

IN THE DISTRICT COURT FOR THE CHOCTAW NATION OF OKLAHOMA

INSTRUCTIONS and CRITERIA FOR PATERNITY

1. Read all instructions and example pages carefully.
2. The Paternity Petition and Final Order **MUST** be typed. The attached pages are a guideline, or *Example only* of how you are to prepare your own paperwork. **Use the items from the *Example* that apply to your situation. Leave out all items that do not apply to your situation. You must type and bring your Final Order with you when you appear for your Court Date.**
3. **Do not fill in the blanks of this Example Paternity Petition or the Final Order, simply use the *Example* pages as a guide to type your own.**
4. The Paternity Petition and Final Order must be typed on 8 1/2" x 11" letter-size paper. Type on **ONE SIDE ONLY** of each page. Use as many or few pages as needed for your situation.

IMPORTANT: The Choctaw Nation District Court and Court Clerk's office does not provide lawyers, legal advice, or legal assistance. If you need legal advice or representation, you must retain your own lawyer at your own expense. If you select a lawyer to represent you, they must be registered and current on annual dues with the Choctaw Nation of Oklahoma Bar Association to practice law.

ENCLOSE THE FOLLOWING WITH YOUR PATERNITY PETITION:

When you are ready to mail or personally bring your Paternity Petition to be filed with the Court Clerk's office, you **MUST** bring the following in order to file your Paternity Petition:

1. Copy of your CDIB/membership Card.
2. Information sheet.
3. Credit Card (See Attached One Time Credit Card Payment Authorization Form), cashier's check or money order for **\$50.00** payable to the **Choctaw Nation Judicial**. Personal checks and cash not accepted.

If you have questions, you may call the Court Clerk's office at (580) 920-7027. **Mail all correspondence to P.O. Box 1160, Durant, OK 74702.** If filing in person, you may use the Choctaw Nation District Court Clerk's office in Durant, located at 2250 Chukka Hina Drive **or** the Choctaw Nation Court Clerk's office in Talihina, located at the BIA Building at 302 Church Street.

One Time Credit Card Payment Authorization Form

Sign and complete this form to authorize Choctaw Nation to make a one-time debit to your credit card listed below.

By signing this form you give us permission to debit your account for the amount indicated. This is permission for a single transaction only, and does not provide authorization for any additional unrelated debits or credits to your account.

Please complete the information below:

I _____ authorize Choctaw Nation to charge my credit
(Full name)

Card account indicated below for \$50.00. This payment is for

_____.

(description of services)

Billing Address _____ Phone# _____

City, State, Zip _____ Email _____

Account Type: Visa MasterCard

Cardholder Name _____

Account Number _____

Expiration Date _____

SIGNATURE _____

DATE _____

I authorize the above named business to charge the credit card indicated in this authorization form according to the terms outlined above. This payment authorization is for the goods/services described above, for the amount indicated above only, and is valid for one time use only. I certify that I am an authorized user of this credit card and that I will not dispute the payment with my credit card company; so long as the transaction corresponds to the terms indicated in this form.

IN THE DISTRICT COURT FOR THE CHOCTAW NATION OF OKLAHOMA

TYPE OF CASE

Paternity

PETITIONER INFORMATION

NAME: Last: _____ **First:** _____ **Middle:** _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

DATE OF BIRTH: _____

TELEPHONE: _____ **ALTERNATE NUMBER:** _____

E-MAIL: _____

TRIBAL AFFILIATION: _____

RESPONDENT INFORMATION

NAME: Last: _____ **First:** _____ **Middle:** _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

DATE OF BIRTH: _____

TELEPHONE: _____ **ALTERNATE NUMBER:** _____

E-MAIL: _____

TRIBAL AFFILIATION: _____

IN THE DISTRICT COURT FOR THE CHOCTAW NATION OF OKLAHOMA

Case No. FP-

Petitioner,

AND

Respondent.

VERIFIED PETITION FOR PATERNITY

Comes now the Petitioner, _____ and files this verified petition for paternity between the Petitioner and Respondent, _____, in the District Court for the Choctaw Nation of Oklahoma, and alleges and states under oath that the following information is true and correct:

1. That the District Court for the Choctaw Nation of Oklahoma has subject matter jurisdiction to hear and decide this matter because the Petitioner/Respondent currently resides within Choctaw Nation’s jurisdiction at the following address: _____ and has lived there for more than 90 days, since _____. (Provide date)

2. That the District Court for the Choctaw Nation of Oklahoma has personal jurisdiction to hear and decide this matter because the Petitioner stipulates to the jurisdiction of the court and: (choose A, B, or C that applies to your situation.)

A. The Petitioner is an enrolled member of the _____ Tribe or Nation with a mailing address of _____, and the Respondent is an enrolled member of the _____ Tribe or Nation with a mailing address of _____.

B. The Petitioner is a non-Indian with a mailing address of _____, and the Respondent is an enrolled member of the _____ Tribe of Nation with a mailing address of _____.

C. The Petitioner is an enrolled member of the _____ Tribe or Nation with a mailing address of _____, and the Respondent is a non-Indian who stipulates to the jurisdiction of this court with a mailing address of _____.

3. That the parties hereto were married on or about the _____ day of _____ in the year _____ at _____ (provide the location or address where the marriage is registered), by Common Law Marriage/Ceremonial Marriage and the following information about the parties is true and correct:

Petitioner:

Occupation: _____

Date of Birth: _____

Residence Address: _____

Indian Land: (Yes or No) _____.

Length of time at address indicated: _____.

Respondent:

Occupation: _____

Date of Birth: _____

Residence Address: _____

Indian Land: (Yes or No) _____.

Length of time at address indicated: _____.

4. That the Petitioner is the biological mother/father of the minor child(ren) to wit: (List full names of children with dates of birth).

5. That the Respondent is the biological mother/father of the minor child(ren) to wit: (List full names of children with dates of birth).

6. That the Petitioner/Respondent is a fit and proper person to have custody of the minor child/children of the parties and that custody of the child/children should be awarded to the Petitioner/Respondent.

NOTE: For this paragraph, select the wording that applies from A, B, C, or D.

A. That the Petitioner requests that the Respondent be given custody of the minor child/children, but that the Petitioner be permitted to visit said child/children at reasonable times and places as determined by the Court according to the following schedule: Every other weekend from 6 PM on Friday until 6 PM on Sunday.

B. The Respondent should have the right to visit with said child/children at reasonable times and places as determined by the Court, according to the following schedule: Every other weekend from 6 PM on Friday to 6 PM on Sunday.

C. The Respondent should not be permitted visitation because it is not in the best interest of the child/children, because of the following reasons: _____ . (Please explain and use additional pages if needed to fully inform the Court of the situation.)

D. An alternate visitation schedule described below should be adopted by the court to permit the Petitioner/Respondent to visit the minor child/children.
(Please explain and use additional pages as needed to inform the Court of the situation.)

7. That the Petitioner/Respondent is a healthy adult and should be ordered and directed to make regular periodic payments of child support for the maintenance and support of the child/children of the parties above named until the child/children reaches 18 years of age in the amount of \$_____per child, per month for a total amount of \$_____ per month. The support of the Petitioner is waived or is requested in the amount of \$_____ per month.

8. That the Petitioner/Respondent should be awarded the state and federal tax dependent exemptions for the minor child(ren) for all years. Both parties should be ordered to execute appropriate Internal Revenue Service documents to effectuate the terms thereof.
9. Both Parties should be ordered to pay fifty percent (50%) of any uncovered medical expenses for the minor children.
10. That the Petitioner certifies to the Court that: (choose A or B)
- A. No other Paternity action has been filed by either the Petitioner or Respondent in any other state or tribal court as of the date of the filing of this petition.
 - B. Another Paternity action was previously files in the following court: (Name of Court, address, city and state) and the file number of that Paternity action is as follows: _____(indicate if the case is opened or closed.)
11. **AUTOMATIC TEMPORARY INJUNCTION ORDERS.** The orders contained within the Automatic Temporary Injunction Notice herein should all remain in full force and effect, to wit: Both parties should continue to be restrained, enjoined, and prohibited from the following:
- A. Molesting or disturbing the peace of the other party or the child(ren) of the marriage.
 - B. Disrupting or withdrawing any child(ren) of this marriage from an educational facility, program, or day-care where the child(ren) historically have been enrolled.
 - C. Hiding or secreting any child(ren) of this marriage from the other party.
 - D. Removing any child(ren) of this marriage beyond the jurisdiction of the State of Oklahoma, acting directly or in concert with others, except for vacations of two (2) weeks or less duration, without the prior written consent of the other party, which shall not be unreasonably withheld.
 - E. Selling, mortgaging, encumbering, transferring, loaning, giving away, concealing or in any way disposing of, without the written consent of the other party or an order of the Court, any marital property, except:
 - a. In the usual course of operating a business;
 - b. For the purpose of retaining an attorney for the case; or
 - c. For the necessities of lifeEach party shall notify the other party of any proposed other expenditures, and shall account to the court for all such expenditures made after this injunction went into effect.
 - F. Intentionally or knowingly damaging or destroying the tangible property of the parties, or either of them, including, but not limited to, any document that represents or embodies anything of value.
 - G. Making a withdrawal for any purpose from any retirement, profit-sharing, pension, death, or other employee benefit plan or employee savings plan or from any individual retirement account or Keogh account.
 - H. Withdrawing or borrowing in any manner all or any part of the cash surrender value of life insurance policies on either party or their child(ren).
 - I. Changing or in any manner altering the beneficiary designation on any life insurance policies of either party or any of their children.
 - J. Canceling, altering, or in any manner affecting any casualty, automobile, homeowners', or health insurance policies insuring the parties' property or persons.
 - K. Opening or diverting mail addressed to the other party.

- L. Signing or endorsing the other party's name on any negotiable instrument, check, or draft, such as tax refunds, insurance payments, and dividends, or attempting to negotiate any negotiable instruments payable to either party without the personal signature of the other party.
- M. Both spouses are ordered to maintain and keep in force all presently existing health, property, vehicle, homeowners', life and other insurance which you are presently carrying on any member of this family unit, or property or vehicle, and to cooperate as necessary in the filing and processing of claims. Any employer provided health insurance currently in existence shall remain in full force and effect for all family members.

WHEREFORE, premises considered, the Petitioner prays that upon hearing this case, the court make a Paternity determination regarding the minor child(ren) and grant all of the relief requested herein and such other and further relief as to which the Petitioner may be entitled.

Petitioner's Signature: _____

Petitioner's Name: _____

Petitioner's Address: _____

Petitioner's Telephone Number: _____

Alternate Phone Number Where Petitioner May Be Reached: _____

VERIFICATION

STATE OF OKLAHOMA

COUNTY OF _____

Before me, a Notary Public in and for said County and State, on this ____ day of _____ 20____, personally appeared _____, of lawful age, being first duly sworn upon oath state:

That _____ is the Petitioner above named; that he/she has read the above and foregoing Verified Petition for Paternity and understands the same; that the facts contained therein are true and correct.

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

 Notary Public
 My commission Exp.: _____

PETITION ON THE RESPONDENT VIA U.S. MAIL, RETURN RECIEPT REQUESTED, OR BY A LICENCED PRIVATE PROCESS SERVER, OR IN CERTAIN CIRCUMSTANCES, REQUEST THAT SERVICE BE MADE BY THE BUREAU OF INDIAN AFFAIRS LAW ENFORCEMENT.

**ACKNOWLEDGMENT OF NEED TO CONSULT ATTORNEY
Court Rules and Regulations**

I, _____ acknowledge that I am aware that an attorney should be consulted about procedure, legal rights, and advice in connection with this proceeding and my failure to hire an attorney to represent me in this case may result in the loss of or waiver of important legal rights that I may have. I understand that the Court Rules of the District Court for the Choctaw Nation of Oklahoma, the laws of the Choctaw Nation of Oklahoma and the Code of Federal Regulations may govern the procedures in the Court and that I should review and consult the rules, laws and the regulations and become familiar with these provisions in order to properly handle my case.

Petitioner's Signature

3. I have prepared this *Affidavit* in compliance with the Uniform Child Custody Jurisdiction Act and understand that I have a continuing duty to inform the Court of any custody proceeding concerning the **[child/children]** in this or any other state of which I obtain information during this proceeding.

FURTHER AFFIANT SAITH NOT.

Petitioner

Subscribed and sworn to before me the undersigned Notary Public this the _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

IN THE DISTRICT COURT FOR THE CHOCTAW NATION OF OKLAHOMA

INSTRUCTIONS TO PREPARE THE FINAL ORDER OF PATERNITY

PLEASE READ THESE INSTRUCTIONS CAREFULLY

1. The following Form is **ONLY** a Guide (an Example to follow) to Help You Prepare Your Final Order. You must type your Final Order. Please type your Final Order on 8 ½” x 11” letter size paper. Type on only one side of each paper.
2. This Court does not provide attorneys or legal advice. If you need legal advice or an attorney to represent you in this Court, you must retain a lawyer at your own expense, who is a member of the Choctaw Bar Association of Oklahoma.
3. Use your Petition for the information to prepare your Final Order. Use only the statements and sections that apply to your Paternity situation. Put the same information in the Final Order that was in the Paternity Petition.
4. Mail the original Final Order of Paternity to the Court Clerk **OR** bring the Final Order with you on your court day for the Judge to sign.
5. If you have questions, please call the Court Clerk at (580) 920-7027. **The Court is located in the Choctaw Nation Judicial Center, located at 2250 Chukka Hina Drive, Durant, OK 74701.**

IN THE DISTRICT COURT FOR THE CHOCTAW NATION OF OKLAHOMA

_____,
Petitioner,

AND

CASE NO: FP-

_____,
Respondent.

FINAL ORDER OF PATERNITY

(Select the paragraph that applies to your case; modify as needed)

(A) Now on this _____ day of _____, 20____ the above entitled cause comes on for trial on its merits, the Petitioner appearing in person, and the Respondent appears not, having heretofore executed and filed sufficient waiver of service of summons and entry of appearance.

(B) Now on this _____ day of _____, 20____ the above entitled cause comes on for trial on its merits, the Petitioner appearing in person and Respondent appears not. The court finds the Respondent has been served with summons and has failed to answer or plead and is wholly in default. Respondent has been three times called.

(C) Now on this _____ day of _____, 20____ the above entitled cause comes on for trial on its merits, the Petitioner appearing in person, and the Respondent was duly served notice by publication, the court having examined notice by publication and proof of publication on file in said cause, finds and holds that the same is legally sufficient, and the Court hereby approves the service by publication upon having been called three times in open court to appear, accept, demur or plead or answer to the Petitioner’s petition, came not but wholly made default.

The Court, having ordered that the allegations contained in said Paternity Petition be taken as true, and having examined the files and records in this case and having heard the oral testimony of the Petitioner (and testimony of witnesses) sworn and examined in open Court, having fully considered the evidence, and being fully advised in the premises finds:

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED

(Use the following paragraph that applies to your case)

(A) That this Court has jurisdiction to hear this matter in that the Petitioner/Respondent is a member of the _____ Tribe of Oklahoma and the Respondent is a member of the _____ Tribe of Oklahoma (or is a non-Indian and has stipulated to the jurisdiction of this court by signing a waiver and/or stipulating to this court’s jurisdiction in open court.)

(B) That all the material facts alleged in Petitioner’s Paternity Petition are true.

(C) That the Parties hereto are the biological parents of the minor children to wit: (list the full names of the minor children along with their dates of birth)

(D) That the Petitioner/Respondent is a fit and proper person to be awarded exclusive care and custody of the minor child/children, subject to the Petitioner/Respondent rights of reasonable visitation, and that the Petitioner/Respondent should be required to pay reasonable child support during the minority of said child/children in the amount of \$_____per child, per month, in the total sum of \$_____per month.

NOTE: For this paragraph, select the wording that applies from A, B, C, or D.

A. That the Petitioner requests that the Respondent be given custody of the minor child/children, but that the Petitioner be permitted to visit said child/children at reasonable times and places as determined by the Court according to the following schedule: Every other weekend from 6 PM on Friday until 6 PM on Sunday.

B. The Respondent should have the right to visit with said child/children at reasonable times and places as determined by the Court, according to the following schedule: Every other weekend from 6 PM on Friday to 6 PM on Sunday.

C. The Respondent should not be permitted visitation because it is not in the best interest of the child/children, because of the following reasons:_____. (Please explain and use additional pages if needed to fully inform the Court of the situation.)

D. An alternate visitation schedule described below should be adopted by the court to permit the Petitioner/Respondent to visit the minor child/children.
(Please explain and use additional pages as needed to inform the Court of the situation)

(E) That should the Respondent, _____become more than thirty (30) days past due on his child support obligation, an income assignment shall issue. At any time the Respondent's employer/payor is not paying pursuant to an income assignment, the Respondent must make the full and timely payments directly to the child Support Division. Payments not made through the Child Support Division shall be considered gifts, unless otherwise ordered. Payments must include the family group number (FGN).

(F) It is ORDERED that Petitioner/Respondent is awarded the state and federal tax dependent exemptions for the minor child(ren) for all years. Both parties are ORDERED to execute appropriate Internal Revenue Service documents to effectuate the terms thereof.

(G) Petitioner shall pay fifty (50) percent and Respondent shall pay fifty (50) percent of the reasonable and necessary medical, dental, orthodontic, optometric, psychological, or any other physical or mental health expenses for the minor child not covered by insurance or other third-party coverage. The parent who incurs the expense shall be reimbursed by the other parent within forty-five (45) days of receipt of documentation of the non-covered portion of the expense.

(H) In accordance with the Choctaw Nation Marriage Act §112.3, it is ORDERED that if either Party (hereinafter the relocating Party) intends to move his/her primary residence or intends to move the primary residence of the minor child over seventy-five (75) miles for a period of sixty (60) days or more when such move is not a temporary absence from the child's principal residence:

a. The relocating Party shall furnish the following information to the other Party on the terms set out herein:

1. the intended new address, including specific address, if known;
2. the new mailing address, if not the same;
3. the home telephone number, if known;
4. the date of the intended move or proposed relocation;
5. a brief statement of the specific reasons for the proposed relocation of the child, if applicable; and
6. a proposal for a revised schedule of visitation with the child, if any.

b. The relocating Party shall give notice of the proposed relocation of the children or the proposed change of the Party's residence address to the other Party on or before the sixtieth (60th) day before the proposed change. If the relocating party did not know and could not have reasonably known before the proposed change in sufficient time to provide a sixty (60) day notice, then such Party shall give notice of the change on or before the tenth (10th) day after the date that the change is known.

c. The obligation of a Party to give the notices and to provide the information set out herein shall continue so long as that Party is entitled to custody of, or visitation with, the child covered by this Order.

d. The failure of a Party to give the notices and provide the information set out herein may result in further litigation to enforce the order, including contempt of court.

e. The failure of a Party to notify of a relocation of the child may be taken into account in modification of custody of, visitation with, possession of, or access to, the child. The Court may assess reasonable attorney fees and costs against a Party who fails to give the required notice.

f. If a Party who receives notices of the intent of the other Party to relocate the residence of the child does not file, within thirty (30) days of receipt of such notice, a proceeding seeking a temporary or permanent order to prevent the relocation, the relocation is authorized.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the Petitioner/Respondent be, and she/he is hereby granted the exclusive care and custody of the minor child/children, the Petitioner/Respondent is granted rights of visitation with said child/children at reasonable times and under reasonable conditions; and the Petitioner/Respondent is ordered and directed to pay as reasonable child support the sum of \$_____ per child, per month in the total amount of \$_____ per month for the care and maintenance of said child/children during their minority or until further order of the Court, the initial child support payment to be made on or before the ____day of _____, 20____, and like payments on or before the ____day of each month thereafter.

IT IS SO ORDERED.

Judge of Choctaw Nation District Court

