parents (if paternity was established) need to be notified by certified mail or through a newspaper publication.

Tribal Codes should explain any and all procedures involving the procedures in terminating any parental rights whether it is voluntarily or involuntarily.

TRIBAL COURT

JUVENILE DIVISION

INDIAN JURISDICTION

RESERVATION

In the Matter of:

(Child's name)

(Child's date of birth)

**PETITION FOR
TERMINATION OF
PARENTAL RIGHTS**

File No. JV-_____

Petitioner's name(s),

VS.

Respondent's name(s).

*On Reservation Petitioners

COMES NOW, the Petitioner(s) _____, hereby submit the following information to the Court:

5. That the Petitioner(s) _____ is:
 - a. an enrolled member
 - b. eligible for enrollment
 - c. a descendant of an enrolled member of the (enter Reservation)
 - d. A Tribal member from another Tribe.
 - e. not a Tribal member

6. That the Petitioner(s) resides within the territorial jurisdiction of the (enter Reservation) and his/her address is:

(List Box # or Street Address)

(List Town or City, State & Zip Code)

7. That the minor child _____ is:
(List child's name)
- a. enrolled
 - b. eligible for enrollment
 - c. is a lineal descendant of an enrolled member of the Tribe.
8. That the biological parent(s) is or are:
- a. enrolled members
 - b. eligible for enrollment
 - c. is or are a lineal descendant(s) of an enrolled member and have a significant connection with (enter Reservation).
9. That this Court has jurisdiction pursuant to *(enter Reservation) Tribal Code Sections (enter sections from Tribal Code)*.
10. That the Petitioner(s) brings this action pursuant to *(enter Reservation) Tribal Code Section (enter section of Tribal Code)*, et. seq. which addresses Termination of Parental Rights.
11. That the Court proceeds with the Termination of Parental Rights of the biological parent(s) _____ pursuant to
(List biological parent(s) names)
(Enter Reservation) Tribal Code Section (enter section of code) because:
- the minor child _____ has been out of the physical
(List child's name)
custody of the parent or Respondent (s) for more than one year.
12. That Respondent(s) has not had any contact with the minor child for more than one (1) year.
13. That if the minor child were to return to the physical custody of the Respondents, his or her _____ prospects for early integration into a
(Please circle)
stable and permanent family would be greatly diminished because he or she has established a bond with the Petitioner(s).
(Please circle)
14. That the minor child _____ has been in
(List child's name)
the physical custody of the Petitioner(s) for _____.
(List duration in years/ months)

15. That the Petitioner(s) are related to the minor child by being the:
(Please check box that applies)
- a. Grandmother b. Grandfather c. Aunt d. Uncle e. Cousin
- f. Grand Aunt g. Grand Uncle h. Distant Relative i. Unrelated
- j. Mother k. Father

16. That Petitioner(s) intends to adopt the minor child pursuant to (*enter Reservation*) *Tribal Code Section (enter section of Tribal Code)*. (Please Check box **only** if Petitioner intends to adopt.

17. That pursuant (enter Reservation) Tribal Code Section (enter section of Tribal Code), the child has been adjudicated to have been neglected or dependent in a prior proceeding on the _____ (list hearing date)
(Please check box above if applicable)

18. That the Respondent(s) has failed to provide child support for a period of:
_____ (List only if this applies).
(List # of years/months)

19. That the biological parent(s) have also done the following acts to the minor child that indicate neglect, abuse or dependency: (If applicable, list any other acts committed by the parent(s):

20. That the Petitioner(s) submits the Respondent’s address as follows:

_____ (Respondent(s) Box # or physical address)

_____ List the town or city with zip code

21. That the Petitioner is unable to locate the Respondent(s) and will publish the Notice in the (enter title of newspaper) for three (3) consecutive weeks and will submit an **Affidavit of Publication** to the Court prior to the scheduled hearing date.

WHEREFORE, based on the foregoing facts, the Petitioner(s) respectfully request that the Tribal Court grant the relief as follows:

- i. That the Court schedules a hearing.
- ii. That the Respondent(s) _____

(List biological parent or parents)
Parental rights be terminated pursuant to *(enter Reservation) Tribal Code Section (enter section of Tribal Code)*.

Date: _____

Petitioner #1 signature

Submitted to:

Clerk of Court

Date

TRIBAL COURT

JUVENILE DIVISION

INDIAN JURISDICTION

INDIAN RESERVATION

In the Matter of:

(Child's name)

(Child's date of birth)

**ORDER FOR
TERMINATION OF
PARENTAL RIGHTS**

File No. JV- _____

Petitioner's name(s),

VS.

Respondent's name(s),

A hearing was held on the _____ day of _____, 20____ at the _____ Reservation Tribal Court. Judge _____ presided.

Present at the hearing was _____, Petitioner, _____ and _____ Advocate or Attorney for the Petitioner, _____ Respondent and _____, Advocate or Attorney for the Respondent.

Based on the Evidence presented, the Court hereby enters the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Petitioner is an enrolled member, eligible for enrollment, a descendant of an enrolled member or not a Tribal member (use the applicable provision).

2. That the Petitioner(s) resides within the territorial jurisdiction of the _____ Reservation and his/her address is:

 (List Box # or Street Address)

 (List Town or City, State & Zip Code)
3. That the minor child _____ is:
 (List child's name)
 enrolled in the _____ Tribe, is eligible for enrollment in the _____ Tribe, is a lineal descendant of the _____ Tribe or is not a Tribal member.
4. That the biological parent(s) is or are enrolled members, eligible for enrollment, is or are a lineal descendant(s) of an enrolled member and have a significant connection with the _____ (insert applicable Tribal provision here).
5. That this court has jurisdiction pursuant to _____ *Tribal Code Sections* _____.
6. That the Petitioner(s) brings this action pursuant to _____ *Tribal Code Section* _____, et. seq. which addresses Termination of Parental Rights.
7. That the Court proceeds with the Termination of Parental Rights of the biological parent(s) _____ pursuant to
 (List biological parent(s) names)
 _____ *Tribal Code Section 9.0304* because:
***Note: insert applicable provision in the Findings.**
8. the minor child _____ has been out of the physical
 (List child's name)
 custody of the parent or Respondent (s) for more than one year.
9. That Respondent(s) has not had any contact with the minor child for more than one year.
10. That if the minor child were to return to the physical custody of the Respondents, his or her prospects for early integration into a
 (Please circle)
 stable and permanent family would be greatly diminished because he or she has established a bond with the Petitioner(s).
 (Please circle)

That the minor child _____ has been in

(List child's name)
the physical custody of the Petitioner(s) for _____.
(List duration in years/months)

11. That the Petitioner(s) are related to the minor child by being his or her (list applicable relationship in Findings)

Grandmother, Grandfather, Aunt, Uncle, Step-parent(s), Mother, Father, Cousin, not a relative, etc.

12. That Petitioner(s) intends to adopt the minor child pursuant to _____
*Tribal Code Section*_____.

13. That pursuant to _____
Tribal Code Section _____, the minor child has been adjudicated to have been neglected or dependent in a prior proceeding on the _____
(list hearing date).

14. That the Respondent(s) has failed to provide child support for a period of: _____
(List # of years/months) (List only if this applies).

15. That the biological parent(s) have also done the following acts to the minor child that indicate neglect, abuse or dependency: (If applicable, list any other facts committed by the parent(s)).

16. That the Respondent's address as follows:

(Respondent(s) Box # or physical address)

List the town or city with zip code

17. That the Petitioner was unable to locate the Respondent(s) and did publish The Notice in the local newspaper for three (3) consecutive weeks and did submit an Affidavit of Publication.

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby enters the following:

ORDER FOR TERMINATION OF PARENTAL RIGHTS

That the Respondent(s) _____
(List biological parent or parents)

Parental rights be terminated pursuant to _____ *Tribal Code Section* _____.

IT IS SO ORDERED.

BY THE COURT:

Date: _____

Tribal Judge

COURT SEAL

Petition for Adoption and Consent of Parent to Adopt

A Petition for Adoption was created to make adoptions easier to complete by a Petitioner or Tribal Advocate or Attorney.

If either of the biological parent's rights have been terminated, then the Petitioner can fill out the Petition for Adoption without a Consent of Parent to Adopt form. However, if the parental rights have not been terminated, then both biological parents need to fill out the Consent to Adopt form to prove to the Court that they agree with the final adoption.

Although these forms have a space for a Notary Public to sign, the Petitioner or Parent giving consent can usually sign the forms in front of the Juvenile Clerk or any other Court Official.

Even if the biological parent consents to the adoption, all documents and proceedings still need to be sent to all the parties involved in the petitions and consents. The only way the biological parents do not receive notification of the hearings is if they have terminated their parental rights. In this situation, the Petitioner or Tribal Advocate or Attorney should submit a copy of the Termination of Parental Rights with the petition.

The Tribal Advocate or Attorney can request a name change of the minor child on the Petition for Adoption. Most Tribal Judges will grant the name change at the same hearing if the petition contained the request and therefore both parties would be aware of the request.

Once the Petition and Consents of the Parents are completed correctly and filed, the Court Clerk will set a hearing. If the file includes everything from the petition to birth certificates and proof of service, the hearing will only take a few minutes because the Judge will usually only have to cover specifics in the code.

**TRIBAL COURT
INDIAN JURISDICTION**

**JUVENILE DIVISION
RESERVATION**

IN THE MATTER OF:

_____))
(Adult's name))
to adopt)
_____))
(Child's name))

PETITION FOR ADOPTION
Case No. _____

This petition complies with the (enter Tribal Code Sections).

Petitioner, upon his/her oath and affirmation, represents to the Court that:

1. Petitioner's name is: _____.
2. Petitioner's mailing address is: _____.
3. Petitioner is an enrolled member of the (enter Tribal name), eligible for enrollment, a lineal descendant or has a significant contact with the Tribe, and/or agrees to submit himself or herself to the Tribal Court's jurisdiction.
4. Petitioner's marital status (please circle):

SINGLE DIVORCED SEPARATED WIDOWED

MARRIED, if married, spouse's name: _____.

5. The proposed adoptee is: _____ . His/her residence is:
_____.
- He/she was born on: _____ in _____.
- He/she is either an enrolled member of the (enter Tribal name), eligible for enrollment, a lineal descendant or has a significant contact with the (enter Tribe's name).
6. The proposed adoptee shall be known as: _____.
7. This Court has jurisdiction over this matter pursuant to the (enter Tribe's name) Code section (enter sections).
8. The Petitioner and proposed adoptee's mother/father are enrolled members of the (enter Tribe's name).
9. The proposed adoptee is an enrolled member of the (enter Tribal name), eligible for enrollment, a lineal descendant or has a significant contact with the (enter Tribe's name) and is considered by the community to be Native American Indian.
10. Said above child does not own real estate, saving or bank accounts, bonds, securities, or personal property other than clothing and personal effects of inconsequential market value.
11. Proposed adoptee's birth certificate has been submitted: YES or NO.
12. The Petitioner is RELATED or UNRELATED (circle please) to the proposed adoptee.
- If related, give blood relationship: _____.
13. The consent of: _____, the mother/father of the proposed adoptee is necessary to complete the adoption. His or her address is:
_____.
14. The father of the child is (please circle):
- PRESUMED ADJUDICATED UNKNOWN
15. Petitioner obtained physical custody of the said child on: _____ and said child has lived in his or her home since that date. Petitioner acquired custody of said child by: _____ (enter placement reason or consent of parent).

16. Parental rights to both parents were terminated on: _____.
17. Petitioner desires that the relationship of parent and child be established between Petitioner and said child, that such is in the best interest of the child and that HE or SHE (circle please) freely undertakes the obligation fully to care for said child until his or her maturity, and that the child be given the name as it appears in the above title.

WHEREFORE, the Petitioner prays for a decree of adoption of the child: _____.

Dated: _____

Petitioner's Signature

STATE OF (ENTER STATE))
 COUNTY OF (ENTER COUNTY)) ss.

On the _____ day of _____, 20____,

(enter name of Petitioner) _____ personally appeared before me, and, known to me as the person described, executed the foregoing petition of his or her own free will.

 Signature of Notary Public of Court Official

(Notary Seal or Court Seal)

**TRIBAL COURT
INDIAN JURISDICTION**

**JUVENILE DIVISION
RESERVATION**

IN THE MATTER OF:

_____))
(Adult's name))
to adopt)
_____))
(Child's name))

CONSENT OF PARENT TO ADOPT
Case No. _____

Note: The foregoing consent form complies with the (enter Tribal Code Sections).

I, _____, being duly sworn upon oath, depose and say that:

1. I am an enrolled member of the (enter Tribal name), eligible for enrollment, a lineal descendant or have a significant contacts with the (enter Tribe) and live at:
_____.
2. I am the biological (please circle) MOTHER or FATHER of _____, a MALE or FEMALE child born on _____ in _____.
3. Of my own free will and with a view to the future welfare of my child, in the presence of a Notary Public or Court Clerk, I hereby consent to the adoption of: _____ by _____, Petitioner herein, who lives at: _____.

Dated: _____

Name of Parent

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Public or Court Clerk Signature

S E A L

TRIBAL COURT

JUVENILE DIVISION

INDIAN JURISDICTION

INDIAN RESERVATION

In the Matter of:

**ORDER FOR
ADOPTION**

(Child's Name)

(Child's date of birth)

File No. JV- _____

Petitioner's name(s),

VS.

Respondent's name(s),

A hearing was held on the _____ day of _____, 20__ at the
_____ Reservation Tribal Court. Judge _____ presided.

Present at the hearing was _____,
Petitioner, _____ and _____ Advocate or Attorney for the
Petitioner, _____ Respondent and _____, Advocate
or Attorney for the Respondent.

Based on the Evidence presented, the Court hereby enters the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. That the Petitioner is an enrolled member, eligible for enrollment, a descendant of an *enrolled* member or not a Tribal member (use the applicable provision).

2. That the Petitioner(s) resides within the territorial jurisdiction of the _____ Reservation and his/her address is:

 (List Box # or Street Address)

 (List Town or City, State & Zip Code)

3. That the minor child _____ is:
 (List child's name)
 enrolled in the _____ Tribe, is eligible for enrollment in the _____ Tribe, is a lineal descendant of the _____ Tribe or is not a Tribal member.

4. That this court has jurisdiction pursuant to _____ *Tribal Code Sections* _____.

5. That the Petitioner(s) brings this action pursuant to _____, et. seq. which addresses Adoptions.

6. That the Court Ordered a Termination of Parental Rights on _____.
 (List date of TPR Order)

7. That the Petitioner(s) are related to the minor child by being his or her (list applicable relationship in Findings)
 Grandmother, Grandfather, Aunt, Uncle, Step-parent(s), Mother, Father, Cousin, not a relative, etc.

8. That Petitioner(s) intends to adopt the minor child pursuant to _____ *Tribal Code Section* _____ and does request a Name Change for the minor child.

9. That, if applicable, the Respondent's address as follows:

 (Respondent(s) Box # or physical address)

 List the town or city with zip code

10. That, if applicable, the Petitioner was unable to locate the Respondent(s) and Did publish the Notice in local newspaper for three (3) consecutive weeks and did submit an Affidavit of Publication.

11. That the court has received the Assessment Report from the State of _____.
12. That the local child protection agency and/or state agency does recommend that the minor child be adopted by the Petitioner(s).

WHEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby enters the following:

ORDER FOR ADOPTION

1. That the Adoption Petition is hereby granted.
2. That the minor child's name shall be changed to _____.
3. That the Petitioner(s) are hereby granted full parental rights and obligations pertinent to being a parent such as medical, social, educational, spiritual and does hereby promise to protect, secure, parent and to love, respect, discipline and honor the minor child in accord with Native traditions.
4. That the Petitioner must submit this Order to the relevant agencies such as The Department of Human Services or any other agency.

IT IS SO ORDERED.

BY THE COURT:

Date: _____

Tribal Judge

COURT SEAL