

**State of Minnesota**

County \_\_\_\_\_

**District Court**

Judicial District: \_\_\_\_\_  
Court File Number: \_\_\_\_\_  
Case Type: Custody

\_\_\_\_\_,  
Petitioner (First, Middle, Last)

\_\_\_\_\_,  
Co-Petitioner (First, Middle, Last)

and

\_\_\_\_\_,  
Respondent Parent A (First, Middle, Last)

\_\_\_\_\_,  
Respondent Parent B (First, Middle, Last)

\_\_\_\_\_.  
Respondent Guardian or Custodian

**ANSWER TO THIRD  
PARTY CUSTODY  
PETITION AND  
COUNTERPETITION FOR  
CUSTODY**

**Minn. Stat. ch. 257C**

**ANSWER**

Your name: \_\_\_\_\_.

The above-named Respondent alleges the following:

1. The statements made in Part 1 and Part 2 of the *Petition for Third Party Custody* in the following paragraphs are **true** (write only the paragraph number): \_\_\_\_\_  
\_\_\_\_\_
2. The statements made in Part 1 and Part 2 of the *Petition for Third Party Custody* in the following paragraphs are **not true** (write only the paragraph number): \_\_\_\_\_  
\_\_\_\_\_
3. The statements made in Part 1 and Part 2 of the *Petition for Third Party Custody* in the following paragraphs are **partly true and partly not true** (write only the paragraph number): \_\_\_\_\_  
\_\_\_\_\_
4. Respondent **does not have information** to admit or deny the following paragraphs in Part 1 and Part 2 of the *Petition for Third Party Custody* (write only the paragraph number): \_\_\_\_\_  
\_\_\_\_\_

# COUNTERPETITION FOR CUSTODY

## Part 1: Information about Parties and Children

### 1. Petitioner

a. Petitioner's Name and Address:

First	Middle	Last
Street Address		Apartment or Unit Number
City	State	Zip

Petitioner's other names (maiden, former married or other legal name, alias):

Unknown  None

b. Petitioner's Social Security Number (SSN):

Petitioner's SSN is listed on Form 11.1 and on file with the court.

Petitioner's SSN is unknown.

c. What is Petitioner's relationship to the children? \_\_\_\_\_

d. Is Petitioner in the military?  Yes  No  Unknown

### 2. Co-Petitioner

If there is only one petitioner, leave this Co-Petitioner section blank, and check here:

a. Co-Petitioner's Name and Address:

First	Middle	Last
Street Address		Apartment or Unit Number
City	State	Zip

Co-Petitioner's other names (maiden, former married or other legal name, alias):

Unknown  None

b. Co-Petitioner's Social Security Number:

Co-Petitioner's social security number is listed on Form 11.1 and on file with the court.

Co-Petitioner's social security number is unknown.

c. What is Co-Petitioner's relationship to the children? \_\_\_\_\_

d. Is Co-Petitioner in the military?  Yes  No  Unknown

### 3. Respondent Parent A

a. Parent A's Name and Address:

First	Middle	Last
Street Address		Apartment or Unit Number
City	State	Zip

Parent A's other names (maiden, former married or other legal name, alias):

Unknown  None

\_\_\_\_\_  
\_\_\_\_\_

b. Parent A's Social Security Number:

Is listed on Form 11.1 and on file with the court.

Unknown.

c. Parent A's relationship to the children:

Biological mother

Biological father

Adoptive parent

Other (explain): \_\_\_\_\_

d. Is Parent A in the military?  Yes  No  Unknown

### 4. Respondent Parent B

a. Parent B's Name and Address:

\_\_\_\_\_

\_\_\_\_\_  
First Middle Last

\_\_\_\_\_  
Street Address Apartment or Unit Number

\_\_\_\_\_  
City State Zip

Parent B's other names (maiden, former married or other legal name, alias).

Unknown  None

\_\_\_\_\_  
\_\_\_\_\_

b. Parent B's Social Security Number:

Is listed on Form 11.1 and on file with the court.

Unknown.

c. Parent B's relationship to the children:

Biological mother

Biological father

Adoptive parent

Other (explain): \_\_\_\_\_

d. Is Parent B in the military?  Yes  No  Unknown

**5. Respondent Legal Guardian or Custodian**

If there is no Legal Guardian or Custodian, leave this section blank, and check here:

a. Legal Guardian or Custodian's Name and Address:

\_\_\_\_\_  
First Middle Last

\_\_\_\_\_  
Street Address Apartment or Unit Number

\_\_\_\_\_  
City State Zip

Legal Guardian or Custodian's other names (maiden, former married or other legal name, alias).  Unknown  None

\_\_\_\_\_  
\_\_\_\_\_

- b. Legal Guardian or Custodian’s Social Security Number:
- Is listed on Form 11.1 and on file with the court.
- Unknown.
- c. Legal Guardian or Custodian’s relationship to the children: \_\_\_\_\_
- d. Is Legal Guardian or Custodian in the military?  Yes  No  Unknown

**6. Children**

- a. Children’s names and dates of birth:

Name of Child	Child’s Age	Child’s Date of Birth
Example: Jane Kay Smith	3 years old	11/1/2016

- b. Are you aware of any other court cases involving the parties (such as child support, dissolution, paternity, juvenile, child protection, harassment restraining order/HRO, order for protection/OFP, or other no-contact order)?  YES  NO

**If YES, please list the following information (if you know it):**

Type of Court Case	Court File Number and State where the court is located	County	Information about the Case
Example: Child support	35-FA-19-#####, Minnesota	Kittson	Parent B is supposed to pay child support to Parent A.

- c. Who currently has custody of the children?

To your knowledge, list who has legal and physical custody of each child. If you know there is a court order for custody, include that information under “Court File Number” and “Court Order Date” (if you know it).

Child's Name	Legal Custody	Physical Custody	Court File Number and State where the court is located	Court Order Date(s)
Example: Jane Kay Smith	Joint to Mom and Dad	Sole to Father	35-FA-19-#### Minnesota	1/1/19

d. How long have the children lived in Minnesota?

List the length of time that each child has lived in Minnesota:

Child's Name	Number of Years or Months Child Has Lived in Minnesota
Example: Jane Kay Smith	3 years – all her life.

e. Have the children ever lived with the Petitioner?  YES  NO

If YES, please explain (include why and when): \_\_\_\_\_

\_\_\_\_\_

7. **Paternity** – Check all that apply:

a. **Court Order**

There is a court order in the State of \_\_\_\_\_ that says Parent

\_\_\_\_\_ (A or B) is the father of the following children: \_\_\_\_\_

\_\_\_\_\_

b. **Minnesota Recognition of Parentage (ROP)**

The Respondent Parents signed a Minnesota Recognition of Parentage (ROP) for the

following children: \_\_\_\_\_

\_\_\_\_\_

*and* each ROP was filed with the Minnesota Department of Health (this is usually done at the hospital or at a county office).

c. **Voluntary Acknowledgment of Paternity or Parentage (VAP) in another state**

The VAP is like the Minnesota ROP, but for a different state.  
The Respondent Parents signed a VAP in a state other than Minnesota for the following children:

\_\_\_\_\_

*and* the VAP is filed in the following state: \_\_\_\_\_.

d. **Other reasons Respondent Parent \_\_\_\_\_ (A or B) is presumed to be the father of the children.**

Check all that apply:

The Respondent Parents were married when the following children were born:

\_\_\_\_\_

The following children were born within 280 days after the Respondent Parents were divorced (or after the marriage of the Respondent Parents ended by death, annulment, declaration of invalidity, or after a decree of legal separation was entered by a court): \_\_\_\_\_

\_\_\_\_\_

Respondent Parent \_\_\_\_\_ (A or B) received the following children into his home, and openly holds them out as his biological children: \_\_\_\_\_

\_\_\_\_\_

Genetic testing was done, and it shows that Respondent Parent \_\_\_\_\_ (A or B) is likely to be the father of the following children: \_\_\_\_\_

\_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**8. Jurisdiction**

The Petitioner claims to be a:

**De Facto Custodian**

OR

**Interested Third Party**

Do you agree with Petitioner's claim regarding "de facto custodian" or "interested third party"?  Yes  No

Why or why not? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Respondent Parents' Involvement with the Children**

9. Answer the following questions about you.

a. How often and under what circumstances (where and how) have you seen the children?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Have you ever committed acts of domestic violence (physical or emotional abuse) or neglect against the children?  Yes  No

c. Is there a court order that says you cannot have custody of the children (for example, an Order for Protection or a Child Protection Order)?  Yes  No

**If YES, please give the following information:**

Date of Court Order	
Court File Number	
County and state where order was issued	
Name of person to whom the court order gave custody	
Were conditions set in the court order for custody to be returned to you?	<input type="checkbox"/> YES <input type="checkbox"/> NO
If yes, did you follow the conditions?	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A (no conditions set)

10. Answer the following questions about the other parent.

a. How often and under what circumstances (where and how) has the other parent seen the children? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_



- b. Has the other parent ever committed acts of domestic violence (physical or emotional abuse) or neglect against the children?  Yes  No
- c. Is there a court order that says the other parent cannot have custody of the children (for example, an Order for Protection or a Child Protection Order)?  Yes  No

**If YES, please give the following information:**

Date of Court Order	
Court File Number	
County and state where order was issued	
Name of person to whom the court order gave custody	
Were conditions set in the court order for custody to be returned to the other parent?	<input type="checkbox"/> YES <input type="checkbox"/> NO
If yes, did the other parent follow the conditions?	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A (no conditions set)

### Others Who Have Provided Care for the Children

11. Has a Standby Custodian (a person officially named by a parent to care for the children if something happens to that parent) been named by you or the other parent?  YES  NO

**If YES:**

Who named the Standby Custodian? (check all that apply)

Parent A  Parent B **OR**  Legal Guardian or Other Custodian

What is the Standby Custodian's name? \_\_\_\_\_

How is the Standby Custodian related to the children? \_\_\_\_\_

12. Are there people other than Petitioner who have cared for the children in their home for an extended period of time without the parents' involvement?  YES  NO

**If YES, please give the following information:**

Name	Relationship to Children	Amount of Time/When
Example: John Smith and Joyce Smith	Aunt and Uncle (mother's sister and husband)	3 months – June and July 2019 and September 2019

## Custody and Parenting Time – What Is Best for the Children

### 13. Best Interests of the Children

Note: Minn. Stat. § 257C.04 says the court **must** “consider and evaluate” certain best interest factors. By answering the questions in Paragraphs 13 and 14, you are giving the court information about those factors.

- a. What do the children want for custody, if the children are old enough to state their wishes?

Name of Child	Child's Preference	Child's Age
Example: John James Smith	John wants to live with Petitioner	15 years old

- b. Who is the children's primary caretaker? \_\_\_\_\_

- c. Briefly describe how close the children are to everyone involved:

Petitioner: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Co-Petitioner (if any): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Parent A: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Parent B: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Legal Guardian or Other Custodian: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. Briefly describe the relationships and interaction the children have with the petitioner, with the children's parents, with any brothers and sisters, or any other person who has played an important role in the children's lives: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

e. How well adjusted are the children to life at home, in school, and in the community?

Life at home: \_\_\_\_\_  
\_\_\_\_\_

In school: \_\_\_\_\_  
\_\_\_\_\_

In the community: \_\_\_\_\_  
\_\_\_\_\_

f. Do the children currently live in a stable, safe place?  YES  NO

**If YES, answer the following questions:**

Where is this stable, safe place?	
How long has the child lived there?	
Is it best for the child to stay there?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Explain your answer:	

**If NO, explain your answer:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

g. Who else lives with you in your home? \_\_\_\_\_  
\_\_\_\_\_

Do you consider these people to be your permanent family unit?  YES  NO

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

h. Briefly describe the mental and physical health of everyone involved:

Petitioner: \_\_\_\_\_  
\_\_\_\_\_

Co-Petitioner (if any): \_\_\_\_\_  
\_\_\_\_\_

Parent A: \_\_\_\_\_  
\_\_\_\_\_

Parent B: \_\_\_\_\_  
\_\_\_\_\_

Children:

Child's Name	Describe Child's Mental Health	Describe Child's Physical Health

Legal Guardian or Other Custodian: \_\_\_\_\_  
\_\_\_\_\_

i. Explain how likely and able you are to give the child love, affection, and guidance, and how you will do this: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

j. What is the children's cultural background? \_\_\_\_\_  
\_\_\_\_\_

**IF YES** to either question, then you must give NOTICE to the Tribe of this action for third party custody.

→ Are any of the children a member of, or eligible for membership in, an Indian tribe?  
 YES – list the name of each child who is a member of an Indian tribe, or who is eligible for membership: \_\_\_\_\_  
 NO, the child is not a member of, or eligible for membership in, an Indian tribe  
 UNKNOWN  
**If YES**, list the name of the Tribe: \_\_\_\_\_

→ Is either parent a member of, or eligible for membership in, an Indian tribe?

YES,  Parent A /  Parent B is a member or eligible for membership in an Indian tribe.

NO, neither parent is a member of, or eligible for membership in, an Indian tribe.

UNKNOWN

**If YES**, list the name of the Tribe: \_\_\_\_\_

k. Explain how likely and able you are to continue educating and raising the child in their culture, religion, and creed? \_\_\_\_\_

\_\_\_\_\_

l. Has there been domestic abuse (physical or emotional) by any of the parties in this case against another party? (The parties are the parents, the Legal Guardian or Custodian, Petitioner, Co-Petitioner [if there is one], and the children.)

YES       NO

**If YES:**

• Who has been involved in the domestic abuse? \_\_\_\_\_

\_\_\_\_\_

• Explain what effect this abuse has had on the children: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## Part 2: Income and Ability to Provide Child Support

### 14. Existing Child Support Order

Are you aware of a child support order that is already in place?  YES       NO

15. You must fill out and file a *Financial Affidavit for Child Support* (FAM102) with attachments (proof of financial situation).

## Part 3: Your Requests

\_\_\_\_\_ asks the Court for an Order as follows:

1.  **Dismissing the entire petition** (if you check this box, then skip questions #2 through #4).

**OR**

2.  **Granting legal and physical custody as follows:**

- a. Legal Custody:** *Legal custody means having a right to participate in the major decisions regarding the child's life, including education, religious upbringing and medical treatment.*

It is in the children's best interests that legal custody be granted as follows:

**Sole legal** custody to:

- |                                        |                                                            |
|----------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> Parent A      | <input type="checkbox"/> Parent B                          |
| <input type="checkbox"/> Both parents  | <input type="checkbox"/> Petitioner                        |
| <input type="checkbox"/> Co-Petitioner | <input type="checkbox"/> Legal Guardian or Other Custodian |

**OR**

**Joint legal** custody to the following parties:

- |                                        |                                                            |
|----------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> Parent A      | <input type="checkbox"/> Parent B                          |
| <input type="checkbox"/> Both parents  | <input type="checkbox"/> Petitioner                        |
| <input type="checkbox"/> Co-Petitioner | <input type="checkbox"/> Legal Guardian or Other Custodian |

- b. Physical Custody:** *Physical custody identifies who will handle the routine daily care and control of the child, and who the child will live with.*

It is in the children's best interests that physical custody be granted as follows:

**Sole physical** custody to:

- |                                        |                                                            |
|----------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> Parent A      | <input type="checkbox"/> Parent B                          |
| <input type="checkbox"/> Both parents  | <input type="checkbox"/> Petitioner                        |
| <input type="checkbox"/> Co-Petitioner | <input type="checkbox"/> Legal Guardian or Other Custodian |

**OR**

**Joint physical** custody to the following parties:

- |                                        |                                                            |
|----------------------------------------|------------------------------------------------------------|
| <input type="checkbox"/> Parent A      | <input type="checkbox"/> Parent B                          |
| <input type="checkbox"/> Both parents  | <input type="checkbox"/> Petitioner                        |
| <input type="checkbox"/> Co-Petitioner | <input type="checkbox"/> Legal Guardian or Other Custodian |

If you checked "joint physical custody" and the other person is not your spouse, then you need a schedule stating who takes care of the children and when. Describe the schedule: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**c. Joint legal or physical custody**

If you checked “joint legal custody” or “joint physical custody,” answer the following questions:

- i. Can you cooperate with the other party in raising the child?  YES  NO

Explain how you are able to cooperate *or* if you are not able to cooperate, why not: \_\_\_\_\_

\_\_\_\_\_

- ii. If you and the other party disagree on major decisions about the children’s lives, how will you work out your differences and make a decision? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

How willing are you and the other party to use these methods to resolve disagreements? \_\_\_\_\_

\_\_\_\_\_

- iii. Do you believe it would be negative or bad for the child if either you or the other party (who you are asking to share joint custody with) had sole authority over raising the child rather than joint authority with the other party?

YES  NO

Explain your answer: \_\_\_\_\_

\_\_\_\_\_

- iv. Has there been domestic abuse between you and the other party?

YES  NO

**If YES**, explain when the domestic abuse happened and how the situation got better: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3.  Granting Parenting Time as follows:**

Weekends: \_\_\_\_\_

\_\_\_\_\_

Weeknights or after school (or, if not in school, then Monday through Friday): \_\_\_\_\_

\_\_\_\_\_

Holidays: \_\_\_\_\_

\_\_\_\_\_

Birthdays: \_\_\_\_\_

\_\_\_\_\_

School release days: \_\_\_\_\_

\_\_\_\_\_

Summer: \_\_\_\_\_

\_\_\_\_\_

Telephone contact with children (When can they talk on the phone with the parents): \_\_\_\_\_

\_\_\_\_\_

Transportation: \_\_\_\_\_

\_\_\_\_\_

Other: \_\_\_\_\_

\_\_\_\_\_

Supervised parenting time for  Parent A /  Parent B, because: \_\_\_\_\_

\_\_\_\_\_

• Who should supervise? \_\_\_\_\_

• If there is a cost, who should pay? \_\_\_\_\_

NO PARENTING TIME for Parent A (reserving parenting time), because:

\_\_\_\_\_

NO PARENTING TIME for Parent B (reserving parenting time), because:

\_\_\_\_\_

4.  **Ordering child support:**

Ordering that basic support, medical support, and child care support be set according to Minnesota Child Support Guidelines, and based on each parent's income and ability to pay.

5. **Granting such other relief as the Court deems just and equitable.**



## ACKNOWLEDGMENT

By presenting this form to the court, I certify that to the best of my knowledge, information, and belief, the following statements are true. I understand that if a statement is not true, the court can order a penalty against me (such as to pay money to the other party, pay court costs, and/or other penalties).

1. The information I included in this form is based on facts and supported by existing law.
2. I am not presenting this form for any improper purpose. I am not using this form to:
  - a. Harass anyone;
  - b. Cause unnecessarily delay in the case; or
  - c. Needlessly increase the cost of litigation.
3. No judicial officer has said I am a frivolous litigant.
4. There is no court order saying I cannot serve or file this form.
5. This form does not contain any “restricted identifiers” or confidential information as defined in Rule 11 of the General Rules of Practice ([https://www.revisor.mn.gov/court\\_rules/gp/id/11/](https://www.revisor.mn.gov/court_rules/gp/id/11/)) or the Rules of Public Access to Records of the Judicial Branch ([https://www.revisor.mn.gov/court\\_rules/rule/ra-toh/](https://www.revisor.mn.gov/court_rules/rule/ra-toh/)).
6. If I need to file “restricted identifiers,” confidential information, or a confidential document, I will use Form 11.1 and/or Form 11.2, as required by Rule 11.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail address: \_\_\_\_\_