

INSTRUCTIONS

Motion to Transfer Postjudgment Action to Tribal Court

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Forms You May Need

- *Motion to Transfer Postjudgment Action to Tribal Court* (FAM1102);
- *Affidavit in Support of Motion to Transfer Postjudgment Action to Tribal Court* (FAM1103); and
- *Affidavit of Service* (SOP105).

Forms are available online at www.mncourts.gov/forms.

What You Need to Do

1. Complete the court forms, following all of the steps in these instructions.
2. Serve all parties.

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 court administration or call the Minnesota State Law Library at 651-297-7651.

General Information

Minn. Stat. § 518A.80 establishes a process to transfer a postjudgment child support, custody, and/or parenting time action to Tribal Court. If the court has not yet issued an order that sets forth the parties' obligations for child support, awards permanent custody of the children, and/or establishes parenting time for the parties, these forms are not the correct forms to ask for a transfer of action to tribal court.

Do you have all the information you need to fill out the forms?

The forms ask for:

- The county, judicial district, and court file number where the district court or expedited process case is filed.
- The name, address, and tribal affiliation (if applicable) of each party and intervenor (if any).
- Each minor child's name, date of birth, and tribal affiliation (if applicable).
- The name of the Tribal Court (for example, Red Lake Nation Tribal Court).
- Names of individuals receiving services from the Tribal IV-D Agency.

Fill out the forms completely and accurately.

- If something does not apply to you, you may answer "N/A" (meaning "not applicable").
- If the answer to a question is "none," write "none."
- If you do not know the answer to a question, write "unknown." **But try not to leave blanks in your forms.**

Expedited Process or District Court?

You must file this motion in the Expedited Child Support Process *if*:

- The action is for child support only, AND
- A case participant is receiving IV-D services from the county.

You must file this motion in District Court *if*:

- If the action involves child custody and/or parenting time, AND
- A case participant is receiving IV-D services from the county.

Step 1

Fill Out the *Motion to Transfer Postjudgment Action to Tribal Court* (FAM1102)

The "Caption"

State of Minnesota	District Court
County A	Judicial District: _____ Court File Number: _____ Case Type: _____ B
Petitioner C	<p>Motion to Transfer Postjudgment Action to Tribal Court</p> <p>Minn. Stat. § 518A.80</p>
and	
Respondent D	
Intervenor E	

Look at other forms filed in the case to find the information needed to fill out the caption. If you were listed as the Petitioner on the forms, you will be the Petitioner in this motion. If you were listed as the Respondent on the forms, you will be the Respondent in this motion.

- A. List the county where the case is located.
- B. List the Judicial District, the Court File Number, and the Case Type.
- C. List the Petitioner’s full name.
- D. List the Respondent’s full name. If there is more than one Respondent, list both names.
- E. If there is an intervenor in your case, list that person or agency.

To: (list other parties and their addresses)

For example:

<p>John Doe 123 Main St., Apt. #1 St. Paul, MN 55119</p>	<p>Ramsey County Attorney’s Office Child Support Services 121 Seventh Place East St. Paul, MN 55101</p>
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List each party and intervenor, other than yourself, and their addresses.

The Motion

1. You need to do 4 things in this question:
 - a. Fill in your full name;
 - b. Check the box that tells what role you have in the case (Petitioner, Respondent, or Intervenor);
 - c. Check the box telling what kind of action this request involves (child support, custody, and/or parenting time); and

- d. List the name of the Tribal Court you want to transfer this action to.
- 2. Check the box or boxes in this question the same way you did in #1c.
- 3. List each case participant, their address, and if it applies, their tribal affiliation.
- 4. For each child who is part of this action, list the child’s name, date of birth, and if it applies, their tribal affiliation.
- 5. Tell whether you are asking for this action to be transferred to the Red Lake Nation Tribal Court.

Acknowledgment

Read through the Acknowledgment. If every statement is true, then sign and date the *Motion to Transfer Postjudgment Action to Tribal Court*. Then print your contact information under your signature.

Step 2
Fill Out the Affidavit in Support of Motion to Transfer Postjudgment Action to Tribal Court (FAM1103)

Fill out the caption the same way you did on the *Motion*.

In the first sentence, check the box telling what type of action this is (child support, custody, and/or parenting time).

- 1. List each party’s name. Next, list the tribal affiliation (if applicable). Then list each child’s name and date of birth. List each child’s tribal affiliation (if applicable).
- 2. Tell whether the case involves a request to transfer the action to the Red Lake Nation Tribal Court.
 - a. If **Yes**, give the date that the parties and children started residing within the boundaries of the Red Lake Reservation. **NOTE:** if less than 6 months, you must answer questions 3 and 4; if 6 months or longer, you can skip questions 3 and 4).
 - b. If **No**, you must answer questions 3 and 4.
- 3. Check the box stating what type of action this is, and list the county where the case is located.
- 4. This question asks who belongs to what tribe, and what tribal IV-D agency is providing services to the person.

4. _____ **(Name of Party)** _____ is a _____ **(Name of Tribe)** _____ Tribal member and is receiving services from the _____ **(Name of Tribe)** _____ Tribal IV-D agency, and the Tribal Court has the ability to hear this postjudgment action.

Signature Block

Sign and date the *Affidavit* form, and print your contact information in the blanks under the signature line. When you sign the *Affidavit*, you are signing under *penalty of perjury*. This means you are saying that everything in the form is true and correct; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/cite/609.48>).

Step 3
Make Copies

If you are not using the eFS System to serve and file papers in your case, then you will need to make one copy of the *Motion* and *Affidavit* for each party (including yourself).

Step 4
Serve the Other Parties

The other party (parties) must receive complete copies of all documents you have prepared. This is called "service of process." The papers can be served personally (handed to the other party), or by mail. **Papers cannot be served on a legal holiday** (as defined in Minn. Stat. § 645.44, subd. 5, <https://www.revisor.mn.gov/statutes/cite/645.44#stat.645.44.5>).

The method of service depends on whether you are filing these papers in the expedited child support process or in district court.

You will use one of the methods of service for the Expedited Child Support Process *if*:

- The action is for child support only, AND
- A case participant is receiving IV-D services from the county.

You will use one of the methods of service for District Court *if*:

- If the action involves child custody and/or parenting time, AND
- A case participant is receiving IV-D services from the county.

Expedited Child Support Process Methods of Service

You will need to arrange to have another adult serve the copy of the *Motion to Transfer Postjudgment Action to Tribal Court* and the *Affidavit in Support of Motion to Transfer Postjudgment*

Action to Tribal Court on the other party and the county attorney's office. **NOTE:** You cannot serve the documents yourself. You must have someone else over the age of 18 who is not a party to the case hand-deliver or mail the documents for you.

Personal Service – the forms are hand-delivered to the county attorney's office or to other party personally or by leaving them at that party's place of residence with some person who is of suitable age or discretion who also lives at that same address. You can hire a private process server or the sheriff's office to personally serve for you.

Service by Mail – the forms are mailed by first class U.S. mail to the other party and the county attorney's office.

District Court Methods of Service

The other parties need to receive a copy of the *Motion to Transfer Postjudgment Action to Tribal Court* and the *Affidavit in Support of Motion to Transfer Postjudgment Action to Tribal Court* on the other party. **NOTE:** The forms can be served by any of the following:

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

Personal Service – the forms are hand-delivered to the other party personally or by leaving them at that party's place of residence with some person who is of suitable age or discretion who also lives at that same address. You can hire a private process server or the sheriff's office to personally serve for you.

Service by Mail – the forms are mailed by first class U.S. mail to the other party.

Step 5 The Affidavit of Service (SOP105)

The person who hand-delivers or mails the forms must fill out an *Affidavit of Service* form for each party served. The *Affidavit of Service* must be filled out completely. If a private process server or the sheriff serve for you, they may give you a document called *Certificate of Service*.

The server must sign the *Affidavit of Service* under penalty of perjury. By signing the *Affidavit of Service* under penalty of perjury, the server is stating that the information in the *Affidavit of Service* is true to the best of their knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Step 6

File the Forms with Court Administration

What needs to be filed?

- *Motion to Transfer Postjudgment Action to Tribal Court* (FAM1102);
- *Affidavit in Support of Motion to Transfer Postjudgment Action to Tribal Court* (FAM1103);
and
- An *Affidavit of Service* proving each party was served with a copy of your papers.

Will there be a filing fee?

A party will need to pay a motion fee. If this is the first document the party is filing in the case, then a party will have to pay a filing fee as well. You can contact court administration to find out how much the filing and motion fees are, or you can look online. No fees are collected from the public authority or a federally recognized Indian Tribe or its representative.

- Find court administration contact information online at <https://mncourts.gov/Find-Courts.aspx>.
- Look online for filing fee information at <https://mncourts.gov/Help-Topics/Court-Fees.aspx>.

What if I can't afford the filing fee?

If you cannot afford to pay the fee, you may qualify to have the fee waived by the court. You need to fill out an In Forma Pauperis (IFP), or fee waiver, application and file it with court administration. Your application will be reviewed by a judge who will decide whether you must pay the fee. If the judge does not sign an order that waives the fee, you must be prepared to pay the fee. For more information and links to the fee waiver forms, see <https://mncourts.gov/Help-Topics/Fee-Waiver-IFP.aspx>.