

## INSTRUCTIONS FOR FILLING OUT PETITION FOR PERMENANT/TEMPORARY GUARDIANSHIP AND/OR GUARDIANSHIP OF THE PROPERTY (CHIPS)

These instructions are only intended to provide information on how to fill out this form. It is not intended to substitute legal advice. An attorney may give you legal advice. There may be additional documents and procedures for your particular type of civil action. If you have any legal questions regarding the specific facts of your case, please consult with an attorney.

**Do not include these instructions when you file your completed petition**

A *Petition for Guardianship* is an initial pleading that starts a guardianship action, states the basis for the court's jurisdiction, the request for relief and the basis for the request for relief.

The petitioner is the party who brings the action to court.

- **Page 1, Caption:** Write the name of the minor child to whom you are filling out a petition for. Include the minor child's date of birth next to the minor child's name. On the right side of the caption, indicate whether you are filing a petition for permanent guardianship, temporary guardianship and or guardianship of the minor child's property.<sup>1</sup> You do not need to write a case number. A case number will be assigned by the Court.
- **Page 1, Opening Paragraph:** In the first paragraph below the caption, provide your name in the space provided and indicate whether you are requesting for permanent guardianship, temporary guardianship and/or guardianship of the property of the minor child.
- **Page 1 and Page 2, Number 1:** Read the sentence relating to the Trial Court's authority to exercise jurisdiction under the CHILDREN'S ACT, 4 HCC § 3.7.
  - 1.a.: Check this box and write the minor child's enrollment number if they are a member of the Ho-Chunk Nation.
  - 1.b.: Check this box if the minor child is not a member of the Ho-Chunk Nation but is eligible for enrollment with the Ho-Chunk Nation. Provide an explanation as to why you believe the minor child is eligible for enrollment. (e.g. a parent possesses at least ½ Ho-Chunk blood quantum).
  - 1.c.: Check this box if the minor child is not eligible for enrollment with the Ho-Chunk Nation, but has either a parent who is a member of the Ho-Chunk Nation, another federally recognized tribe.
  - 1.d.:Check this box if the minor child is not a member of the Ho-Chunk Nation, but is a member of another federally recognized tribe.
- **Page 2, Number 2:** Indicate the minor child's sex and write the location where the minor child was born in the space provided. Provide a list of any other tribe you believe the minor child is eligible for enrollment in the space provided.
- **Page 2, Number 3:** Indicate whether you are enrolled with the Ho-Chunk Nation. Provide your enrollment number if you are enrolled with the Ho-Chunk Nation. Check only one of the boxes that describes your relationship with the minor child. If none of the boxes fit your relationship with the minor child, you may state your relationship in Ho-Chunk family

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<sup>1</sup> See HOČAK NATION CHILDREN AND FAMILY ACT (hereinafter CHILDREN'S ACT), 4 HCC § 3.70 for a description of different types of guardianships.

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terms in the space provided. You may also provide your tribal affiliation or indicate that you have no tribal affiliation in the space/box provided.

- **Page 2, Number 4:** Indicate how long the minor child has lived with you. Write “N/A” in the space provided if the minor child does not currently reside with you. Provide the court with your current address, phone number, and fax number (if any).
- **Page 3, Number 5:** This section provides the Court with the circumstances surrounding the legal custodian. If there is a legal custodian, provide the name of the minor child’s legal custodian in the space provided on Page 2. If the Legal Custody is Ho-Chunk Nation Children and Family Services (hereinafter CFS), you may write “CFS” as the legal custodian. Next, indicate whether the legal custodian consents to you becoming the legal guardian by sworn affidavit, is deceased or if the legal custodian’s present whereabouts are unknown by checking the appropriate box. You may leave these check boxes blank if CFS is the legal custodian and has not indicated whether they consent to you as the guardian. Provide the Court with the legal custodian’s current address and phone number(s) if known. If the present whereabouts of the legal custodian are unknown, then provide the last known date and location where you contacted the legal custodian in the space provided. Please also provide a list of person(s) who might be able to contact the legal custodian in the space provided on Page 3 if the present whereabouts of the legal custodian are unknown.
- **Page 3 and Page 4, Number 6:** This section provides the Court with the circumstances surrounding the minor child’s father. Write “Unknown” in the space provided if the minor child’s father is unknown. If the father is known, provide the name of the father in the space provided on Page 3. Next, indicate whether the father consents to you becoming the legal guardian by sworn affidavit, is deceased or if the father’s present whereabouts are unknown by checking the appropriate box. Provide the Court with the father’s current address and phone number(s) if known. If the present whereabouts of the father are unknown, then provide the last known date and location when and where you contacted the father in the space provided. Please also provide a list of person(s) who might be able to contact the father in the space provided on Page 4 if the present whereabouts of the father are unknown.
- **Page 4, Number 7:** This section provides the Court with the circumstances surrounding the minor child’s mother. Provide the name of the mother in the space provided on Page 4. Next, indicate whether the mother consents to you becoming the legal guardian by sworn affidavit, is deceased or if the mother’s present whereabouts are unknown by checking the appropriate box. Provide the Court with the mother’s current address and phone number(s) if known. If the present whereabouts of the mother are unknown, then provide the last known date and location where you contacted the mother in the space provided. Please also provide a list of person(s) who might be able to contact the mother in the space provided on Page 4 if the present whereabouts of the mother are unknown.
- **Page 5, Number 8:** Provide a list of people who are willing and able to become an interim successor guardian in case something were to happen to you that would prevent you from carrying out your duties as guardian of the minor child.
- **Page 5 and Page 6, Number 9:** Provide a full description and statement of value of all property owned, possessed or in which the minor child has an interest. You may write “N/A/” if you are **not** requesting for guardianship of property.
- **Page 6, Number 10:** Use short and plain statements that describe the conditions and circumstances that support appointment of you as guardian for the minor child.

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- **Page 7:** Read the options for requested relief carefully and select the forms of relief that you believe are necessary in accordance with the best interest of the minor child. Also indicate whether you are requesting physical custody of the minor child by placing a check next to the appropriate box on Page 7.<sup>2</sup>
- **Page 7:** Write your name, address, phone number and the current date in the space provided on Page 8. If represented, your attorney will sign and provide their contact information below your name. **Do not sign your name on page 8. You will sign the document on the next page.**
- **Page 7:** You will sign right above the line where it reads “Signature of Petitioner.” You must sign your name before a notary or by the Clerk of Court. The Trial Court offers notary services for parties filing petitions.

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<sup>2</sup> Physical Custody means “the physical custody and responsibility for the care of a child including the rights and duties to provide him/her with food, clothing, shelter, education, transportation, and emergency medical care. See CHILDREN’S ACT, 4 HCC § 3.6qq.

**IN THE  
HO-CHUNK NATION TRIAL COURT**

**In the Interest of Minor Child:**

\_\_\_\_\_  
Name Date of Birth

**PETITION FOR**

**PERMANENT GUARDIANSHIP**

**TEMPORARY GUARDIANSHIP**

**AND/OR**

**GUARDIANSHIP OF THE PROPERTY**

(Arising from an already existing child protection action instituted by the Ho-Chunk Nation Department of Children and Family Services)

Case No.: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
[Assigned by the Court]

I, \_\_\_\_\_, request the Court to consider the above *Petition* for  *Permanent Guardianship*/  *Temporary Guardianship*/  *Guardianship of the Property* of the above-named minor child.

1. The court may exercise jurisdiction over this case pursuant to the HOCUK NATION CHILDREN AND FAMILY ACT, 4 HCC § 3.7a(3) based on the following:

a.  The minor child is an enrolled member of the Ho-Chunk Nation, Tribal enrollment number 439A00\_\_\_\_\_;  
[Four Numbers]

b.  The minor child is eligible for membership in the Ho-Chunk Nation. I believe the minor child has a Ho-Chunk blood quantum of one quarter or more because: \_\_\_\_\_;

Give explanation why you believe the child is eligible for enrollment. (e.g., a parent possesses at least 1/2 Ho-Chunk blood quantum)

c.  The minor child is not eligible for membership in the Ho-Chunk Nation, but has a

parent who is an enrolled member of the Ho-Chunk Nation, another federally recognized American Indian Tribe, or a regional corporation as defined by 43 USC § 1606; or

d.  The minor child is not Ho-Chunk, but is a member of a federally recognized American Indian Tribe, Alaska Native, or a member of a regional corporation as defined in 43 USC § 1606.

2. The minor child is  male/  female. To the best of my knowledge, the minor child was born at the following location: \_\_\_\_\_  
City, State, Country (if other than USA)

Please list any other tribe for which you believe the minor child is eligible for enrollment: \_\_\_\_\_  
\_\_\_\_\_

3. I  am or  am not an enrolled member of the Ho-Chunk Nation, Tribal enrollment number 439A00 \_\_\_\_\_. My relationship to the minor child is (check one only):  
[Four Numbers]

paternal grandparent  maternal grandparent,  aunt,  uncle,  cousin,  brother, or  sister.

If this is inadequate to describe your relationship to the minor child, please state your relationship in Ho-Chunk terms: \_\_\_\_\_. My tribal affiliation is: \_\_\_\_\_.  I have no tribal affiliation.

4. The minor child has resided with me since (date) \_\_\_\_\_.

My current address is:

\_\_\_\_\_  
Address (State physical address after P.O. Box if needed)

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

My telephone number is:

( ) ( )  
Home Work (if available)

My fax number is (if any): ( ) \_\_\_\_\_

5. The minor child's legal custodian, if not a parent, is: \_\_\_\_\_.

Legal custodian's current address:

\_\_\_\_\_  
Address (State physical address after P.O. Box if needed)

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

( ) | ( )  
Home Work (if available)

The legal custodian consents to the Guardianship by sworn affidavit,  is deceased, and/or  present whereabouts are unknown. If the whereabouts of the legal custodian are unknown, list the last known contact you had with the legal custodian, and the person that might know their whereabouts or place where they might be found. The last known contact I had with the legal custodian was:

\_\_\_\_\_.

The legal custodian might be contacted through the following person or place: \_\_\_\_\_

\_\_\_\_\_.

It is important to include this information as it allows the Court to serve the legal custodian with this *Petition*. If the legal custodian is not served, he/she may later ask the Court to set aside the guardianship if it is granted.

6. The minor child's father is \_\_\_\_\_ . Father's current address in the space provided:

\_\_\_\_\_  
Address (State physical address after P.O. Box if needed)

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

( ) | ( )  
Home Work (if available)

The father  is deceased, and/or  present whereabouts are unknown. If the whereabouts of the father are unknown, list the last known contact you had with the father, and the person that might know their whereabouts or place where they might be found. The last known contact I had with the father was:

\_\_\_\_\_.

The father might be contacted through the following person or place: \_\_\_\_\_

\_\_\_\_\_.

It is important to include this information as it allows the Court to serve the father with this *Petition*. If the father is not served, he may later ask the Court to set aside the guardianship if it is granted.

7. The minor child's mother is \_\_\_\_\_. The mother's current address in the space provided:

\_\_\_\_\_  
Address (State physical address after P.O. Box if needed)

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

( ) | ( )  
Home Work (if available)

The mother  is deceased, and/or  present whereabouts are unknown. If the whereabouts of the mother are unknown, list the last known contact you had with the mother and the person that might know her whereabouts or place where she might be found. The last known contact I had with the mother was \_\_\_\_\_.

The mother might be contacted through the following person or place: \_\_\_\_\_

\_\_\_\_\_.

It is important to include this information as it allows the Court to serve the mother with this *Petition*. If the mother is not served, she may later ask the Court to set aside the guardianship if it is granted.

8. The following people are willing and able to become an interim successor guardian in the sudden event that I cannot carry out my duties due to revocation, death or incapacitation. (Attach additional pages if necessary)

a. Name: \_\_\_\_\_

Current Address \_\_\_\_\_

Phone Number \_\_\_\_\_

b. Name: \_\_\_\_\_

Current Address \_\_\_\_\_

Phone Number \_\_\_\_\_

c. Name: \_\_\_\_\_

Current Address \_\_\_\_\_

Phone Number \_\_\_\_\_

9. The following is a full description and statement of value, to my best information and belief, of all property owned, possessed, or in which the minor child has an interest. (Attach additional pages if necessary). *See HOCAK NATION CHILDREN AND FAMILY ACT, 4 HCC § 3.74a(2)(g).*

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**REQUEST FOR RELIEF:**

In accordance with the best interests of the minor child, I request that the Court consider this *Petition* and arrange a hearing to address my *Petition*. I am requesting that I be given the following guardianship powers (check all powers you are requesting):

- Authority to make medical and dental care decisions.
- Authority to seek child support.
- Authority to consent to marriage, if the child is still a minor.
- Authority to make educational decisions.
- Authority to consent to military service.
- Authority to consent/refuse visitation by relatives. Traditional relatives are permitted liberal

visitation unless it appears unreasonable under the circumstances. *See* HOCAK NATION CHILDREN AND FAMILY ACT, 4 HCC § 3.72.

- Authority to manage the estate of the minor.
- Authority to supervise the minor’s religious and cultural education.
- I also request physical custody of the minor child.

**RESPECTFULLY SUBMITTED** this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Petitioner’s Name

\_\_\_\_\_  
Petitioner’s Signature

\_\_\_\_\_  
Petitioner’s Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Petitioner’s Phone Number

Signature of Counsel (if any): \_\_\_\_\_

Address of Counsel: \_\_\_\_\_

\_\_\_\_\_

Phone Number of Counsel: (\_\_\_\_) \_\_\_\_\_

Fax Number of Counsel: (\_\_\_\_) \_\_\_\_\_

Ho-Chunk Bar Number of Counsel: \_\_\_\_\_

If not a member of the Ho-Chunk bar, a  *Motion to Appear Pro Hac Vice* has been attached in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 16(B),<sup>1</sup> and/or  I have applied for membership in the Ho-Chunk bar in accordance with the *Ho-Chunk Nation Rules for Admission to Practice*.

**SUBSCRIBED AND SWORN TO** before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

at \_\_\_\_\_  
City State

\_\_\_\_\_

Notary Public for \_\_\_\_\_

State

My commission expires: \_\_\_\_\_

-OR-

Witnessed by Clerk of Court

\_\_\_\_\_

Clerk of Court's Signature

<sup>1</sup> Parties can obtain a copy of the *Ho-Chunk Nation Rules of Civil Procedure* by contacting the Ho-Chunk Nation Judiciary at (715) 284-2722 or (800) 434-4070 or visiting the judicial website at <http://www.ho-chunknation.com>.  
*Pet. for CHIPS Guardianship (2018)*