

## Instructions for Completing Notice of Motion and Motion to Intervene

### General Information

- The forms you will need to ask the court to be allowed to intervene in a child protection case include:
  - *Notice of Motion and Motion to Intervene* (CHP402); and
  - *Affidavit of Service in Motion to Intervene* (CHP406).
- Court personnel **cannot** help you fill out these forms.
- You may wish to speak with a lawyer if you do not know how to answer the questions on these forms.
- You **must** fill out both forms listed above, and you **must** follow these instructions (CHP401).
- Type your answers or print neatly using dark ink.

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

### Who May Intervene as a Matter of Right (Automatically)

Certain people have an automatic right to intervene as a party in a child protection case. Unless an existing party objects, the people listed below will be granted party status simply by providing notice of intervention to the court and other parties:

- The child, regardless of their age, who is the subject of the juvenile protection matter.
- The birth or adoptive parent of the child who is the subject of the juvenile protection matter.
- The grandparent of the child who is the subject of the juvenile protection matter and the child lived with the grandparent at any time during the two years prior to the filing of the petition in this matter.
- The Social Services Agency (if not the petitioner).

### Who May Intervene Only if the Court Grants Permission

Individuals not listed above do not have an automatic right to intervene as a party. Instead, such individuals must ask the Court's permission to intervene. Existing parties to the case have a right to object to such intervention. Use forms CHP402 and CHP406 to ask the Court's permission to intervene as a party.

### What You Must Do to Ask Permission to Intervene

#### A. Contact the Court Administrator's Office in the county where the child protection case is located.

1. Tell court administration that you will be filing a *Motion to Intervene* in a child protection case and that you need a date, time, room number, and address for a hearing. The hearing date must be at least 8 days before the date you plan to mail or deliver the documents to the other parties.
2. Also ask court administration for a list of the names and addresses of all parties and attorneys involved in the case so that you can notify them of the date, time, and location of the hearing.

#### B. Fill out the *Notice of Motion and Motion to Intervene* Form (CHP402)

1. On the top part of the *Notice of Motion and Motion to Intervene* form, print the county name, judicial district number, court file number, and the case caption title where indicated. This

information is on the Notice you received from the Court.

2. Using the information you received from the Court Administrator, on the *Notice of Motion and Motion to Intervene* form fill in the date, time, and address where the hearing will take place.
3. On question 1 on the *Notice of Motion and Motion to Intervene* form, print your name and mailing address.
4. On question 2, explain your relationship to the child(ren) such as foster parent, relative, school district, family friend, or other relationship.
5. On question 3, explain why you wish to intervene as a party and why your intervention is in the best interests of the child(ren).
6. Sign your name.

**C. Make Copies of the completed *Notice of Motion and Motion to Intervene* form**

1. Make copies of the completed and signed *Notice of Motion and Motion to Intervene* form. Make enough copies for each party and attorney, as well as one copy for you to keep.
2. For each party and attorney, prepare an envelope with the person's name and mailing address on it, and put one **copy** of the completed and signed *Notice of Motion and Motion to Intervene* form in each envelope.

**D. Serve the completed *Notice of Motion and Motion to Intervene* form upon the parties, and attorneys.**

**Overview**

The parties and attorneys must receive a copy of your completed *Notice of Motion and Motion to Intervene*. This is called "service of process." The papers can be served personally (hand-delivered), or by mail. The parties and attorneys must receive the papers at least 5 days before the date of the hearing. Papers **CANNOT** be served on legal holidays. If papers are served by mail, Court Rules require adding three days, so that papers must be postmarked at least 8 days before the date of the hearing.

**Who Can Serve**

The forms you have prepared can be served by any of the following:

- The sheriff;
- Another adult; or
- You.

**Personal Service**

At least **5 days** before the date of the hearing, the server should **hand-deliver** the envelopes to each of the parties and attorneys.

**Service by Mail**

At least **8 days** before the date of the hearing, the server should place the envelopes in the **mail** (regular first class US mail).

Keep one **copy** of the completed *Notice of Motion and Motion to Intervene* form for your files and

bring it with you to the hearing.

**E. Complete the *Affidavit of Service in Motion to Intervene* form.**

1. The server who hand-delivered or mailed the envelopes to the parties and attorneys must fill out the *Affidavit of Service in Motion to Intervene* form (CHP406), which is available online at <http://mncourts.gov/GetForms.aspx?c=5&f=64>. The server must list the name and address of each person who received an envelope, and then sign the form under penalty of perjury. By signing the *Affidavit of Service in Motion to Intervene* under penalty of perjury, the person is stating that the information in the affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.
2. Make one **copy** of the completed and signed *Affidavit of Service in Motion to Intervene* form and keep it for your files.

**F. File the *Notice of Motion and Motion to Intervene* and the *Affidavit of Service in Motion to Intervene* with court administration.**

1. At least **5 days** before the date of the hearing, **hand-deliver** the completed *Notice of Motion and Motion to Intervene* form and the *Affidavit of Service in Motion to Intervene* form to court administration.

**OR**

At least **8 days** before the date of hearing, mail the completed *Notice of Motion and Motion to Intervene* form and the *Affidavit of Service in Motion to Intervene* form in an enveloped addressed to the court administrator.

2. You must be prepared to pay any court fee, if applicable, at the time of filing. If you cannot afford to pay the fee, you may qualify to have the filing fee waived by the court. You will need to fill out an In Forma Pauperis application (available from court administration, and online at <http://mncourts.gov/GetForms.aspx?c=19&p=69>) and file it with court administration. Your application will be reviewed by a judge who will decide whether you must pay the fees. If the judge does not sign an order that waives the fees, you must be prepared to pay the fee or the clerk cannot process your forms.

**G. Attend the Hearing.**

1. Bring copies of your papers with you to the hearing
2. Come prepared to explain why you should be permitted to become a party.