

TITLE V DOMESTIC RELATIONS

CHAPTER 4. ADOPTION

4.1 General Adoption and Transferal of Parental Rights.

- a. Who may be adopted. Any minor, a person under the age of eighteen (18) years of age, may be adopted if:
 1. The minor has no living parent; or
 2. The parental rights of the living parents of the minor have been terminated; or
 3. The living parents consent to the adoption. The parental rights of the living parents who consent to adoption shall cease upon finalization of the adoption, except in the case of customary adoption pursuant to section 4.2 below.
- b. An adult may be adopted, with his or her written consent, provided the relevant conditions precedent of sections 4.1 (b) and (c) have first been met.
- c. Consent to Adoption. Written consent to an adoption is required if:
 1. Any living parent of the child, except for those parents whose parental rights have been terminated; and
 2. The legal guardian or custodian of the child, if there is any; and
 3. The court, if neither the parents, guardians or custodians are empowered to consent; and
 4. The child, if he or she is over twelve (12) years of age.
- d. Petition for Adoption. A petition for adoption shall be filed by the prospective adoptive parent and shall state:
 1. The full name, age and place of residence of the petitioner, and if a married Couple, the place and date of the marriage.
 2. The date and place of birth of the child, if known.
 3. The name currently used for the child and, if a change in name is desired, the new name.

4. That it is the desire of petitioner that the relationship of parent and child been established between petitioner and child.
 5. Facts, if any, which excuse consent on the part of a parent for adoption. The written consent required may be filed with the petition or, with the Court's consent, after the filing of the petition.
- e. Investigation. After the filing of a petition for adoption, the Court shall order an investigation to be conducted by [a guardian *ad litem* appointed by the Chippewa Cree Tribal Court].* The report of the investigation shall be filed with the Court within thirty (30) days of the order for investigation, and shall state:
1. Whether the child is legally free for adoption.
 2. Whether the proposed name is a suitable one for the child.
 3. That medical and social histories have been provided to the adoptive parents.
 4. If 12 years of age or older, the child's view of the adoption.
 5. Any other circumstances and conditions of which the Court should have knowledge; and
 6. A recommendation for or against the proposed adoption.

*[The court appointed guardian *ad litem* shall have full access to any information on file with the CCT Department of Social Services or the CCT Tribal courts relevant to the investigation.]

- f. Hearing. All parties who must give consent to the adoption must be given notice of the adoption hearing, according to the Rules of Civil Procedure in this Code. All adoption hearings shall be private and closed to the public. The Court shall conduct a hearing to determine if the adoption is in the best interest of the person to be adopted.
- g. Decree. If the requirements of this section are met and if the Court finds that it is in the best interest of the person to be adopted, the Court may enter a final decree of adoption. If the adoption is denied, the Court shall issue an order as to the future custody of the child.
- h. Withdrawal of Consent. Consent to an adoption may be withdrawn at any time before the entry of the final decree. If withdrawn, notice shall be given, and a hearing shall be held.

4.2 Customary Adoption. A customary adoption may be created by petition and order of the court or a decision issued by a [Chippewa Cree Traditional Circles Proceeding]. The basis for a customary adoption shall be determined by the proposed customary parent's relationship to the child. If the court determines that the proposed customary parent is a member of the child's extended family or community, or otherwise has significant ties or bonds to the child, the court may order a customary adoption. Customary adoption does not require the termination or cessation of the parental rights of any living parent.

- a. Petition for Customary Adoption. The process for creation of a customary adoption shall be initiated by the filing of a petition entitled "Petition for Customary Adoption." The petition shall be filed in the name of the proposed customary parents and shall contain the following information:
 1. The name, age and residence of each living parent of the child.
 2. The name, age and residence of the child.
 3. The name, age and residence of the proposed customary parent(s).
 4. The jurisdictional basis of the Tribal court over the matter.
 5. A statement regarding the relationship of the proposed customary parent(s) to the child.
 6. A statement of the facts indicating that customary adoption is in the best interests of the child.
 7. The duration of the proposed customary adoption.
 8. Whether the customary adoption is consented to by each living parent of the child, and if not, any facts excusing such consent, including any facts related to the physical care or custody of the child, past or present, which may be relevant to the petition.
 9. A full statement of the value of any property belonging to the child, or which the child is expected to become entitled to during the duration of the customary adoption, and recommendation for the disposition of Per Capita payments during the customary adoption period.
- b. Summary Order. The written consent of each parent consenting to the customary adoption shall be filed with the petition. If each living parent has consented to the customary adoption in a signed writing that is notarized or in the alternative witnessed and signed by two persons over the age of 18, and the Court determines that the proposed customary parent is a member of the child's extended family or community or otherwise has significant ties or bonds to the child, and further that the customary adoption is in the best interests of the child, the Court may enter a

summary order of customary adoption without holding a hearing on the Petition. Such order may include disposition of medical and educational issues.

- c. Hearing Required. If the customary adoption has not been consented to in writing by each living parent of the child, a hearing must be held to determine if the customary adoption is in the best interests of the child.
 1. Each such parent not having consented shall be given written notice of the proceedings pursuant to the Rules of Civil Procedure of this Code.
 2. At the hearing, if a non-consenting parent appears and contests the customary adoption, the petition shall be denied unless the court determines, upon clear and convincing evidence, that the customary adoption is in the best interests of the child, and the non-consenting parent is unable to furnish a home for the child which is more beneficial to the needs and the normal development of the child than the home of the proposed customary parent(s).
- d. Order of Customary Adoption. Upon a determination that the petition should be granted, the court shall enter an order of customary adoption. Such order shall contain the following:
 1. The jurisdictional basis of the court.
 2. The name of the customary parent(s).
 3. The duration of the customary adoption.
 4. A factual finding that the customary parent is a member of the child's extended family or community, or otherwise has significant ties or bonds to the child.
 5. A factual finding that the customary adoption is in the best interest of the child and the reasons; therefore, and
 6. Any specific conditions of the customary adoption, including rights of the parents.
 7. A statement that the child has been customarily adopted by the petitioner(s) and that the parent-child bond is thereby established and that all the rights and responsibilities of that relationship shall exist upon the entry of the final order.
- e. Review of Customary Adoption. A customary adoption may be reviewed by the Court upon a petition for review of customary adoption and a hearing. In assessing the petition, the Court shall consider:
 1. Whether the adoptive parent (s) is incapacitated or unable to continue with the customary adoption.

2. Whether the best interests of the child or children continue to be served by the customary adoptive placement.
3. Whether the best interests of the child would be served by an alternative placement.

Each living parent and each living customary parent shall be present for the hearing, as well as any other party indispensable to the resolution of the petition. The Court may order an investigation by CCT social services if such investigation would aid in resolution of the petition.