

## PERMANENCY OPTIONS for CHILDREN IN NEED OF AID - ICWA

<b>Reunification</b>	<i><b>Always the ideal option!</b></i>	
<b>Tribal court guardianship</b>	Preferred tribal option when possible. Annual report required.	Done through tribal court
<b>State court guardianship</b>	Subsidy may be available – homestudy required. OCS will cover cost of guardianship lawyer for custodians.	Done through connected state court guardianship case (also an ICWA case)
<b>Tribal court adoption</b>	No report required. Subsidy may be available – homestudy required. OCS will cover cost of adoption lawyer for custodians.	Done through tribal court
<b>Customary tribal adoption</b>		Done through resolution of tribal council or other tribal governing body
<b>State court adoption</b>		Done through connected state court adoption case (also an ICWA case)
<b>Tribal court third-party custody</b>	Not a recognized permanency option. No annual report or accounting required so there is no oversight. No subsidy.	Only possible if OCS agrees to terminate CINA case and custodian(s) file for custody on their own.
<b>State court third-party custody</b>		
<i>Also: “Aging out” via APPLA or relative placement</i>		

## **Why is Guardianship The Preferred Tribal Option when Possible?**

- More consistent with indigenous way of life:
- Preserves extended family ties
- Preserves roles of mother as mother, father as father, instead of substituting in new parents
- Avoids termination of parental rights

## **When Might the Tribe Support Adoption?**

- Older child expresses clear preference for adoption
- Top tier ICWA placement expresses clear and knowing preference for adoption and has had time to evaluate options
- Subsidy and/or benefits may only be available for adoption in some states
- Custodians need to set a clear boundary with parents who present a danger to the child

## **Is Adoption more Permanent than Guardianship?**

- OCS policy has evolved to recognize guardianship and adoption as equally permanent.
- Research from Casey and other organizations and scholars supports that policy change.
- The permanency goal of guardianship does not imply a temporary situation until the parents “get better.”
- The expectation behind a guardianship is that it will last through the child’s 18<sup>th</sup> birthday.
- A parent may ask the court to review a guardianship. However, to get a review hearing, the parent has to *first* prove that there has been a substantial change in circumstances, and that it is in the child’s best interests to end the guardianship. That is EXTREMELY hard to show, and it gets harder the longer the child has been in the guardianship. In practice, guardianships are rarely disturbed.

***What's the Difference Between the Cultural Adoption Packet and a Tribal Court Adoption Order?***

Cultural Adoption Packet	Tribal Court Adoption Order
Adoption considered by Tribal Council	Adoption Considered by Tribal Council <i>or Tribal Court</i> (maybe the same thing for some Tribes)
<p style="text-align: center;">Fair Procedures aka Due Process</p> <ul style="list-style-type: none"> <li>• Follow Tribal Codes</li> <li>• Hearing Set in Advance with Notice to Family</li> <li>• Chance to be Heard and Present Evidence at Hearing</li> <li>• Decision Based on the Facts</li> </ul>	
<p>Parents on the birth certificate <i>must</i> sign consent forms unless an exception applies (deceased or had notice of adoption but could not be contacted)</p> <p>Parents, if alive, must have notice of the adoption and the hearing, and a chance to participate.</p>	<p>Parents <i>do not need</i> to sign consent forms.</p> <p>Parents, if alive, must have notice of the adoption and the hearing, and a chance to participate.</p>
<p>Adoption approved through <i>Tribal Resolution Form</i></p> <ul style="list-style-type: none"> <li>• Pre-printed form from Vital Statistics</li> </ul>	<p>Adoption approved through <i>Tribal Court Order</i></p> <ul style="list-style-type: none"> <li>• Tribe writes its own Order</li> </ul>
<p><i>Packet + Fee</i> sent to Vital Statistics to get new birth certificate</p>	<p><i>Order + Request for Substitute Birth Certificate + Fee</i> sent to Vital Statistics to get new birth certificate</p>

\_\_\_\_\_ TRIBAL COURT

In the Matter of: )  
 )  
 ) CASE NO.\_\_\_\_  
[Child's name] )  
D.O.B. [Date of birth] ) ADOPTION ORDER  
 )  
A Minor Native Child )  
\_\_\_\_\_ )

THIS MATTER has come before the Court upon a petition by *[adoptive parent(s)]*. A hearing was held on *[date]*. Present at the hearing were *[names of parties who attended the hearing]*. Tribal court judge(s) *[names]* presided. Others participating in the hearing were *[names]*.

Based on the evidence before the court, the court makes the following findings:

*[Child's name]* is a minor child who is a member of this Tribe, or is eligible for membership in the Tribe, and is therefore under the jurisdiction of this court.

*[Biological mother's name]* is the natural mother of the child and *[she has consented to the adoption or her parental rights were terminated or she didn't respond to the hearing notice]*. She received notice of the adoption hearing via *[describe how mom was notified]*.

*[Biological father's name]* is the natural father of the child and *[he has consented to the adoption or his parental rights were terminated or he didn't respond to the hearing notice]*. He received notice of the adoption hearing via *[describe how dad was notified]*.

The other people requiring notice of the adoption hearing are: *[names, if relevant]*. The court provided notice to each person in the following way: *[name and manner of service, if relevant]*.

The natural parents have been unable or unwilling to establish a stable home and provide for the care of the child since [date].

The Tribe has completed a home study and determined that the adoptive parent(s) have an appropriate home environment and have adequate resources to meet the needs of the minor child [if required by tribal law].

Adoption of the child by the adoptive parent(s) is in the best interests of the child.

The adoption of the child is in accordance with [cite tribal code or the traditional and customary law of the Tribe].

Based on these findings, it is therefore ordered that:

1. [Child's name] shall be the child of [Adoptive parent(s) names] for all legal purposes from this time forward.
2. The child's name shall be [Child's name following adoption] and this name will be reflected on the new birth certificate issued by the Bureau of Vital Statistics.
3. The child [will/will not] retain rights of inheritance from his/her natural parents.
4. This order will not affect the membership of the child in the Tribe.
5. A new birth certificate shall be requested from the State of Alaska reflecting this adoption.

DATED: \_\_\_\_\_, 201\_\_  
\_\_\_\_\_ JUDGE

A copy of this order was provided on \_\_\_\_\_, 201\_\_ to:

[Names of parties]

Via  Hand delivery  US mail  Fax  Email

By: \_\_\_\_\_  
Tribal Court Clerk's Signature

**REQUEST FOR A NEW BIRTH CERTIFICATE  
FOLLOWING A CULTURAL ADOPTION**  
ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES  
HEALTH ANALYTICS & VITAL RECORDS  
P.O. BOX 110675  
JUNEAU, ALASKA 99811-0675

FOR VITAL RECORDS USE ONLY	
STATE FILE NO.	
DATE FILED	
BIRTH CERTIFICATE NO.	

Is this child in state custody?  Yes  No  
(Do not leave blank)

**THIS DOCUMENT IS VALID FOR USE ONLY IN THE STATE OF ALASKA**

1. CITY, TOWN, OR VILLAGE WHERE CHILD LIVED WHEN ADOPTION OCCURRED		2. TRIBAL VILLAGE OR COUNCIL RECOGNIZING ADOPTION	
3. NAME OF CHILD AFTER ADOPTION (first)		(middle)	(last)
4. NAME OF CHILD AT BIRTH (first)		(middle)	(last)
5. DATE OF BIRTH	6. PLACE OF BIRTH	7. SEX	8. RACE
9. NAME OF CHILD'S VILLAGE, TRIBE, OR COUNCIL		10. NUMBER OF PERSONS ADOPTING <u>1</u> <u>2</u>	
11. BIOLOGICAL FATHER'S NAME (first)		(middle)	(last)
12. FATHER'S RACE	13. NAME OF FATHER'S VILLAGE, TRIBE, OR COUNCIL		14. SOCIAL SECURITY NUMBER (if known)
15. BIOLOGICAL MOTHER'S NAME (first)		(middle)	(last)
(maiden - LAST NAME ON MOTHER'S BIRTH CERTIFICATE)		(last)	
16. MOTHER'S RACE	17. NAME OF MOTHER'S VILLAGE, TRIBE, OR COUNCIL		18. SOCIAL SECURITY NUMBER (if known)

**CHILD**

**PART I**  
Information on the original birth record

**PLEASE ENTER INFORMATION BELOW AS IT IS TO APPEAR ON THE NEW BIRTH RECORD.**

**(ALL OF THE FOLLOWING ITEMS ARE REQUIRED)**

<b>PART II</b>		19. FATHER/PARENT A'S NAME (first)		(middle)	(last, Suffix)
<b>Father (Select one)</b>		20. FATHER/PARENT A'S DATE OF BIRTH		21. STATE OF BIRTH	
<input type="checkbox"/> Adoptive	23. NAME OF FATHER/PARENT A'S VILLAGE, TRIBE, OR COUNCIL		24. FATHER/PARENT A'S SOCIAL SECURITY NUMBER		
<input type="checkbox"/> Biological	25. MOTHER/PARENT B'S NAME (first)		(middle)	(last)	(maiden)
<input type="checkbox"/> Parent A	26. MOTHER/PARENT B'S DATE OF BIRTH		27. STATE OF BIRTH		28. RACE
<b>Mother (Select one)</b>		29. NAME OF MOTHER/PARENT B'S VILLAGE, TRIBE, OR COUNCIL		30. MOTHER/PARENT B'S SOCIAL SECURITY NUMBER	
<input type="checkbox"/> Adoptive	31. PHYSICAL ADDRESS AT TIME OF THIS BIRTH (if known)		(City/Town)	(State)	(Zip Code)
<input type="checkbox"/> Biological	32. ADOPTIVE PARENT'S CURRENT MAILING ADDRESS		(City/Town)	(State)	(Zip Code)
<input type="checkbox"/> Parent B	34. SIGNATURE OF ADOPTIVE PARENT(S) VERIFYING ITEMS #19-33.		SIGNATURE OF ADOPTIVE FATHER/PARENT A (Required)		SIGNATURE OF ADOPTIVE MOTHER/PARENT B (Required)

<b>CERTIFICATION</b>		I hereby certify that this adoption was recognized under the custom of the tribe. 35a. SIGNATURE AND SEAL OF TRIBAL AUTHORITY		35b. PRINT/TYPE NAME OF PERSON SIGNING FOR VILLAGE OR TRIBE. (Must match Tribal Resolution and Tribal Statement forms)	
36a. DATE SIGNED		36b. POSITION IN TRIBE. (Must be President, Vice President, Chairman, or Tribal Administrator.)			37. TELEPHONE NUMBER

**ENCLOSE \$60.00 FOR ADOPTION PROCESSING AND A CERTIFIED COPY OF NEW BIRTH CERTIFICATE. IF YOU WOULD LIKE A CERTIFIED COPY OF THE COMPLETED ADOPTION PACKET, ENCLOSE AN ADDITIONAL \$30.00 WITH A LETTER ON TRIBAL LETTERHEAD AND A COPY OF THE TRIBAL OFFICIAL'S ID.**