

# **APPENDIX 7**

## **FORMS**

- 1. Notice Form**
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- 11. Order Accepting Jurisdiction**
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**Disclaimer: These forms are intended to facilitate compliance with the letter and spirit of ICWA and are intended for educational and informational purposes only. They are not legal advice. You should consult competent legal counsel for legal advice, rather than rely on these forms.**



**NOTICE FORM**

- e. Where child was taken into custody: \_\_\_\_\_
- f. Tribal affiliation: \_\_\_\_\_
- g. Tribal census of enrollment number: \_\_\_\_\_

2. Information on the parents is as follows:

- A.
  - i. Mother's Name: \_\_\_\_\_
  - ii. Maiden Name: \_\_\_\_\_
  - iii. Permanent Address: \_\_\_\_\_
  - iv. Current Address: \_\_\_\_\_
  - v. Place of Birth: \_\_\_\_\_
  - vi. Date of Birth: \_\_\_\_\_
  - vi. Tribal Affiliation: \_\_\_\_\_
  - vii. Tribal enrollment or census number: \_\_\_\_\_
  
- B.
  - i. Father's Name: \_\_\_\_\_
  - ii. Permanent Address: \_\_\_\_\_
  - iii. Current Address: \_\_\_\_\_
  - iv. Place of Birth: \_\_\_\_\_
  - v. Date of Birth: \_\_\_\_\_
  - vi. Tribal Affiliation: \_\_\_\_\_
  - vii. Tribal enrollment or census number: \_\_\_\_\_
  
- C. If these are not the natural parents, please supply the same information on the natural parents: \_\_\_\_\_

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D. Please supply the names of relatives, other family names, and other information about the extended family that will aid in identification: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. The petitioner in this proceeding is:  
a. Name: \_\_\_\_\_  
b. Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
c. Title: \_\_\_\_\_

4. The social worker for the state in this proceeding, if not the petitioner is:  
a. Name: \_\_\_\_\_  
b. Address: \_\_\_\_\_ Phone: \_\_\_\_\_

5. The attorney for the petitioner is:  
a. Name: \_\_\_\_\_  
b. Address: \_\_\_\_\_ Phone: \_\_\_\_\_

6. The petition has been filed in the District Juvenile Court for \_\_\_\_\_ County,  
State of \_\_\_\_\_  
A hearing is scheduled in this matter on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_ (am)(pm),  
before the Honorable \_\_\_\_\_.  
The address of the court is \_\_\_\_\_.  
The phone number of the court is \_\_\_\_\_.

7. No proceeding involving the above named minor child shall take place until at least ten (10) days after receipt of this notice.

## NOTICE FORM

8. The \_\_\_\_\_, the biological parents, and any Indian custodian of the above named child have the right to intervene and be made a party in this proceeding under the Indian Child Welfare Act.
9. If the parents or Indian custodians are unable to afford counsel, counsel will be appointed to represent them. The parents or Indian custodians have the right to be represented by an attorney at every stage of this proceeding. The court may, in its discretion, appoint an attorney to represent the above named minor child.
10. The \_\_\_\_\_, the parents or the Indian custodians of the above named minor child have the right, upon request, to be granted an additional twenty (20) days to prepare for this proceeding. Such request may be made by motion, in writing, or by calling the court clerk at the number listed under #6, above.
11. The \_\_\_\_\_, the parents, or the Indian custodians of the above named minor child have the right, upon request, to examine all documents or other material which may be used to make a decision in this matter. Such request shall be made in writing to the court clerk, or the Court at the hearing.
12. The \_\_\_\_\_, the parents, or the Indian custodians have the right to petition the court to transfer this proceeding to the courts of the\_\_\_\_\_. Such petition shall be in writing and presented to the court clerk or orally to the court at the scheduled hearing. The petition shall be granted in the absence of good cause to the contrary or the objection of either parent.
13. A decision in this matter may effect the future custodial rights of the\_\_\_\_\_, the parents, and the Indian custodians of the above named minor child, and may result in the temporary or permanent removal of the child from his/her home, the termination of

**NOTICE FORM**

parental rights to the child, and the permanent placement or adoption of the child.

14 The information contained in this notice and the attached Petition is confidential and should not be disclosed or revealed to any person or agency which is not necessary for proper notification of the parents, Indian custodians or the tribe of the above named minor child, and which is not necessary for the exercise of their rights under the Indian Child Welfare Act.

15. This notice has been sent by registered mail, return receipt requested, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Petitioner



**CONSENT TO TEMPORARY CUSTODY & CERTIFICATION**

6. That I do not intend to waive any of my rights under the Indian Child Welfare Act by signing this consent.

7. That this consent was not signed prior to, or within ten days after, the birth of my child.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ in open Court before a Judge of the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_.

**CERTIFICATION**

Pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. § 1913(a), I, the Honorable \_\_\_\_\_, Judge of the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_, do certify that this consent was executed in writing and recorded before me in open court, that the terms and consequences of the consent were fully explained in detail and were fully understood by \_\_\_\_\_, and that he/she understood English or that it was interpreted into a language that he/she understood.

Certified this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge

**CONSENT TO TERMINATION OF PARENTAL RIGHTS**

**IN THE \_\_\_\_\_ COURT  
FOR \_\_\_\_\_ COUNTY, STATE OF \_\_\_\_\_**

IN THE MATTER OF: \_\_\_\_\_, ) Case No:  
 )  
DOB: \_\_\_\_\_, ) CONSENT TO TERMINATION  
 ) OF PARENTAL RIGHTS (OR  
 ) ADOPTION) AND CERTIFICATION  
A Person Under Eighteen Years of Age. )  
\_\_\_\_\_ )

Pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. § 1913, I, \_\_\_\_\_, do consent to the termination of parental rights (adoption) to my child, \_\_\_\_\_, date of birth \_\_\_\_\_, and his/her placement with \_\_\_\_\_.

Before this Court, I do state:

1. That I am an enrolled member of the \_\_\_\_\_, Enrollment No. \_\_\_\_\_, date of birth \_\_\_\_\_.

2. That my child, \_\_\_\_\_, date of birth \_\_\_\_\_, is an enrolled member of, Enrollment No. \_\_\_\_\_, or is eligible for enrollment with, the \_\_\_\_\_.

3. That I desire to terminate my parental rights to my child (that my child be adopted) and prefer that he/she be placed with \_\_\_\_\_, who is related to the child as a(n) \_\_\_\_\_, pursuant to the placement preferences of the Indian Child Welfare Act of 1978, 25 U.S.C. § 1915(a) or (d).

4. That I fully understand the consequences of my actions .

5. That I have the right to withdraw my consent to termination of my parental rights (adoption) pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. § 1913(c), for any reason at any time prior to the entry of a final decree of termination or adoption, at which time my child

**CONSENT TO TERMINATION OF PARENTAL RIGHTS**

shall be returned to my custody.

6. That I wish to be notified if the final decree of adoption to my child is vacated or set aside, or if the adoptive parents voluntarily consent to the termination of their parental rights to my child, so I may petition the court for the return of his/her custody at that time pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. § 1916.

7. That I do not intend to waive any of my rights under the Indian Child Welfare Act by signing this consent.

8. That this consent was not signed prior to, or within ten days after, the birth of my child.

(9. That I prefer that this consent be signed in closed court because I wish to remain anonymous.)

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in open (closed) court before a Judge of the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_.

**CERTIFICATION**

Pursuant to the Indian Child Welfare Act of 1978, 25 U.S.C. § 1913(a), I, the Honorable \_\_\_\_\_, Judge of the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_, do certify that this consent was executed in writing and recorded before me in open court, that the terms and consequences of the consent were fully explained in detail and were fully understood by \_\_\_\_\_ and that he/she understood English or that it was interpreted into a language that he/she understood.

Certified this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge

**MOTION TO INTERVENE**

**IN THE \_\_\_\_\_ COURT  
FOR \_\_\_\_\_ COUNTY, STATE OF \_\_\_\_\_**

In the Matter of: _____,	)	Case No.
	)	
DOB: _____,	)	MOTION TO INTERVENE
	)	
A Person Under Eighteen Years of Age.	)	
_____	)	

COMES NOW the Petitioner, \_\_\_\_\_, the undersigned, and moves the Court to permit the \_\_\_\_\_ to intervene in this matter, a child custody proceeding involving an Indian child as defined by the Indian Child Welfare Act of 1978, 25 U.S.C. § 1903(1). As grounds for this motion, the Tribe states:

1. The child is an "Indian child" as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903(4), in that the child is under age eighteen, date of birth \_\_\_\_\_, and is a member of, Enrollment No. \_\_\_\_\_, or is eligible for membership in, the \_\_\_\_\_.

2. The \_\_\_\_\_ is an Indian tribe as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903(8), and this fact is entitled to judicial notice by virtue of publication in the Federal Register [list most recent publication of tribes entitled to federal services and benefits].

3. The Tribe is "the Indian child's tribe" as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903(5), in that the child is a member of, or eligible for membership in, the Tribe.

4. The Indian Child Welfare Act, 25 U.S.C. § 1911(c), gives the Indian child's tribe the right to intervene at any point in a state court proceeding "for the foster care placement of, or termination of parental rights to, an Indian child."

**MOTION TO INTERVENE**

WHEREFORE, Petitioner requests the Court to grant the Motion to Intervene in the above-captioned proceeding.

\_\_\_\_\_, Signed

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby certify that a true and correct copy of this Motion was mailed to the opposing party, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By:





**MOTION FOR EXTENSION OF TIME**

WHEREFORE, Petitioner requests that the Court postpone the above-named proceeding for at least twenty (20) days to permit the Tribe to prepare for the proceeding.

\_\_\_\_\_, Signed

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby certify that copies of this Motion have been mailed to the opposing party, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By:





**REQUEST TO PRODUCE AND EXAMINE**

WHEREFORE, Petitioner requests the Court to order the production of all information relevant to this proceeding for representatives of the Tribe to inspect and copy at the address of

\_\_\_\_\_.

\_\_\_\_\_, Signed

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby certify that a true and correct copy of this Motion have been mailed to the opposing party this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By:



**PETITION FOR ACCEPTANCE OF JURISDICTION**

**IN THE \_\_\_\_\_ TRIBAL COURT  
\_\_\_\_\_ RESERVATION**

\_\_\_\_\_, )  
Tribal Division of Social Welfare ) Case No.  
)  
In the Matter of: \_\_\_\_\_, ) PETITION FOR ACCEPTANCE OF  
) JURISDICTION AND AWARD  
Date of Birth: \_\_\_\_\_, ) OF TEMPORARY CUSTODY  
)  
A Person Under Eighteen Years of Age. )  
\_\_\_\_\_ )

COMES NOW the Petitioner, Tribal Division of Social Welfare, the undersigned, and requests the Tribal Court to accept jurisdiction of the child custody proceeding involving the above-named child, which is pending in \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_, Docket No. \_\_\_\_\_. This proceeding is being transferred to the Tribe pursuant to the Indian Child Welfare Act, 25 U.S.C. § 1911(b). The Tribal Division also requests the court to award temporary custody of the above-named minor child to the Tribal Division until such time as a hearing can be scheduled to determine whether custody should continue. As grounds therefore, the Tribal Division states:

1. That the minor child is a member of, Enrollment No. \_\_\_\_\_, or eligible for membership in, the \_\_\_\_\_ Tribe.
2. That the natural mother/father of the minor children is a member of the Tribe, Enrollment No. \_\_\_\_\_.
3. That the dependency and neglect proceeding involving the above named minor child, pending in the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_, Docket No. \_\_\_\_\_, was based upon acts of dependency or neglect by the natural mother/father.
4. That the Tribe filed a motion to Transfer Jurisdiction and Dismiss the State Court

**PETITION FOR ACCEPTANCE OF JURISDICTION**

Proceeding, Docket No. \_\_\_\_\_, requesting transfer of the case to the Tribal Court pursuant to the Indian Child Welfare Act, 25 U.S.C. § 1911(b).

5. That it is in the best interests of the minor child that this Court accept jurisdiction of the State Court Proceeding, Docket No. \_\_\_\_\_, that is pending in the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_.

6. That the natural father/mother, due to his/her acts of dependency or neglect, is presently unable to properly provide for the care and maintenance of the above-named minor child, making the child a dependent or neglected child as defined by Tribal law, [Insert Tribal Law & Code Citation if available].

7. That it is in the best interests of the minor child that temporary custody of the minor child be awarded to the Tribal Division of Social Welfare until such time as a hearing is conducted to determine whether custody should continue with the Tribal Division.

WHEREFORE, Petitioner requests that the Tribal Court accept jurisdiction of the child custody proceeding that was pending in the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_, Docket No. \_\_\_\_\_, and award temporary custody of the minor child to the Tribal Division of Social Welfare until such time as a hearing is conducted to determine whether custody should continue.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, Signed

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PETITION FOR ACCEPTANCE OF JURISDICTION**

I hereby certify that a true and correct copy of this Motion was mailed to opposing counsel, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By:

**ORDER ACCEPTING JURISDICTION**

**IN THE \_\_\_\_\_ TRIBAL COURT  
\_\_\_\_\_ RESERVATION**

\_\_\_\_\_, ) Case No.  
Tribal Division of Social Welfare )  
IN THE MATTER OF: ) ORDER ACCEPTING JURIS-  
\_\_\_\_\_, DOB: \_\_\_\_\_ ) DICTION AND AWAR-  
\_\_\_\_\_ ) DING  
\_\_\_\_\_ ) TEMPORARY CUSTODY  
\_\_\_\_\_ )

THIS MATTER having come before the Court upon the \_\_\_\_\_ Tribal Division of Social Welfare's Petition for Acceptance of Jurisdiction and Award of Temporary Custody, and the Court having been fully advised in the premises, finds:

1. That the minor child is a member of, Enrollment No. \_\_\_\_\_, or is eligible for membership in, the \_\_\_\_\_.
2. That the minor child is the biological child of \_\_\_\_\_, Enrollment No. \_\_\_\_\_, and \_\_\_\_\_, Enrollment No. \_\_\_\_\_.
3. That the minor child has been or will be returned to the jurisdiction of this Tribal Court.
4. That this Court has jurisdiction over the subject matter and parties pursuant to Title \_\_\_\_ of the Tribe's Tribal Law & Order Code, and the Indian Child Welfare Act, 25 U.S.C. § 1911(b).
5. That reasonable grounds exist to believe that the child is dependent or neglected as defined by tribal law.
6. That it is in the best interest of the minor child that the Tribal Court accept jurisdiction of the child custody proceeding that is pending in the \_\_\_\_\_ Court, for

**ORDER ACCEPTING JURISDICTION**

\_\_\_\_\_ County, State of \_\_\_\_\_, Docket No. \_\_\_\_\_, and that the Tribal Division of Social Welfare be awarded temporary custody of the minor child until such time as a hearing is conducted in Tribal Court to determine whether custody should continue.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. That this Tribal Court hereby accepts jurisdiction of the child custody proceeding in the \_\_\_\_\_ Court, for \_\_\_\_\_ County, State of \_\_\_\_\_, Docket No. \_\_\_\_\_, involving the minor child.
2. That the Tribal Division of Social Welfare is hereby awarded temporary custody of the minor child.
3. That this matter be set for a hearing forthwith to determine whether custody should continue in the Tribal Division of Social Welfare.

ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Tribal Judge

**MOTION TO TRANSFER JURISDICTION AND DISMISS CASE**

**IN THE \_\_\_\_\_ COURT  
FOR \_\_\_\_\_ COUNTY, STATE OF \_\_\_\_\_**

In the Matter of: _____,	)	Case No.
	)	
DOB: _____,	)	MOTION TO TRANSFER
	)	JURISDICTION AND DISMISS
A Person Under Eighteen Years of Age.	)	THE CASE
_____	)	

COMES NOW the Petitioner, \_\_\_\_\_, the undersigned, and petitions the Court to transfer this action to the \_\_\_\_\_ Tribal Court, \_\_\_\_\_ Reservation, \_\_\_\_ (city) \_\_\_\_\_, \_\_\_\_ (state) \_\_\_\_\_, and to dismiss the state court proceeding pursuant to the Indian Child Welfare Act, 25 U.S.C. § 1911(b). As grounds therefore, the Tribe states:

1. The minor child involved in this proceeding is an "Indian child" as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903(4), in that the child is under eighteen years of age, date of birth \_\_\_\_\_, and the child is a member of, Enrollment No. \_\_\_\_\_, or is eligible for membership in, the Tribe.

2. The \_\_\_\_\_ is an "Indian tribe" as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903(8), and this fact is entitled to judicial notice by virtue of publication in the Federal Register, [list most recent publication of tribes entitled to federal services and benefits].

3. The Tribe is "the Indian child's tribe" as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903(5), in that the child is a member of, or eligible for membership in, the Tribe.

4. This is a child custody proceeding as defined by the Indian Child Welfare Act, 25 U.S.C. § 1903(1), in that it involves a foster care placement, termination of parental rights, pre-adoptive placement or adoptive placement.

**MOTION TO TRANSFER JURISDICTION AND DISMISS CASE**

5. The Indian Child Welfare Act, 25 U.S.C. § 1911(b), requires that the state court transfer a child custody proceeding involving an Indian child to the jurisdiction of the Tribe when the Indian child's tribe petitions the state court.

6. Good cause does not exist to deny transfer of this proceeding.

7. The Tribal Court seeks to take jurisdiction of this proceeding and to provide planning and placement for the named child.

WHEREFORE Petitioner requests the Court to transfer the above captioned proceeding to the Tribal Court, \_\_\_\_\_ Reservation, \_\_\_\_\_(city)\_\_\_\_\_, \_\_\_\_\_(state)\_\_\_\_\_, and to dismiss this case as stated above.

\_\_\_\_\_, Signed

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I hereby certify that a true and correct copy of this Motion was mailed to the opposing party this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By:



**PETITION TO OBTAIN ADOPTION RECORDS**

**IN THE \_\_\_\_\_ COURT  
FOR \_\_\_\_\_ COUNTY, STATE OF \_\_\_\_\_**

In the Matter of: \_\_\_\_\_, ) Case No.  
 )  
DOB: \_\_\_\_\_, )  
 )  
A Person Under Eighteen Years of Age. )  
 )  
\_\_\_\_\_ )

**PETITION PURSUANT TO 25 U.S.C. § 1917  
TO OBTAIN CERTAIN BIRTH RECORD INFORMATION  
FROM COURT AND AGENCY ADOPTION RECORDS**

COMES NOW the Petitioner, \_\_\_\_\_, and respectfully petitions the Court for an order, pursuant to 25 U.S.C. § 1917, permitting him/her to have access to certain identifying information pertaining to him/herself, his/her natural mother/father, and natural maternal/paternal grandparents, and contained in the records of his/her adoption maintained in the above-captioned matter by this Court and by \_\_\_\_\_ an agency that maintains the adoption records of the now defunct \_\_\_\_\_. In support of his/her petition, Petitioner states:

1. I presently reside at \_\_\_\_\_.
2. I was born on \_\_\_\_\_ in \_\_\_\_\_. On information and belief, my natural mother/father named me \_\_\_\_\_ at birth.
3. On \_\_\_\_\_ the \_\_\_\_\_ Court, a predecessor to this Court, entered a decree of adoption approving my adoption by \_\_\_\_\_ and changing my name to \_\_\_\_\_.

## PETITION TO OBTAIN ADOPTION RECORDS

4. The \_\_\_\_\_ an agency that is now defunct was involved in my adoption and kept records pertaining to the adoption. \_\_\_\_\_ currently maintains the adoption records of this defunct agency.

5. According to this Court's records of my adoption, my natural mother/father was American Indian/Alaskan Native. I do not know his/her tribal affiliation. On information and belief, his/her name is \_\_\_\_\_.

6. Members of American Indian tribes/Alaskan Native villages are provided with legal rights under federal law that are not available to others. These rights include, for example, scholarships and other education programs, health care, employment rights, business grants and loans, a variety of social services, property rights including the right to share tribal lands and the income therefrom, the right to be exempt from certain taxes, and other similar rights.

7. Members of American Indian tribes/Alaskan Native villages associate with one another in a socio-political community, commonly known as the tribal relationship, sharing a common heritage and culture and promoting the economic well-being of the entire tribal community.

8. I am not a member of any Indian tribe/Alaskan Native village and, at present, I am unable to establish eligibility for such membership.

9. I have been deprived of my Indian culture, heritage and tribal relationship and all the rights under federal law that would flow from membership in a tribe/Alaskan Native village. I have also been deprived of the political, social, economic, and

## PETITION TO OBTAIN ADOPTION RECORDS

psychological advantages and benefits which would flow from membership in a tribe/Alaskan Native vilalge.

10. The Indian Child Welfare Act, 25 U.S.C. 1901 *et seq.*, provides in pertinent part:

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

25 U.S.C. § 1917.

11. United States Senate Report No. 95-597, 95<sup>th</sup> Cong. 1<sup>st</sup> Sess. (November 3, 1977), explains § 1917.

An Indian child who has been placed in adoptive, foster care, or other setting is authorized upon obtaining the age of eighteen to obtain information regarding his or her placement as may be needed to qualify for enrollment in his or her tribe of origin and for other benefits and property rights to which he or she may be entitled because of Indian status.

Senate Report No. 95-597 at page 11.

It is the intent of this section [sec. 1917] as amended to authorize the release of only such information as is necessary to establish the child's rights as an Indian person. Upon a proper showing to a court that knowledge of the names and addresses of his or her natural parent or parents is needed, only then shall the child be entitled to the information under the provision of this section.

Senate Report No. 95-597 at page 18.

12. The Indian Child Welfare Act was enacted after extensive Congressional testimony and study revealed that an inordinate number of Indian children had been separated from their tribal communities through adoption and other placements frequently detrimental to the children, their families and their tribes.

## PETITION TO OBTAIN ADOPTION RECORDS

. . . the Congress finds –  
. . . (4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and (5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the social and cultural standards prevailing in Indian communities and families.

25 U.S.C. §§ 1901(4) and 1901(5).

13. The Congress in the Indian Child Welfare Act stressed the national policy of protecting and preserving the relationship between Indian tribes and their children. 25 U.S.C. §§ 1901(2), 1901(3) and 1902. The policy derived in part from findings by the American Indian Policy Review Commission that "[r]emoval of Indian children from their cultural setting [by placement in non-Indian adoptive homes] seriously impacts a long-term tribal survival and has damaging social and psychological impact on many individual Indian children." *Miss. Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989). *See also, Matter of Adoption of a Child of Indian Heritage*, 111 N.J. 155, 543 A.2d 925, 930-931 (1988) (The Indian Child Welfare Act is based on findings " . . . that an Indian child . . . separated from all aspects of Indian culture . . . not only posed a threat to the stability and security of Indian tribes, but also carried with it the potential for psychological harm to the Indian child . . . [including] ethnic confusion and a sense of abandonment").

14. Petitioner was adopted by non-Indians.

15. The rights available to Indians because of their status as Indians can only be obtained by members of Indian tribes.

## PETITION TO OBTAIN ADOPTION RECORDS

16. Virtually every Indian tribe/Alaskan Native village requires an applicant for membership to identify by name the biological parent(s) of the applicant to determine if such parent(s) is a member of the tribe/village and to present documentation, usually an original certificate of birth, the final decree of adoption, and other related documents, evidencing the fact that the person adopted is actually the biological child of the tribal member(s) identified as the parent(s) of the applicant for membership. Only in this way can tribes/villages determine if the applicant for membership possesses the requirements necessary for membership.

17. In order for me to identify the Indian tribe/Alaskan Native village with which I am related and secure membership as a member of such tribe/village, it is necessary for me to identify my natural mother/father and, perhaps his/her parents by name.

18. In addition to the personal importance to me of establishing my Indian identity and securing membership in the tribe/village with which I have a relationship, it is also of great importance that my children and my grandchildren also be able to establish an Indian identity and to secure all of the legal and other rights associated with tribal membership. If I am able to become a member of a tribe/village, my children and grandchildren may also be able to become tribal members.

19. On \_\_\_\_\_, I informed my attorney, \_\_\_\_\_, that (adoptive parents' names) \_\_\_\_\_ has no objection to the granting of this petition and that such position could be represented to the Court as part of this petition.

**PETITION TO OBTAIN ADOPTION RECORDS**

20. My adoptive parents, \_\_\_\_\_, fully support my efforts to secure the information requested through this petition. See Exhibit A and B annexed hereto, affidavits of adoptive mother and father.

WHEREFORE, movant respectfully requests that this Court enter an order:

1. Granting movant the right to inspect and copy the records of his/her adoption maintained by this Court, and the records of \_\_\_\_\_ now maintained by \_\_\_\_\_ for the purpose of identifying his/her tribal affiliation or the tribal affiliation of her natural father/mother and, if necessary, his/her natural maternal/paternal grandparents.

2. Granting movant the right to inspect and copy all information contained in the records of his/her adoption maintained by this Court, and the records of \_\_\_\_\_ now maintained by \_\_\_\_\_ as may be necessary to enable him/her to become a member of an Indian tribe/Alaskan Native village and to protect his/her rights flowing from the tribal relationship and his/her status as an Indian/Alaskan Native, such information to include the original certificate of his/her birth, the final decree of adoption, the names and last known addresses of his/her biological father/mother, and if necessary, his/her biological maternal/paternal grandparents.

\_\_\_\_\_  
Signed