

CHILD CUSTODY PACKET

COMANCHE NATION TRIBAL COURT DISTRICT COURT

The forms in this packet are to be used as a **template**, please re-type the forms and **do not** fill in the blanks. Please read the instructions carefully before completing the forms. The Court Clerks **CANNOT** accept documents that do not conform to the instructions in this packet.

You should refer to the Comanche Nation Tribal Court Codes prior to filing any petition or pleadings for a complete understanding of the rules and procedures governing your case. Should you need assistance in preparing any documents, you must consult with an attorney at your own expense. This court does not have legal aid. The Court Clerks are prohibited by Ethical Code and Court Rules to provide legal advice and help parties prepare or type court documents. Different situations may require special procedures and the Court Clerks **CANNOT** advise you on how to proceed or what forms may be necessary in specific situations.

INSTRUCTIONS FOR FILING
IMPORTANT INFORMATION PLEASE READ!!!

1. Documents must be typed DOUBLE-SPACED and on LETTER SIZE PAPER (8 ½” x 11”).
2. Documents must be signed in front of the Court Clerk or a notary public when you are ready to file.
3. Filing fees, copy fees, etc. must be made in the form of a CASHIER’S CHECK or MONEY ORDER and must be payable to “Comanche Nation Tribal Court”. Filing fees MUST be paid at the time of filing your petition. If you are unsure of the amount of the filing fees, contact the Court Clerk.
4. Submit original Documents and one (1) copy for each party to be served, and an additional copy if you want a copy of the document for your records. If the Court Clerk makes your copies, you will be charged a copy fee of \$0.50 PER PAGE.
5. Documents must have the FULL ADDRESS including street, city, state & zip of the parties to be served. Obtaining this information is **your** responsibility.
6. The forms are a guide to use in preparing the documents. DO NOT fill in the blanks and submit for filing. IT MUST BE RE-TYPED.
7. Petitions filed MUST have a copy of the relevant birth certificate and tribal enrollment card/CDIB and be submitted with the petition when filed. Obtaining these documents is **YOUR** responsibility.
8. Proof of Service of a Petition is MANDATORY for your case to proceed. Obtaining proof of service is **your** responsibility. If you request the Court Clerks to serve the documents on your behalf, service fees MUST be paid at the time of submitting Request of Service.

Court Clerks WILL NOT accept documents
that do not conform to these Instructions.

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LEGAL DEFINITIONS

- Affidavit: A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.
- Answer: The response of an answering party to the plaintiff/petitioner's complaint/petition, denying in part or in whole the allegations made by the petitioner. A pleading by which an answering party endeavors to resist the petitioner's demand by an allegation of facts, either denying allegations of petitioner's complaint/petition or confessing them and alleging new matter in avoidance, which an answering party alleges should prevent recovery on the facts alleged by plaintiff/petitioner.
- Custody: The care, control and maintenance of a child which may be awarded by a court to one of the parents as in a divorce or separation proceeding.
- Motion: An application made to a court or judge for purpose of obtaining a rule or order directing some act to be done in favor of the applicant.
- Notary: A public officer whose function it is to administer oaths; to attest and certify, by his hand and official seal, certain classes of document, in order to give them credit and authenticity.
- Notice: Information concerning a fact, actually communicated to a person by an authorized person, or actually derived by him from a proper source, and is regarding in law as "actual" when the person sought to be affected by it knows thereby of the existence of the particular fact in question.
- Petition: A formal written application to a court requesting judicial action on a certain matter. A recital of facts which give rise to a cause of action.
- Service: Signifies the delivering to or leaving them with the party to whom or with whom they ought to be delivered or left; and, when they are so delivered they are said then to have been served.
- Visitation: Permission granted by court to a non-custodial parent to visit child or children.

IN THE DISTRICT COURT OF
COMANCHE NATION TRIBAL COURT

IN THE MATTER OF THE)
CUSTODY OF:)
)
) Case No. ____ - ____ - ____
Dob: _____) (Court Use Only)
)
Comanche Tribal Minor Child.)

PETITION FOR CUSTODY

COMES NOW, _____, Petitioner herein, pro se, respectfully petitions the Court to seek custody of, minor child herein, the Petitioner alleges and states the following:

1. That the Comanche Nation Tribal Court has personal and subject matter jurisdiction.
2. That the Petitioner is the _____ of the minor child;
3. That the minor child is an enrolled member of the Comanche Nation, and a copy of the minor child's Tribal Enrollment Card/Certificate Degree of Indian Blood is submitted with the petition to the Court.
4. That the minor child resides at _____ (INCLUDE CITY, STATE & ZIP) and has lived at this address for _____ (STATE LENGTH OF TIME IN MONTHS OR YEARS AT THIS ADDRESS);
5. That the minor child was born on _____, _____, at _____ Hospital in _____ (City, State).
6. That the birth certificate number of the minor child is _____ and is recorded at the Vital Records Division of the State of _____, and a copy of the minor child's birth certificate is submitted with the petition to the Court;

7. That the minor child's biological mother's full name, including maiden name is _____ and her address is _____ (INCLUDE CITY, STATE & ZIP) and she is (an enrolled member of the Comanche Nation or is non-Indian)
8. That the minor child's biological father's full name is _____ and his address is _____ (INCLUDE CITY, STATE & ZIP) and he is (an enrolled member of the Comanche Nation of Oklahoma OR is non-Indian.)
9. That the biological mother and biological father are/were not married;
10. That the minor child is presently in the physical custody of _____ and has been for _____;(STATE LENGTH OF TIME IN DAYS, MONTHS OR YEARS)
11. That the Petitioner can provide financially and medically for the care and maintenance of minor child;
12. That the Respondent should not have visitation with the minor child(ren) for the following reasons:_____ (*describe grounds that visitation should not be allowed*); OR
That the Respondent should have visitation with the minor child(ren) according to the Court's standard visitation schedule and a copy of the standard visitation schedule is submitted with the petition to the Court; (*NOTE: The standard visitation schedule is included in this packet, It does not have to re-retyped; ,just submit it with your petition when you file,*) OR
That the Respondent should have visitation with the minor child(ren) according to the following schedule: (*list recommended schedule or provide an attachment*);
13. That there is not at the present time a court order establishing custody and there is no other court proceeding in any state or tribal court pertaining to the minor child as of this date;
14. _____ I understand that I am responsible for serving copies of this Petition and all attachments on the other party because they are entitled to notice and opportunity to contest my Petition.
Initials

WHEREFORE, the Petitioner prays that the Court finds the best interest of minor child will be served by granting an order of custody to Petitioner, as requested in this petition and that a hearing be set on this matter as soon as the Court deems necessary.

NAME, Petitioner
FULL ADDRESS (include city, state & zip)
TELEPHONE NO.
EMAIL ADDRESS (If available)

VERIFICATION

_____ being duly sworn to tell the truth and being of lawful age above 18 years of age, hereby states that I have prepared and read this petition and verify that all of the factual allegations contained in this petition are in fact true and correct to the best of my knowledge and belief,
UNDER PENALTY OF PERJURY,

NAME, Petitioner

SUBSCRIBED AND SWORN TO BEFORE ME THIS DAY OF 20____ .

(SEAL)

Court Clerk or Notary Public

IN THE DISTRICT COURT OF
COMANCHE NATION TRIBAL COURT

IN THE MATTER OF THE
CUSTODY OF:

Dob: _____

Comanche Tribal Minor Child.

)
)
)
) Case No. ____ - ____ - ____
) (Court Use Only)
)
)

REQUEST FOR SERVICE

I, _____, request the Court Clerk serve this _____ (Petition, Motion, etc.) on my behalf. I understand that I am responsible for paying the service fee in the amount of \$35.00/per party for service by the Comanche Nation Police Department (if the other party(ies) lives within Comanche Nation physical jurisdiction) or \$12.00/per party for service by certified mail (if the other party(ies) live outside Comanche Nation physical jurisdiction) for this request and that I must provide all known addresses for the other party(ies) unless the other party's address is confidential. **I also understand that the Court Clerk is only required to take reasonable steps to serve this document and that service may not be successful, which could cause delays in my case.**

The following address(es) should be used for attempting service on the other party(ies) (if the other party(ies) may be found at more than one location, please list all addresses):

WHEREFORE, the _____ (Petitioner, Movants, etc.) request the Court Clerks to attempt service on my behalf.

Respectfully Requested,

Name: _____ print
Address: _____
Phone: (____) _____ - _____

IN THE DISTRICT COURT OF
COMANCHE NATION TRIBAL COURT

IN THE MATTER OF THE)
CUSTODY OF:)
)
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ENTRY OF APPEARANCE AND WAIVER

I, the non-petitioning parent of _____, do hereby waive my right to the Custody of above named minor child in favor of the petitioner, and I respectfully pray that the Court will award custody of the above named minor child to Petitioner. Should I have objections to the custody of above named minor child, I am aware that I had the right to appear in Court to make my objections known and that I waive that right.

Dated this _____ day of _____, 20____.

Signature

Please print your name & address: _____

Telephone: _____

SHOULD YOU AGREE TO SIGN THIS WAIVER, PLEASE SIGN IN FRONT OF A NOTARY PUBLIC OR COURT CLERK AND RETURN TO THIS OFFICE EITHER BY MAIL OR IN PERSON.

State of Oklahoma;)
County of _____)

Before me, the undersigned Notary Public, came _____ this day ____ of _____, 20____ to me known to be the identical person who executed the above and foregoing Entry of Appearance and Waiver, and personally acknowledged to me that he/she has read, understood, and signed the same, and that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth. IN WITNESS THEREOF I have hereunto affixed my signature and official seal the date heretofore stated.

(SEAL)

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

My Commission Expires: _____

Court Clerk or Notary Public

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COMANCHE NATION TRIBAL COURT

IN THE MATTER OF THE)
CUSTODY OF:)
)
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Comanche Tribal Minor Child.)

[THE ABOVE SHOULD MATCH THE PETITION THAT YOU ARE ANSWERING]

ANSWER

(Mother, Father, Guardian), _____ [Name], Respondent, alleges the following in response to the petition:

Admissions and Denials

1. (Mother, Father, Guardian), admits the allegations of paragraph 1 of the petition.
2. (Mother, Father, Guardian) denies the allegations of paragraph 2 of the petition.
3. (Mother, Father, Guardian) admits that **he/she** _____ (specific part of) in paragraph 3 of the petition, and denies all other allegations therein.
4. (Mother, Father, Guardian) has no knowledge or information sufficient to form a belief regarding the truth of the allegations in paragraph 4 of the petition.
5. (Mother, Father, Guardian) denies all other allegations of the petition.
6. (Mother, Father, Guardian) alleges _____.
7. (Mother, Father, Guardian) alleges _____.
8. (Mother, Father, Guardian) states _____.

Demand for Judgment

Accordingly, (Mother, Father, Guardian) demands that _____ (state relief sought).

[Signed] _____
[Typed Name]
[Address]
[Telephone Number]

Notes on Answer

The above form can be adapted.

The above form contains an assortment of admissions, denials, allegations, and statements to illustrate the variety of statements that may appear in an answer.

An answer should contain admissions, denials, and, if appropriate, affirmative defenses. A general denial should not be filed unless the (Mother, Father, Guardian) intends in good faith to deny every allegation in the petition, and the (Mother, Father, Guardian) should admit any allegations which he does not intend to contest. To avoid inadvertent admissions, it is usually good practice to include a statement, such as that found in Paragraph 5, denying any allegations that are not specifically admitted. The statement of lack of information in Paragraph 4 is authorized and it has the same effect as a denial.

Denials should be forthright and unequivocal, and care should be taken to avoid denials that might be construed as evasive.

Special appearances are unnecessary. Defenses to jurisdiction and venue may be joined with other defenses, and they may be asserted either in the answer or in a pre-answer motion. Usually they are raised in a pre-answer motion so that these preliminary matters can be resolved before the merits of the Petitioner's allegations are reached. While these defenses may be raised in the answer, they should also be the subject of a motion filed reasonably soon after the answer so that they can be determined before trial. A motion asserting any of these defenses should include greater specificity than is found in the answer.

STANDARD VISITATION SCHEDULE

Petitioner: _____

Respondent: _____

Case No.: _____

The non-custodial parent shall have visitation with the minor children of the parties as follow:

REGULAR VISITATION

Every other weekend from 6:00 p.m. Friday to 6:00 p.m. Sunday.

HOLIDAY VISITATION

In even number years (2010, etc.) the non-custodial parent shall have visitation according to the following schedule:

EASTER: 6 p.m. Friday preceding Easter until Easter Sunday at 10 p.m

INDEPENDENCE DAY: Evening preceding July 4 until 10 p.m. on July 4.

THANKSGIVING: Wednesday preceding Thanksgiving until 10 p.m. Sunday.

CHILD'S BIRTHDAY: 8 a.m. on day of birthday until 6 p.m. on day of birthday

In odd numbered years (2011, etc.) the non-custodial parent shall have visitation according to the following schedule:

MEMORIAL DAY: 6 p.m. Friday preceding Memorial Day until 10 p.m. Monday

LABOR DAY: 6 p.m. Friday preceding Labor Day until 10 p.m. Monday

CHRISTMAS: 6 p.m. Christmas Day until 6 p.m. December 26

The holiday visitation schedule set out above is to be observed whether or not it coincides with the regular every other weekend visitation schedule and is in addition thereto. However, it is intended that the holidays alternate between custodial and non-custodial parents. Therefore, on those occasions when noncustodial shall not occur.

SPECIAL VISITATION

With respect to Father's Day and Mother's Day, if the father is the non-custodial parent, and if Father's Day falls on a weekend not regularly scheduled for parental visitation, he shall have visitation on Father's Day from 12 noon until 10 p.m. If Mother's Day falls within the weekend of father's visitation, he shall return the children} to the mother by 12 noon on Mother's Day. If the mother is the non-custodial parent, the reverse shall apply.

SUMMER VISTATION

The non-custodial parent shall have summer visitation for two 2-week periods from 8:00 a.m. June 15 until 6:00 p.m. June 30 and from 8:00 a.m. July 15 until 6:00 p.m. July 30th. The alternating weekend visits shall remain in effect.

This visitation is for the purpose of providing assured minimum amounts of visitation between noncustodial parent and child(ren). Visitation should exceed the number of occasions set out herein. In addition, liberal telephone communications between non-custodial parent and child(ren) are encouraged.

IN THE DISTRICT COURT OF
COMANCHE NATION TRIBAL COURT

IN THE MATTER OF THE
CUSTODY OF:

Dob: _____

Comanche Tribal Minor Child.

)
)
)
) Case No. ____ - ____ - ____
) (*Court Use Only*)
)
)

MOTION TO *(action requested)*

COME NOW, *(person filing motion)* , and submits his/her/their Motion to
 (action requested) . In support of their Motion, Movants will show the following:

1. I am asking the Court for the following:

2. I am making this motion based upon the following facts to the best of my knowledge:

I have attached additional pages of documents to support my request.

I acknowledge that I am responsible for keeping the Court and the other parties informed of any changes in my contact information and that my failure to do so may cause delays in my case.

I swear under penalty of perjury under the laws of the Comanche Nation that the foregoing is true and correct to the best of my knowledge.

Date : _____

Affiant's Signature: _____

SUBSCRIBED AND SWORN to before this _____ day of _____ 20__.

Notary Public in and for the State of Oklahoma
Or/Comanche Nation Court Clerk

My commission expires:

SAMPLE