

SUPPLEMENTAL INSTRUCTIONS

ICWA and MIFPA – Third Party Custody

Important Notices and Resources

This is a set of **supplemental instructions** for use when a **Third Party Custody** matter involves children or parents who are members of, or who are eligible for membership in, an Indian tribe. Use this along with the general instructions (CHC601).

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact court administration or call the Minnesota State Law Library at 651-297-7651.

Form You Will Need

In addition to the forms listed in the general instructions (CHC601), when you have reason to know that the child or a parent is a member of (or may be eligible for membership in) an Indian tribe, you also need the form titled *ICWA Notice – Third Party Custody* (CHC605).

This form is available online at <https://mncourts.gov/GetForms.aspx?c=4#subcat77>.

What You Need to Do

1. Prepare and gather the forms you filled out for Third Party Custody (for example, the *Summons* and *Petition to Establish Third Party Custody*). This is explained in the general instructions, CHC601.
2. If you have reason to know that the child or a parent is be a tribal member, or may be eligible for tribal membership, fill out the *ICWA Notice – Third Party Custody* (CHC605).

3. Using **Certified Mail, Return Receipt Requested**, send a copy of the *ICWA Notice* and a copy of the *Petition to Establish Third Party Custody* to each tribe where a child or parent may be a member (or may be eligible for membership in).
4. Using **Certified Mail, Return Receipt Requested**, send a copy of the *ICWA Notice* and a copy of the *Petition to Establish Third Party Custody* to the Midwest Regional Director of the Bureau of Indian Affairs.
5. File the *ICWA Notice* along with all of the forms listed in the general instructions (CHC601) with Court Administration.
6. File the “green cards” (the return receipts from the certified mailings) with Court Administration as you receive them.

More details about each of these steps is found below.

Step 1
Fill Out *ICWA Notice – Third Party Custody (CHC605)*

The Caption

The caption is at the top of the first page, and it contains important information about the case such as the names of the parties, the identity of the court, and the court file number (once one is assigned). Fill out the caption the same way you did for the other forms in your third party custody case.

State of Minnesota A County of: _____ Judicial District: _____ B _____ D Petitioner _____ Co-Petitioner, if any _____ E AND _____ F Respondent Parent A Respondent Parent B _____ G Respondent Legal Guardian or Custodian, if any _____ H	District Court Court File Number: _____ C Case Type: <u>Custody</u>
ICWA Notice for Third Party Custody (CHC605)	

- A. List the county where you will file (or where you have filed) the third party custody case.
- B. List the judicial district. Each county is in 1 of 10 [judicial districts](http://mncourts.gov/Find-Courts.aspx) (mncourts.gov/Find-Courts.aspx).
- C. List the court file number if one has been assigned. If you have not filed your case yet, then Court Administration has not yet assigned a court file number, and you can leave it blank.

Parties' Full Names

- D. The **Petitioner** is the person who initiates, or starts, the third party custody case. List the Petitioner's full name.
- E. If there is a **Co-Petitioner**, list the Co-Petitioner's full name.
- F. List the full name of the parent who is referred to as **Parent A** in the *Petition to Establish Third Party Custody*.
- G. List the full name of the parent who is referred to as **Parent B** in the *Petition to Establish Third Party Custody*.
- H. List the full name of any legal guardian or custodian listed in the *Petition* (CHC603).

Who Are You Giving the Notice To?

Federal regulations require you to give notice to the Bureau of Indian Affairs, to each tribe where the child or parent is a member (or may be eligible for membership), to each parent, and to any Indian custodian of the children.

1. Fill in your full name.

TO ALL PARTIES:

My name is _____ **1** _____, and I am seeking third party custody of the children named below.

To comply with 25 C.F.R. §§ 23.11 and 23.111, I am giving this **NOTICE** to the following:

2 The Midwest Regional Director of the Bureau of Indian Affairs

Department of the Interior
Norman Pointe II Building
5600 W. American Blvd., Suite 500
Bloomington, MN 55437

3 Each tribe where the child or parent is a member (or may be eligible for membership in):

a **Tribe:** _____

Address: _____

City/State/Zip: _____

Tribe: _____

Next, there are check boxes for you to use to let the court, the other parties, and the tribes and agencies know who you are sending the *ICWA Notice for Third Party Custody* to.

2. Since the **Midwest Regional Director of the Bureau of Indian Affairs** must be sent a notice any time the petitioner has reason to know that a parent or child is a member of (or may be eligible for membership in) an Indian tribe, this box is already checked for you. The address is also listed for you.

3. You must send the *ICWA Notice for Third Party Custody* to each tribe where the child or parent is a member (or may be eligible for membership).

If you know the names of the tribes where the child or parent is or may be enrolled, check the box next to the statement starting with “Each tribe where...”

- a. Then fill in the name and address of each tribe. There is space to list 2 tribes. Add more paper if you run out of space.

4 The Indian child’s parents (and, if applicable, the child’s Indian custodian):

Parent A: _____ (name)
Address listed below.

Parent B: _____ (name)
Address listed below.

Indian Custodian: _____ (name)
Address listed below.

4. You must also send the *ICWA Notice for Third Party Custody* to each parent and to any Indian Custodian of the child.

Check the box if you are able to send the *ICWA Notice* to the parents (and/or to the Indian Custodian, if any). Then fill in the parents’ (and custodian’s) names.

Party, Child, Family, and Tribal Details

Petitioner and Co-Petitioner

Party, Child, Family, and Tribal Details – 25 C.F.R. § 23.111(d)

5 **Petitioner’s Information**

First Name: _____

Middle Name: _____ **a**

Last Name: _____

Represented by Attorney: _____ (name)

Self-represented

Street Address: _____

City/State/Zip: _____ **c**

6 **Co-Petitioner’s Information**

N/A (there is only 1 Petitioner); OR

First Name: _____

Middle Name: _____

Last Name: _____

Represented by Attorney: _____ (name)

Self-represented

Street Address: _____

City/State/Zip: _____

5. The first item under the “Party, Child, Family, and Tribal Details” section is “Petitioner’s Information.”

- a. List your full name (first, middle, last).

- b. Check whether you are represented by an attorney or are representing yourself in the third party custody case. If you are represented, include your attorney’s name.
 - c. List your address (or, if you are represented by an attorney, list the attorney’s address).
6. Give the same information for the Co-Petitioner. If there is no Co-Petitioner, you check the box for “N/A,” which means “not applicable.”

Children

- 7. There is room for 4 children on CHC605. If there are more than 4 children involved in this case who are Tribal members (or who may be eligible for Tribal membership), you will need to add more paper.

7 Children’s Information

This third-party custody case involves **a** (total number) children. Of this number, the following children are members of (or may be eligible for membership in) an Indian tribe:

Child 1

First Name: _____

Middle Name: _____

Last Name: _____ **b**

c { Date of Birth: _____

Place of Birth: _____

Child 1 is a member of (or may be eligible for membership in) the following tribes: _____ **d** OR Unknown

Child 2

First Name: _____

Middle Name: _____

Last Name: _____

- a. Tell how many children (total) are involved in the third party custody case.

Then, for each **Indian child**, list the following information:

- b. Full name (first, middle, and last name);
- c. Date of birth and place of birth (when and where child was born); and
- d. The names of the tribes the child is a member of (or is eligible for membership in). If you do not know this information, you can check the box for “unknown.”

Parents (Parent A and Parent B)

The other third party custody forms (for example, the Summons and *Petition*) also use the terms “Parent A” and “Parent B.” **Please be consistent throughout all forms in this case when identifying which parent is Parent A and which is Parent B.**

8 Parents' Information

Parent A

a First Name: _____
 Middle Name: _____
 Last Name: _____

b Other Names Used (for example, maiden name, married name, former names, or alias): _____

c Street Address: _____
 City/State/Zip: _____

Date of Birth: _____ **d**
 Place of Birth: _____

Parent A is a member of (or may be eligible for membership in) the following tribes:
 _____ **e** Unknown

Tribal Enrollment Number and Information: _____ **f** Unknown

Parent B

First Name: _____
 Middle Name: _____
 Last Name: _____

8. For each parent, list the following information:
- a. Full name (first, middle, and last name);
 - b. Other names used by the parent, such as a maiden name or alias;
 - c. The parent's address;
 - d. The parent's date of birth and place of birth (when and where parent was born); and
 - e. The names of the tribes the parent is a member of (or is eligible for membership in). If you do not know this information, you can check the box for "unknown."
 - f. Also list other tribal enrollment information if known (such as the Tribal Enrollment Number).

Indian Custodian

9

Indian Custodian's Information

a N/A (there is no Indian Custodian); **OR:**

b { Indian Custodian's First Name: _____
Middle Name: _____
Last Name: _____

Other Names Used (for example, maiden name, married name, former names, or alias): _____ **c**

Street Address: _____ **d**
City/State/Zip: _____

The Indian Custodian is a member of (or may be eligible for membership in) the following tribes: **e**

_____ **OR** Unknown

Tribal Enrollment Number and Information: _____ **f**

_____ **OR** Unknown

9. The next part is where you will give information about an Indian Custodian, if any.
- a. If the children do not have an Indian Custodian, you can check the box for "N/A" (not applicable).

If there *is* an Indian Custodian, give the following information:

- b. The Indian Custodian's full name (first, middle, and last);
- c. Other names used by the Indian Custodian (if any);
- d. The Indian Custodian's address;
- e. The names of the tribes the Indian Custodian is a member of (or is eligible for membership in). If you do not know this information, you can check the box for "unknown."
- f. Also list other tribal enrollment information if known (such as the Tribal Enrollment Number).

Direct Lineal Ancestors of the Child

In the next part, you will give information about any "direct lineal ancestors." An example of a "direct lineal ancestor" is a grandparent. There is room for 2 direct lineal ancestors on CHC605. If there are more than 2, you will need to add more paper.

10 Information about Child's Direct Lineal Ancestors (for example: grandparents)

Relative

First Name: _____
 Middle Name: _____ **a**
 Last Name: _____

Relationship to Child: _____ **b**

c Date of Birth: _____
 Place of Birth: _____

Tribal Enrollment Information: _____ **d**
 _____ OR Unknown

Relative

First Name: _____
 Middle Name: _____
 Last Name: _____

10. For each direct lineal ancestor (relative) listed, give the following information:

- a. Full name (first, middle, and last name);
- b. The relationship between this person and the child;
- c. This person's date of birth and place of birth (when and where the relative was born); and
- d. Tribal Enrollment Information for the relative (if known).

Case Information

Case Information

1 1. A copy of the *Petition to Establish Third Party Custody* is included with this Notice.

2. Court File Number: **2**
 Has not yet been assigned.
 Is noted at the top of page 1.

3. A **hearing** in this case: **3**
 Has not yet been scheduled.

Has been scheduled as follows:
 Date: **Date of Hearing** Time: **Time** a.m. / p.m.

According to Court Administration, the hearing will be held:
 Remote (details found on notice provided by Court Administration)
 In person at this address: **Courthouse Address**

Contact number for Court Administration: **Court Administration's Phone Number**

1. You do not have to fill in anything in paragraph #1. It is just noting that you are including a copy of the *Petition to Establish Third Party Custody* with this Notice.
2. Check the box to let others know whether Court Administration has assigned a Court File Number yet (this will happen **after** you file your paperwork with the court).

3. Check the box to let others know whether a hearing has been scheduled yet. If there is already a hearing scheduled, you will likely have received a *Notice of Hearing* or *Notice of Case Assignment* giving you more details so that you can give more information about the hearing.

If there is a hearing scheduled:

- Give as many details as possible, such as the date and time of hearing; and
- List the **courthouse address**; and
- List the **phone number** for Court Administration.

Court address and phone numbers are available on the [Minnesota Judicial Branch website](http://mncourts.gov/Find-Courts.aspx) (mncourts.gov/Find-Courts.aspx).

Required Notices

The *ICWA Notice for Third Party Custody* contains information required by federal regulations.

Required Notices

Right to Intervene
A parent or Indian custodian of the child, if not already a party to the child-custody proceeding, has the right to intervene in the proceedings.

PLEASE SEND the Tribe's notice of intent to participate or intervene to:

Court Administration: 1 _____ County District Court

Address: 2 _____

City/State/Zip: 2 _____

Petitioner: 3 _____ (Name)

Self-Represented Represented by: 4 _____ (Attorney's Name)

Address: 5 _____

City/State/Zip: 5 _____

Right to Counsel
A parent or Indian custodian has the right to an attorney appointed by the Court without

There is one area in the “Required Notices” section that you have to fill out. It is under “Right to Intervene.”

1. List the name of the **county** in Minnesota where the third party custody case is located.
2. List the **court’s address**. You can find this information on the [Minnesota Judicial Branch website](http://mncourts.gov/Find-Courts.aspx) (mncourts.gov/Find-Courts.aspx).
3. List **your name** (you are the Petitioner if you are the one starting the third party custody case).
4. Check the box stating whether you are representing yourself in the third party custody case, or if you are represented by an attorney. If you have an attorney, list the attorney’s name.
5. List your address (or, if you are represented by an attorney, list the attorney’s address).

Signature Block

All petitioners should date and sign the *ICWA Notice for Third Party Custody* (CHC605). Under the signature, print the signer's name and contact information.



Keep the Information in this Notice Confidential

Everyone who receives a copy of the *ICWA Notice for Third Party Custody* must keep the information contained in the *Notice* confidential.

Step 2

Make Copies

Make copies of the completed *ICWA Notice* form **and** the *Petition to Establish Third Party Custody* form. You will need a copy of the notice and the petition for each of the following:

- Your records;
- The Bureau of Indian Affairs (BIA);
- Each tribe where a child, parent, or Indian Custodian (if any) is a member (or may be eligible for membership in);
- Each parent; AND
- Each Indian Custodian.

Step 3

Send Copies to Parents, Indian Custodian, Tribes, and BIA

What Needs to Be Sent

- A copy of the *ICWA Notice for Third Party Custody*; **AND**
- A copy of your *Petition to Establish Third Party Custody*.

How to Send the Copies

Federal regulations require that the documents be sent **Certified Mail, Return Receipt Requested**.

- You can read about "[Certified Mail](https://faq.usps.com/s/article/Certified-Mail-The-Basics)" in the FAQs section of the United States Postal Service's (USPS) website (faq.usps.com/s/article/Certified-Mail-The-Basics).
- You can read about "[Return Receipt Requested](https://faq.usps.com/s/article/Return-Receipt-The-Basics)" on the USPS website as well (faq.usps.com/s/article/Return-Receipt-The-Basics).

Who to Send the Copies To

The copies of the notice and petition should be sent to the people, tribes, and agency listed in Step 2 above.

Step 4
File the *ICWA Notice for Third Party Custody* (CHC605)
and other forms
with Court Administration

File the *ICWA Notice for Third Party Custody* (CHC605) with Court Administration.

If you have not already filed the *Summons and Petition to Establish Third Party Custody*, and the other forms listed in the general Instructions (CHC601), you should file them as well.

See the general Instructions (CHC601) for details, including information about fees.

Step 5
Watch for the Green Cards (Receipts)
File the Green Cards (Receipts) with Court Administration

As you receive the “green cards” (receipts) from the parties, the tribes, and the BIA, file them with Court Administration.