**State of Minnesota District Court**

County of: Court File Number:

Judicial District: Case Type: Custody

Petitioner

Co-Petitioner, if any

AND

Respondent Parent A

Respondent Parent B

Respondent Legal Guardian or Custodian, if any

Answer to Third Party Custody Petition  
and Counterpetition for Custody (CHC702)  
Minn. Stat. ch. 257C

# ANSWER

Your name:

The above-named Respondent alleges the following:

1. The statements made in the *Petition to Establish Third Party Custody* in the following paragraphs are **true** (include only the paragraph number):

1. The statements made in the *Petition to Establish Third Party Custody* in the following paragraphs are **not true** (include only the paragraph number):

1. The statements made in the *Petition to Establish Third Party Custody* in the following paragraphs are **partly** **true *and* partly not true** (include only the paragraph number):

1. Respondent **does not have enough information to admit or deny** the statements made in the following paragraphs of the *Petition to Establish Third Party Custody* (include only the paragraph number):

Continued on next page.

# Counterpetition for Custody

## Part 1: Information about Parties (Petitioner, Co-Petitioner, Respondents)

1. **Petitioner**
   1. Petitioner’s Name and Contact Information:

First Name:

Middle Name:

Last Name:

Street Address:

Apartment or Unit Number:

City/State/Zip:

Telephone:

Email: or  No email address.

* 1. Petitioner’s other names (maiden, former married or another legal name, alias):

None, **OR**:

* 1. Petitioner’s Social Security Number:

Petitioner’s Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Petitioner’s Social Security Number.

* 1. What is Petitioner’s relationship to the children?

* 1. Is Petitioner in the military?  Yes  No  Unknown

1. **Co-Petitioner**

If there is only one petitioner, leave this “Co-Petitioner” section blank, and check here:

1. Co-Petitioner’s Name and Contact Information:

First Name:

Middle Name:

Last Name:

Street Address:

Apartment or Unit Number:

City/State/Zip:

Telephone:

Email: or  No email address.

1. Co-Petitioner’s other names (maiden, former married or another legal name, alias):

None, OR:

1. Co-Petitioner’s Social Security Number:

Co-Petitioner’s Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Co-Petitioner’s Social Security Number.

1. What is Co-Petitioner’s relationship to the children?

1. Is Co-Petitioner in the military?  Yes  No  Unknown
2. **Respondent Parent A**
3. Parent A’s Name and Contact Information:

First Name:

Middle Name:

Last Name:

Street Address:

Apartment or Unit Number:

City/State/Zip:

Telephone:

Email: or  No email address.

1. Parent A’s other names (maiden, former married or another legal name, alias):

**OR**  Unknown **OR**  None

1. Parent A’s Social Security Number:

Parent A’s Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Parent A’s Social Security Number.

1. How is Parent A related to the children?

Biological mother.  Biological father.  Adoptive parent.

Other (Explain): .

1. Is Parent A in the military?  Yes.  No.  Unknown.
2. Is Parent A a member of, or eligible for membership in, an Indian tribe?

Yes. Names of Tribes:

No.

Unknown.

1. **Respondent Parent B**
2. Parent B’s Name and Contact Information:

First Name:

Middle Name:

Last Name:

Street Address:

Apartment or Unit Number:

City/State/Zip:

Telephone:

Email: or  No email address.

1. Parent B’s other names (maiden, former married or another legal name, alias):

**OR**  Unknown **OR**  None

1. Parent B’s Social Security Number:

Parent B’s Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Parent B’s Social Security Number.

1. How is Parent B related to the children?

Biological mother.  Biological father.  Adoptive parent.

Other (Explain): .

1. Is Parent B in the military?  Yes.  No.  Unknown.
2. Is Parent B a member of, or eligible for membership in, an Indian tribe?

Yes. Names of Tribes:

No.

Unknown.

1. **Respondent Legal Guardian or Custodian**

If there is no Legal Guardian or Custodian, leave this section blank, and check here:

1. Legal Guardian or Custodian’s Name and Contact Information:

First Name:

Middle Name:

Last Name:

Street Address:

Apartment or Unit Number:

City/State/Zip:

Telephone:

Email: or  No email address.

1. Legal Guardian or Custodian’s other names (maiden, former married or another legal name, alias):

**OR**  Unknown **OR**  None

1. Legal Guardian or Custodian’s Social Security Number:

Legal Guardian or Custodian’s Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Legal Guardian or Custodian’s Social Security Number.

1. Describe the relationship between the Legal Guardian or Custodian and the children:

1. Is the Legal Guardian or Custodian in the military?  Yes.  No.  Unknown.
2. Is the Legal Guardian or Custodian a member of, or eligible for membership in, an Indian tribe?

Yes. Names of Tribes:

No.

Unknown.

## Part 2: Information about the Children

1. List each child’s full name, age, and date of birth:

* There is space to list 4 children. If this third-party custody case involves more than 4 children, add more paper.

#### Child 1

First Name:

Middle Name:

Last Name:

Age: Date of Birth:

#### Child 2

First Name:

Middle Name:

Last Name:

Age: Date of Birth:

#### Child 3

First Name:

Middle Name:

Last Name:

Age: Date of Birth:

#### Child 4

First Name:

Middle Name:

Last Name:

Age: Date of Birth:

1. **Other Court Cases.** Are you aware of any other court cases involving the parties (such as child support, dissolution/divorce, custody, paternity, juvenile, child protection, harassment restraining order/HRO, order for protection/OFP, or other no-contact order)?

Yes  No

**If Yes**, list the following information (if known):

**Type of Court Case:**

**Court File Number:**

**County** and **State:**

**Information about the Case:**

1. **Current Custody of the Children.** Who currently has custody of the children?

* List who has legal and physical custody of each child, to the best of your knowledge. If you know there is a court order for custody, include as much detail as you can.

#### Child 1

Child’s Name:

Who has legal custody?

Who has physical custody?

Court File Number and State, if there is a court case:

Details:

#### Child 2

Child’s Name:

Who has legal custody?

Who has physical custody?

Court File Number and State, if there is a court case:

Details:

#### Child 3

Child’s Name:

Who has legal custody?

Who has physical custody?

Court File Number and State, if there is a court case:

Details:

#### Child 4

Child’s Name:

Who has legal custody?

Who has physical custody?

Court File Number and State, if there is a court case:

Details:

1. **Length of Time in Minnesota**. How long has each child lived in Minnesota?

#### Child 1

Child’s Name:

Number of Years or Months the Child Has Lived in Minnesota:

#### Child 2

Child’s Name:

Number of Years or Months the Child Has Lived in Minnesota:

#### Child 3

Child’s Name:

Number of Years or Months the Child Has Lived in Minnesota:

#### Child 4

Child’s Name:

Number of Years or Months the Child Has Lived in Minnesota:

1. **Information about Time the Children May Have Lived with Petitioner**. Have any of the children ever lived with the Petitioner?  Yes  No

If **Yes**:

* List the child’s full name;
* List the number of years or months the child has lived with the Petitioner; and
* Explain how and why the child went to live with the Petitioner.

**OR**  Does not apply because the children have never lived with the Petitioner.

1. **Siblings.** Does the child who is part of this third-party custody case have any siblings (brothers or sisters) who are not part of this case?  Yes  No

If **Yes**:

* List each sibling’s full name;
* List who each sibling lives with; and
* Describe how that sibling is related to the person they live with.
* The first line in the chart below is filled out as an example.

| **Sibling’s Full Name** | **Who Sibling Lives With** | **That Person’s Relationship to the Sibling** |
| --- | --- | --- |
| Example: John David Doe | Mary Smith | Aunt (Mother’s sister) |
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|  |  |  |
|  |  |  |

## Part 3: Indian Child Welfare Act (ICWA) and Minnesota Indian Family Preservation Act (MIFPA)

* Two of the things that Minnesota court rules require in a petition are:
* A statement as to whether the child is or may be an Indian child; and
* A description of “the due diligence used to determine whether the child is an Indian child. Minn. Gen. R. Prac. 315.
* An “Indian child” is defined as an unmarried person who is under age eighteen and is: (1) a member of an Indian tribe; or (2) is eligible for membership in an Indian tribe. Minn. Stat. § 260.755, subd. 8.

1. **ICWA and MIFPA**
   1. Tell whether each child is an Indian child. If the answer is Yes, list the names of the Tribes.

#### Child 1

Child’s Name:

Is this child an Indian child?

Yes. Name of tribes:

No.

Unknown.

#### Child 2

Child’s Name:

Is this child an Indian child?

Yes. Name of tribes:

No.

Unknown.

#### Child 3

Child’s Name:

Is this child an Indian child?

Yes. Name of tribes:

No.

Unknown.

#### Child 4

Child’s Name:

Is this child an Indian child?

Yes. Name of tribes:

No.

Unknown.

* 1. Describe what you did to determine whether each child is or may be an Indian child.

## Part 4: Paternity

1. How do you believe paternity of the children has been established?

* Check all that apply:
  1. **Court Order**

There is a court order in the State of that says Parent (A or B) is the father of the following children:

* 1. **Minnesota Recognition of Parentage (ROP)**

The Respondent Parents (A and B) signed a Minnesota Recognition of Parentage (ROP) for the following children:

, **AND** each ROP was filed with the Minnesota Department of Health (this is usually done at the hospital or at a county office).

* 1. **Voluntary Acknowledgment of Paternity or Parentage (VAP) in another state**

The VAP is like the Minnesota ROP, but for a different state.

The Respondent Parents (A and B) signed a (VAP) in a state other than Minnesota for the following children:

, **AND** each VAP was filed in the following state:

* 1. **Other reasons that Respondent Parent (A or B) is presumed to be the father of the children:**
* Check all that apply:

The Respondent Parents (A and B) were married with the following children were born:

The following children were born within 280 days after Respondent Parents (A and B) were divorced (or after the marriage of the Respondent Parents ended by death, annulment, declaration of invalidity, or after a decree of legal separation was entered by a court):

Respondent Parent (A or B) received the following children into his home, and openly holds them out as his biological children:

Genetic testing was done, and it shows that Respondent Parent (A or B) is likely to be the father of the following children:

Other:

## Part 5: Jurisdiction – De Facto Custodian or Interested Third Party

1. **Jurisdiction**
   1. In the *Petition*, does the Petitioner claim to be a **De Facto Custodian** or an **Interested Third Party**?  De Facto Custodian  Interested Third Party
   2. Do you agree with the Petitioner’s claim regarding “de facto custodian” or “interested third party”?  Yes  No

Why or why not?

## Part 6: Respondents’ Involvement with, and Others Who Have Provided Care for, the Children

1. Answer the following questions about you:
   1. How often and under what circumstances (where and how) have you seen the children?

* 1. Have you committed acts of domestic violence (physical or emotional abuse) or neglect against the children?  Yes  No
  2. Is there a Court Order that says you cannot have custody of the children (for example, an Order for Protection or Child Protection Order)?  Yes  No

If **Yes**, give the following information:

Date of Court Order:

Court File Number:

County and state where order was issued:

Name of person court gave custody to:

Were conditions set in the court order for custody to be returned to you?

Yes  No

If **Yes**, did you follow the conditions?  Yes  No

1. Answer the following questions about the other parent:
   1. How often and under what circumstances (where and how) has the other parent seen the children?

* 1. Has the other parent ever committed acts of domestic violence (physical or emotional abuse) or neglect against the children?  Yes  No  Unknown
  2. Is there a Court Order that says the other parent cannot have custody of the children (for example, an Order for Protection or Child Protection Order)?

Yes  No  Unknown

If **Yes**, give the following information:

Date of Court Order:

Court File Number:

County and state where order was issued:

Name of person court gave custody to:

Were conditions set in the court order for custody to be returned to the other parent?  Yes  No  Unknown

If **Yes**, did the other parent follow the conditions?

Yes  No  Unknown

* A “standby custodian” is a person officially named by a parent to care for the child if something happens to that parent.

1. Has a **Standby Custodian** been named by you or the other parent?

Yes  No  Unknown

If **Yes**:

* 1. Who named the Standby Custodian? (check all that apply)

Parent A  Parent B  Legal Guardian or Other Custodian

* 1. What is the Standby Custodian’s name?
  2. How is the Standby Custodian related to the children?

1. Are there people other than you who have cared for the children in their home for an extended period of time without the parents’ involvement?  Yes  No

If **Yes**, please give the following information:

* Name of the person who cared for the child;
* The person’s relationship to the child;
* Amount of time the person cared for the child; and
* The time period when the person cared for the child.

| **Name of Person** | **Relationship to Child** | **Amount of Time and When** |
| --- | --- | --- |
| Example: Tim and Sue Smith | Maternal uncle and aunt | 3 months – June, July, and September 2023 |
|  |  |  |
|  |  |  |
|  |  |  |
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## Part 7: Custody – What Is Best for the Children (Best Interest Factors)

* Minnesota law requires the judicial officer to consider and evaluate all relevant factors in determining the best interests of the children, including the “best interest factors” found in statute.
* The questions in this section are based on the “best interest factors” found in Minn. Stat. § 257C.04 (revisor.mn.gov/statutes/cite/257C.04).

1. **The Wishes of the Parties as to Custody of the Children** [Minn. Stat. § 257C.04, subd. 1(a)(1)]
   1. What do you believe the **Petitioner** wants regarding custody of the children?

* 1. What do you believe the **Co-Petitioner** wants regarding custody of the children?

N/A (because there is no Co-Petitioner) **OR:**

* 1. What do **you** think is best for the children regarding custody?

* 1. What do you believe **the other parent** wants regarding custody of the children?

* 1. What do you believe the children’s **Legal Guardian/Custodian** wants regarding custody?  N/A (not applicable because there is no legal guardian or custodian); **OR**

1. **The Reasonable Preferences of the Children** [Minn. Stat. § 257C.04, subd. 1(a)(2)]

* One factor the court must consider and evaluate is “the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference.”
* List each child, the child’s age, and what the child’s preference is regarding custody (if you know it).

#### Child 1

Child’s Name: Age:

Child 1’s preference regarding custody:

#### Child 2

Child’s Name: Age:

Child 2’s preference regarding custody:

#### Child 3

Child’s Name: Age:

Child 3’s preference regarding custody:

#### Child 4

Child’s Name: Age:

Child 4’s preference regarding custody:

1. **The Children’s Primary Caretaker** [Minn. Stat. § 257C.04, subd. 1(a)(3)]

Who is the child’s primary caretaker?

1. **The Intimacy of the Relationship Between Each Party and the Children** [Minn. Stat. § 257C.04, subd. 1(a)(4)]

Briefly describe how close the children are to everyone involved:

* 1. How close are the children to the **Petitioner**?

* 1. How close are the children to the **Co-Petitioner**?  N/A (there is no Co-Petitioner); **OR**

* 1. How close are the children to **you**?

* 1. How close are the children to **the other parent**?

* 1. How close are the children to the children’s **Legal Guardian or Custodian**?

N/A (there is no Legal Guardian or Custodian); **OR**

1. **The Interactions and Interrelationships of the Children with Others** [Minn. Stat. § 257C.04, subd. 1(a)(5)]

Briefly describe the relationships and interaction the children have with the petitioner, with the Co-Petitioner, with you, with the other parent, with any siblings, and with any other person who has played an important role in the children’s lives:

1. **The Children’s Adjustment to Home, School, and Community** [Minn. Stat. § 257C.04, subd. 1(a)(6)]
   1. How well adjusted are the children to **life at home**?

* 1. How well adjusted are the children **in school**?

* 1. How well adjusted are the children **in the community**?

1. **The Length of Time the Children Have Lived in a Stable, Satisfactory Environment, …** [Minn. Stat. § 257C.04, subd. 1(a)(7)]
   1. Do the children currently live in a stable, safe, place?  Yes  No

* Where do the children live?

* How long have the children lived there?

* Is it best for the children to stay there?  Yes  No
  1. Explain the answers you gave in 25a:

1. **The Permanence, as a Family Unit, of the Existing or Proposed Custodial Home** [Minn. Stat. § 257C.04, subd. 1(a)(8)]
   1. Who else lives with you in your home?

* 1. Do you consider these people to be your permanent family unit?  Yes  No
  2. Explain your answer in 26b:

* 1. If the children do not live with you, describe the permanence of the family unit where the children are currently living:  N/A (not applicable, because the children currently live with this Respondent); **OR:**

1. **The Mental and Physical Health of All Individuals Involved** [Minn. Stat. § 257C.04, subd. 1(a)(9)]

Briefly describe the **mental** and **physical** **health** of everyone involved:

* 1. Petitioner:

* 1. Co-Petitioner:  N/A (not applicable because there is no Co-Petitioner); **OR:**

* 1. You:

* 1. The Other Parent:

* 1. Children:

* 1. Legal Guardian or Custodian:  N/A (not applicable because there is no Legal Guardian or Custodian); **OR:**

1. **The Capacity and Disposition of the Parties to Give the Children Love, Affection, and Guidance, and to Continue Educating and Raising the Children in Their Culture and Religion or Creed, if any** [Minn. Stat. § 257C.04, subd. 1(a)(10)]
   1. Explain whether the parties can give the children love, affection, and guidance:

* How will you do this?

* Explain whether the other parent is capable of giving the children love, affection and guidance:

* Explain whether the Petitioner is capable of giving the children love, affection and guidance**:**

* Explain whether the Co-Petitioner is capable of giving the children love, affection and guidance:  N/A (not applicable because there is no Co-Petitioner); **OR:**

* Explain whether the Legal Guardian or Custodian is capable of giving the children love, affection and guidance:  N/A (not applicable because there is no Legal Guardian or Custodian); **OR:**

* 1. Explain whether the parties will be able to educate and raise the children in the children’s culture and religion or creed, if any:
* How will you do this?

* Explain whether the other parent is capable of educating and raising the children in the children’s culture and religion or creed, if any:

* Explain whether the Petitioner is capable of educating and raising the children in the children’s culture and religion or creed, if any:

* Explain whether the Co-Petitioner is capable of educating and raising the children in the children’s culture and religion or creed, if any:  N/A (not applicable because there is no Co-Petitioner); **OR:**

* Explain whether the Legal Guardian or Custodian is capable of educating and raising the children in the children’s culture and religion or creed, if any:  N/A (not applicable because there is no Legal Guardian or Custodian); **OR:**

1. **The Children’s Cultural Background** [Minn. Stat. § 257C.04, subd. 1(a)(11)]

Describe the children’s cultural background:

1. **The Effect on the Children of the Actions of an Abuser, if Related to Domestic Abuse, as Defined in Minn. Stat. § 518B.01, subd. 2, that Has Occurred Between the Parents or the Parties** [Minn. Stat. § 257C.04, subd. 1(a)(12)]

Has there been domestic abuse (physical or emotional) by any of the parties in this case against another party or the children?  Yes  No

* The parties are the Petitioner, Co-Petitioner, the parents, and the Legal Guardian or Custodian, if any.

**If Yes**:

* Who has been involved in the domestic abuse?

* What effect has the abuse had on the children?

## Part 8: Income and Ability to Provide Child Support

1. **Existing Child Support Order**

Are you aware of an existing child support order (one that is already in place)?  Yes  No

If **Yes**, give as many details as you can (for example, what county and state is the child support case in, and what is the court file number?):

1. You must fill out and file a *Financial Affidavit for Child Support* (FAM102) with attachments (proof of financial situation).

## Part 9: Your Requests

# The Respondent, (name), asks the Court for an Order as follows:

1. **Dismissing the entire petition** (if you check this box, then skip questions #2 through #4).

**OR**

## Requests: Legal and Physical Custody

1. Granting **legal and physical custody** as follows:
   1. **Legal Custody**:

* *Legal custody means having a right to participate in the major decisions regarding the child’s life, including education, religious upbringing and medical treatment.*

It is in the children’s best interests that legal custody be granted as follows:

**Sole legal custody** to (name).

**OR**

**Joint legal custody** to the following parties:

Parent A  Parent B

Both parents  Petitioner

Co-Petitioner  Legal Guardian or Custodian

* 1. **Physical Custody**:
* *Physical custody identifies who will handle the routine daily care and control of the child, and who the child will live with.*

It is in the children’s best interests that physical custody be granted as follows:

**Sole physical custody** to (name).

**OR**

**Joint physical custody** to the following parties:

Parent A  Parent B

Both parents  Petitioner

Co-Petitioner  Legal Guardian or Custodian

**NOTE:** If you checked “joint physical custody,” and the other person is not your spouse, then you need a schedule stating who takes care of the children and when. Describe the schedule:

* 1. **Best Interest Factors: Joint Legal or Joint Physical Custody**.
* According to Minn. Stat. § 257C.04, subd. 2, there are other factors the court must consider when a party asks for joint legal or joint physical custody.
* If you checked “joint legal custody” or “joint physical custody” in “a” or “b” above, then answer the following questions about you and the person you hope to share legal and/or physical custody with.

N/A (“c” is not applicable because this Respondent is not asking for joint legal or joint physical custody).

**OR**

1. Can you cooperate with the other party in raising the children?

Yes  No

1. Explain how you will cooperate ***OR*** if you are not able to cooperate, why not?

1. If you and the other party disagree on major decisions about the children’s lives, how will you work out your differences and make a decision?

How willing are you and other party to use these methods to resolve disagreements?

1. Do you believe it would be negative or bad for the children if either you or the other party (who you are asking to share joint legal or physical custody with) had the sole authority over raising the children rather than joint authority with the other party?

Yes  No

Explain your answer:

1. Has there been domestic abuse between you and the other party?

Yes  No

If **Yes**, explain when the domestic abuse happened:

Explain how the situation got better:

## Requests: Parenting Time

1. Granting **Parenting Time** as follows:

Weekends:

Weeknights or after school (or, if not in school, then Monday through Friday):

Holidays:

Birthdays:

School release days:

Summer:

Telephone contact with children (When can they talk on the phone with the parents?):

Transportation:

Other:

**Supervised parenting time** for  Parent A /  Parent B because:

* Who should supervise the parenting time?

* If there is a cost, who should pay?

**NO PARENTING TIME** for **Parent A** (reserving parenting time), because:

**NO PARENTING TIME** for **Parent B** (reserving parenting time), because:

## Requests: Child Support and Other

1. **Ordering** **child support**:

Ordering that basic support, medical support, and childcare support be set according to Minnesota Child Support Guidelines and based on each parent’s income and ability to pay.

1. **Granting such other relief as the Court deems just and equitable**.

# ACKNOWLEDGMENT

By presenting this form to the court, I certify that to the best of my knowledge, information, and belief, the following statements are true. I understand that if a statement is not true, the court can order a penalty against me (such as to pay money to the other party, pay court costs, and/or other penalties).

1. The information I included in this form is based on facts and supported by existing law.
2. I am not presenting this form for any improper purpose. I am not using this form to:
   1. Harass anyone;
   2. Cause unnecessarily delay in the case; or
   3. Needlessly increase the cost of litigation.
3. No judicial officer has said I am a frivolous litigant.
4. There is no court order saying I cannot serve or file this form.
5. This form does not contain any “restricted identifiers” or confidential information as defined in Rule 11 of the General Rules of Practice (<https://www.revisor.mn.gov/court_rules/gp/id/11/>) or the Rules of Public Access to Records of the Judicial Branch (<https://www.revisor.mn.gov/court_rules/rule/ra-toh/>).
6. If I need to file “restricted identifiers,” confidential information, or a confidential document, I will use Form 11.1 and/or Form 11.2, as required by Rule 11.

Date:

Signature

Name:

Address:

City/State/Zip:

Phone:

Email: