

IN THE DISTRICT COURT OF \_\_\_\_\_ COUNTY, KANSAS

IN THE INTEREST OF:

Name \_\_\_\_\_ Case No. \_\_\_\_\_  
Year of Birth \_\_\_\_\_ A ☐ male ☐ female

**INDIAN CHILD WELFARE ACT**  
**ORDER GRANTING MOTION TO INTERVENE**  
Pursuant to K.S.A. 38-2203(a) and 25 U.S.C. § 1911(c)

NOW, on this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, this matter comes on before the  
~~captioned~~ Court on a motion to intervene, Judge \_\_\_\_\_ presiding.

The \_\_\_\_\_ is the child's Tribe. Pursuant to the Indian Child  
Welfare Act, the child's Tribe is a party to this case.

~~THEREUPON, having reviewed the records and files and being otherwise fully informed,~~  
~~the Court sustains the motion and orders the \_\_\_\_\_ Tribe shall be a party to~~  
~~the proceedings. The Clerk of the Court shall provide a copy of the official and social files to the~~  
~~representative of the Tribe, current as of the date of this order. All parties hereto and the Secretary~~  
~~of DCF shall, until further order of the Court, include the Tribe in the distribution of any pleading,~~  
~~order, report, or other material filed with the Court. The Clerk of the Court is further directed to~~  
~~mail or deliver a copy of this order to parties, interested parties, the Tribe, and the Secretary of~~  
~~DCF.~~

IT IS SO ORDERED.

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Judge of the District Court

## Authority

K.S.A. 38-2203(a) and 25 U.S.C. § 1901 *et seq.*

## Notes on Use

At any point in the proceedings, regardless of whether notice has been given, the ~~tribe~~Tribe has the right to ~~intervene-participate~~ in the child in need of care proceedings. ~~ICWA requires deference to the tribe and tribal court. The Kansas statutes governing the intervention of a party in a case do not apply to the child's Tribe. ICWA controls and gives the child's Tribe has the right to participate in the case at any time regardless of whether the Tribe has participated before or ever motioned the court to intervene. No court order granting the child's Tribe party status is necessary; however, if the Tribe does make a motion to intervene, the court may use this order to document the motion and ruling.~~

~~Once this motion is granted, the tribe has all of the participatory rights of a party, including notice and access to the files.~~

~~Source: Department of the Interior, BIA Guidelines for State Courts, Indian Child Custody Proceedings.~~

~~If an Indian child is a member of more than one Tribe or is eligible for membership in more than one Tribe, the court must provide the opportunity for the Tribes to determine which should be designated as the Indian child's Tribe for the purposes of ICWA. If the Tribes reach an agreement, the agreed-upon Tribe should be designated as the Indian child's Tribe. 25 C.F.R. 23.109. If the Tribes are unable to reach an agreement, the court must make a determination pursuant to the factors provided in 25 C.F.R. 23.109.~~

## Comments

~~———— The purpose and intent of ICWA are discussed, and the meaning of “domicile” clarified in this case. *Mississippi Choctaw Indian Band v. Holyfield*, 490 U.S. 30, 109 S.Ct. 1597 (1989).~~

~~———— On the facts specific to this case, if the provisions of ICWA are not initially followed, subsequent remedial acts may bring the case into compliance with the act, such as the ~~tribe~~Tribe's intervention and participation in the case. *In re H.A.M.*, 25 Kan. App. 2d 289, 961 P.2d 716 (1998).~~