

State of Minnesota

District Court

County of: _____

Court File Number: _____

Judicial District: _____

Case Type: Custody

Petitioner

Co-Petitioner, if any

AND

Respondent Parent A

Respondent Parent B

Respondent Legal Guardian or Custodian, if any

**Answer to Third Party Custody Petition
and Counterpetition for Custody (CHC702)**

Minn. Stat. ch. 257C

ANSWER

Your name: _____

The above-named Respondent alleges the following:

1. The statements made in the *Petition to Establish Third Party Custody* in the following paragraphs are **true** (include only the paragraph number): _____

2. The statements made in the *Petition to Establish Third Party Custody* in the following paragraphs are **not true** (include only the paragraph number): _____

3. The statements made in the *Petition to Establish Third Party Custody* in the following paragraphs are **partly true and partly not true** (include only the paragraph number): _____

4. Respondent **does not have enough information to admit or deny** the statements made in the following paragraphs of the *Petition to Establish Third Party Custody* (include only the paragraph number): _____

Continued on next page.

Counterpetition for Custody

Part 1: Information about Parties (Petitioner, Co-Petitioner, Respondents)

1. Petitioner

a. Petitioner's Name and Contact Information:

First Name: _____

Middle Name: _____

Last Name: _____

Street Address: _____

Apartment or Unit Number: _____

City/State/Zip: _____

Telephone: _____

Email: _____ or No email address.

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

None, **OR:** _____

c. Petitioner's Social Security Number:

Petitioner's Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Petitioner's Social Security Number.

d. What is Petitioner's relationship to the children? _____

e. 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 Contact Information:

First Name: _____

Middle Name: _____

Last Name: _____

Street Address: _____

Apartment or Unit Number: _____

City/State/Zip: _____

Telephone: _____

Email: _____ or No email address.

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

None, OR: _____

c. Co-Petitioner's Social Security Number:

Co-Petitioner's Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Co-Petitioner's Social Security Number.

d. What is Co-Petitioner's relationship to the children? _____

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

3. Respondent Parent A

a. Parent A's Name and Contact Information:

First Name: _____

Middle Name: _____

Last Name: _____

Street Address: _____

Apartment or Unit Number: _____

City/State/Zip: _____

Telephone: _____

Email: _____ or No email address.

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

OR Unknown **OR** None

c. Parent A's Social Security Number:

Parent A's Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Parent A's Social Security Number.

d. How is Parent A related to the children?

Biological mother. Biological father. Adoptive parent.

Other (Explain): _____.

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

f. Is Parent A a member of, or eligible for membership in, an Indian tribe?

- Yes. Names of Tribes: _____
- No.
- Unknown.

4. Respondent Parent B

a. Parent B's Name and Contact Information:

First Name: _____

Middle Name: _____

Last Name: _____

Street Address: _____

Apartment or Unit Number: _____

City/State/Zip: _____

Telephone: _____

Email: _____ or No email address.

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

OR Unknown **OR** None

c. Parent B's Social Security Number:

Parent B's Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Parent B's Social Security Number.

d. How is Parent B related to the children?

Biological mother. Biological father. Adoptive parent.

Other (Explain): _____.

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

f. Is Parent B a member of, or eligible for membership in, an Indian tribe?

Yes. Names of Tribes: _____

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 Contact Information:

First Name: _____

Middle Name: _____

Last Name: _____

Street Address: _____

Apartment or Unit Number: _____

City/State/Zip: _____

Telephone: _____

Email: _____ or No email address.

- b. Legal Guardian or Custodian's other names (maiden, former married or another legal name, alias):

OR Unknown **OR** None

- c. Legal Guardian or Custodian's Social Security Number:

Legal Guardian or Custodian's Social Security Number is listed on Form 11.1 and filed with the Court.

Respondent does not know Legal Guardian or Custodian's Social Security Number.

- d. Describe the relationship between the Legal Guardian or Custodian and the children:

- e. Is the Legal Guardian or Custodian in the military? Yes. No. Unknown.

- f. Is the Legal Guardian or Custodian a member of, or eligible for membership in, an Indian tribe?

Yes. Names of Tribes: _____

No.

Unknown.

Part 2: Information about the Children

6. List each child's full name, age, and date of birth:

→ There is space to list 4 children. If this third-party custody case involves more than 4 children, add more paper.

Child 1

First Name: _____

Middle Name: _____

Last Name: _____

Age: _____

Date of Birth: _____

Child 2

First Name: _____

Middle Name: _____

Last Name: _____

Age: _____ Date of Birth: _____

Child 3

First Name: _____

Middle Name: _____

Last Name: _____

Age: _____ Date of Birth: _____

Child 4

First Name: _____

Middle Name: _____

Last Name: _____

Age: _____ Date of Birth: _____

7. **Other Court Cases.** Are you aware of any other court cases involving the parties (such as child support, dissolution/divorce, custody, paternity, juvenile, child protection, harassment restraining order/HRO, order for protection/OFP, or other no-contact order)?

Yes No

If Yes, list the following information (if known):

Type of Court Case: _____

Court File Number: _____

County and State: _____

Information about the Case: _____

8. **Current Custody of the Children.** Who currently has custody of the children?

→ List who has legal and physical custody of each child, to the best of your knowledge. If you know there is a court order for custody, include as much detail as you can.

Child 1

Child's Name: _____

Who has legal custody? _____

Who has physical custody? _____

Court File Number and State, if there is a court case: _____

Details: _____

Child 2

Child's Name: _____

Who has legal custody? _____

Who has physical custody? _____

Court File Number and State, if there is a court case: _____

Details: _____

Child 3

Child's Name: _____

Who has legal custody? _____

Who has physical custody? _____

Court File Number and State, if there is a court case: _____

Details: _____

Child 4

Child's Name: _____

Who has legal custody? _____

Who has physical custody? _____

Court File Number and State, if there is a court case: _____

Details: _____

9. Length of Time in Minnesota. How long has each child lived in Minnesota?

Child 1

Child's Name: _____

Number of Years or Months the Child Has Lived in Minnesota: _____

Child 2

Child's Name: _____

Number of Years or Months the Child Has Lived in Minnesota: _____

Child 3

Child's Name: _____

Number of Years or Months the Child Has Lived in Minnesota: _____

Child 4

Child's Name: _____

Number of Years or Months the Child Has Lived in Minnesota: _____

10. **Information about Time the Children May Have Lived with Petitioner.** Have any of the children ever lived with the Petitioner? Yes No

If Yes:

- List the child's full name;
- List the number of years or months the child has lived with the Petitioner; and
- Explain how and why the child went to live with the Petitioner.

OR Does not apply because the children have never lived with the Petitioner.

11. **Siblings.** Does the child who is part of this third-party custody case have any siblings (brothers or sisters) who are not part of this case? Yes No

If Yes:

- List each sibling's full name;
- List who each sibling lives with; and
- Describe how that sibling is related to the person they live with.

→ The first line in the chart below is filled out as an example.

Sibling's Full Name	Who Sibling Lives With	That Person's Relationship to the Sibling
Example: John David Doe	Mary Smith	Aunt (Mother's sister)

Sibling's Full Name	Who Sibling Lives With	That Person's Relationship to the Sibling

Part 3: Indian Child Welfare Act (ICWA) and Minnesota Indian Family Preservation Act (MIFPA)

- Two of the things that Minnesota court rules require in a petition are:
 - A statement as to whether the child is or may be an Indian child; and
 - A description of “the due diligence used to determine whether the child is an Indian child. Minn. Gen. R. Prac. 315.

- An “Indian child” is defined as an unmarried person who is under age eighteen and is: (1) a member of an Indian tribe; or (2) is eligible for membership in an Indian tribe. Minn. Stat. § 260.755, subd. 8.

12. ICWA and MIFPA

- a. Tell whether each child is an Indian child. If the answer is Yes, list the names of the Tribes.

Child 1

Child's Name: _____

Is this child an Indian child?

- Yes. Name of tribes: _____
- No.
- Unknown.

Child 2

Child's Name: _____

Is this child an Indian child?

- Yes. Name of tribes: _____
- No.
- Unknown.

Child 3

Child's Name: _____

Is this child an Indian child?

- Yes. Name of tribes: _____
- No.
- Unknown.

Child 4

Child's Name: _____

Is this child an Indian child?

- Yes. Name of tribes: _____
- No.
- Unknown.

b. Describe what you did to determine whether each child is or may be an Indian child.

Part 4: Paternity

13. How do you believe paternity of the children has been established?

→ 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 (A and B) 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 (A and B) signed a (VAP) in a state other than Minnesota for the following children: _____

_____ /
AND each VAP was filed in the following state: _____

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

→ Check all that apply:

The Respondent Parents (A and B) were married with the following children were born: _____

The following children were born within 280 days after Respondent Parents (A and B) 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: _____

Part 5: Jurisdiction – De Facto Custodian or Interested Third Party

14. Jurisdiction

a. In the *Petition*, does the Petitioner claim to be a **De Facto Custodian** or an **Interested Third Party**? De Facto Custodian Interested Third Party

b. Do you agree with the Petitioner’s claim regarding “de facto custodian” or “interested third party”? Yes No

Why or why not? _____

Part 6: Respondents' Involvement with, and Others Who Have Provided Care for, the Children

15. Answer the following questions about you:

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

b. Have you 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 Child Protection Order)? Yes No

If **Yes**, give the following information:

Date of Court Order: _____

Court File Number: _____

County and state where order was issued: _____

Name of person court gave custody to: _____

Were conditions set in the court order for custody to be returned to you?

Yes No

If **Yes**, did you follow the conditions? Yes No

16. 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 Unknown
- c. Is there a Court Order that says the other parent cannot have custody of the children (for example, an Order for Protection or Child Protection Order)?
 Yes No Unknown

If **Yes**, give the following information:

Date of Court Order: _____

Court File Number: _____

County and state where order was issued: _____

Name of person court gave custody to: _____

Were conditions set in the court order for custody to be returned to the other parent? Yes No Unknown

If **Yes**, did the other parent follow the conditions?

Yes No Unknown

- A “standby custodian” is a person officially named by a parent to care for the child if something happens to that parent.

17. Has a **Standby Custodian** been named by you or the other parent?

Yes No Unknown

If **Yes**:

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

Parent A Parent B Legal Guardian or Other Custodian

b. What is the Standby Custodian’s name? _____

c. How is the Standby Custodian related to the children? _____

18. Are there people other than you 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 of the person who cared for the child;
- The person’s relationship to the child;
- Amount of time the person cared for the child; and

- The time period when the person cared for the child.

Name of Person	Relationship to Child	Amount of Time and When
Example: Tim and Sue Smith	Maternal uncle and aunt	3 months – June, July, and September 20 23

Part 7: Custody – What Is Best for the Children (Best Interest Factors)

- Minnesota law requires the judicial officer to consider and evaluate all relevant factors in determining the best interests of the children, including the “best interest factors” found in statute.
- The questions in this section are based on the “best interest factors” found in Minn. Stat. § 257C.04 (revisor.mn.gov/statutes/cite/257C.04).

19. The Wishes of the Parties as to Custody of the Children [Minn. Stat. § 257C.04, subd. 1(a)(1)]

- a. What do you believe the **Petitioner** wants regarding custody of the children? _____

- b. What do you believe the **Co-Petitioner** wants regarding custody of the children?
 N/A (because there is no Co-Petitioner) **OR:** _____

- c. What do **you** think is best for the children regarding custody? _____

- d. What do you believe **the other parent** wants regarding custody of the children? _____

- e. What do you believe the children’s **Legal Guardian/Custodian** wants regarding custody? N/A (not applicable because there is no legal guardian or custodian); **OR**

20. The Reasonable Preferences of the Children [Minn. Stat. § 257C.04, subd. 1(a)(2)]

- One factor the court must consider and evaluate is “the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference.”
- List each child, the child’s age, and what the child’s preference is regarding custody (if you know it).

Child 1

Child’s Name: _____ Age: _____

Child 1’s preference regarding custody: _____

Child 2

Child’s Name: _____ Age: _____

Child 2’s preference regarding custody: _____

Child 3

Child’s Name: _____ Age: _____

Child 3’s preference regarding custody: _____

Child 4

Child’s Name: _____ Age: _____

Child 4’s preference regarding custody: _____

21. The Children’s Primary Caretaker [Minn. Stat. § 257C.04, subd. 1(a)(3)]

Who is the child’s primary caretaker? _____

22. The Intimacy of the Relationship Between Each Party and the Children [Minn. Stat. § 257C.04, subd. 1(a)(4)]

Briefly describe how close the children are to everyone involved:

a. How close are the children to the **Petitioner**? _____

b. How close are the children to the **Co-Petitioner**? N/A (there is no Co-Petitioner); **OR**

- c. How close are the children to **you**? _____

- d. How close are the children to **the other parent**? _____

- e. How close are the children to the children's **Legal Guardian or Custodian**?
 N/A (there is no Legal Guardian or Custodian); **OR** _____

23. The Interactions and Interrelationships of the Children with Others [Minn. Stat. § 257C.04, subd. 1(a)(5)]

Briefly describe the relationships and interaction the children have with the petitioner, with the Co-Petitioner, with you, with the other parent, with any siblings, and with any other person who has played an important role in the children's lives: _____

24. The Children's Adjustment to Home, School, and Community [Minn. Stat. § 257C.04, subd. 1(a)(6)]

- a. How well adjusted are the children to **life at home**? _____

- b. How well adjusted are the children **in school**? _____

- c. How well adjusted are the children **in the community**? _____

25. The Length of Time the Children Have Lived in a Stable, Satisfactory Environment, ... [Minn. Stat. § 257C.04, subd. 1(a)(7)]

- a. Do the children currently live in a stable, safe, place? Yes No

- Where do the children live? _____

- How long have the children lived there? _____

- Is it best for the children to stay there? Yes No

b. Explain the answers you gave in 25a: _____

26. The Permanence, as a Family Unit, of the Existing or Proposed Custodial Home [Minn. Stat. § 257C.04, subd. 1(a)(8)]

a. Who else lives with you in your home? _____

b. Do you consider these people to be your permanent family unit? Yes No

c. Explain your answer in 26b: _____

d. If the children do not live with you, describe the permanence of the family unit where the children are currently living: N/A (not applicable, because the children currently live with this Respondent); **OR:** _____

27. The Mental and Physical Health of All Individuals Involved [Minn. Stat. § 257C.04, subd. 1(a)(9)]

Briefly describe the **mental** and **physical health** of everyone involved:

a. Petitioner: _____

b. Co-Petitioner: N/A (not applicable because there is no Co-Petitioner); **OR:** _____

c. You: _____

d. The Other Parent: _____

e. Children: _____

f. Legal Guardian or Custodian: N/A (not applicable because there is no Legal Guardian or Custodian); **OR:** _____

28. The Capacity and Disposition of the Parties to Give the Children Love, Affection, and Guidance, and to Continue Educating and Raising the Children in Their Culture and Religion or Creed, if any [Minn. Stat. § 257C.04, subd. 1(a)(10)]

a. Explain whether the parties can give the children love, affection, and guidance:

- How will you do this? _____

- Explain whether the other parent is capable of giving the children love, affection and guidance: _____

- Explain whether the Petitioner is capable of giving the children love, affection and guidance: _____

- Explain whether the Co-Petitioner is capable of giving the children love, affection and guidance: N/A (not applicable because there is no Co-Petitioner); **OR:** _____

- Explain whether the Legal Guardian or Custodian is capable of giving the children love, affection and guidance: N/A (not applicable because there is no Legal Guardian or Custodian); **OR:** _____

b. Explain whether the parties will be able to educate and raise the children in the children’s culture and religion or creed, if any:

- How will you do this? _____

- Explain whether the other parent is capable of educating and raising the children in the children’s culture and religion or creed, if any: _____

- Explain whether the Petitioner is capable of educating and raising the children in the children’s culture and religion or creed, if any: _____

- Explain whether the Co-Petitioner is capable of educating and raising the children in the children’s culture and religion or creed, if any: N/A (not applicable because there is no Co-Petitioner); **OR:** _____

- Explain whether the Legal Guardian or Custodian is capable of educating and raising the children in the children’s culture and religion or creed, if any: N/A (not applicable because there is no Legal Guardian or Custodian); **OR:** _____

29. The Children’s Cultural Background [Minn. Stat. § 257C.04, subd. 1(a)(11)]

Describe the children’s cultural background: _____

30. The Effect on the Children of the Actions of an Abuser, if Related to Domestic Abuse, as Defined in Minn. Stat. § 518B.01, subd. 2, that Has Occurred Between the Parents or the Parties [Minn. Stat. § 257C.04, subd. 1(a)(12)]

Has there been domestic abuse (physical or emotional) by any of the parties in this case against another party or the children? Yes No

→ The parties are the Petitioner, Co-Petitioner, the parents, and the Legal Guardian or Custodian, if any.

If Yes:

- Who has been involved in the domestic abuse? _____

- What effect has the abuse had on the children? _____

Part 8: Income and Ability to Provide Child Support

31. Existing Child Support Order

Are you aware of an existing child support order (one that is already in place)? Yes No

If **Yes**, give as many details as you can (for example, what county and state is the child support case in, and what is the court file number?): _____

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

Part 9: Your Requests

The Respondent, _____ (name), 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

Requests: Legal and Physical Custody

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 _____ (name).

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 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 _____ (name).

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 Custodian |

NOTE: 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. Best Interest Factors: Joint Legal or Joint Physical Custody.

→ According to Minn. Stat. § 257C.04, subd. 2, there are other factors the court must consider when a party asks for joint legal or joint physical custody.

→ If you checked “joint legal custody” or “joint physical custody” in “a” or “b” above, then answer the following questions about you and the person you hope to share legal and/or physical custody with.

N/A (“c” is not applicable because this Respondent is not asking for joint legal or joint physical custody).

OR

i. Can you cooperate with the other party in raising the children?
 Yes No

ii. Explain how you will cooperate **OR** if you are not able to cooperate, why not? _____

iii. 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 other party to use these methods to resolve disagreements? _____

iv. Do you believe it would be negative or bad for the children if either you or the other party (who you are asking to share joint legal or physical custody with) had the sole authority over raising the children rather than joint authority with the other party?
 Yes No

Explain your answer: _____

- v. Has there been domestic abuse between you and the other party?
 Yes No

If **Yes**, explain when the domestic abuse happened: _____

Explain how the situation got better: _____

Requests: Parenting Time

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 the parenting time? _____

• 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:

Requests: Child Support and Other

4. **Ordering child support:**

Ordering that basic support, medical support, and childcare 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/) or the Rules of Public Access to Records of the Judicial Branch (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.

Date: _____

Signature

Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

Email: _____