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

IN THE INTEREST OF:

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

**INDIAN CHILD WELFARE ACT**

**NOTICE OF INTERVENTION MOTION TO INTERVENE**

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

The \_\_\_\_\_ Tribe ~~moves-intervenes to-intervene~~ in this proceeding as the  
Indian ~~tribe~~Tribe of the child named above.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

For the \_\_\_\_\_ Tribe  
\_\_\_\_\_, General Counsel  
Name  
Supreme Court Number  
Address  
Telephone Number  
[Fax Number]  
[E-mail Address]

\_\_\_\_\_  
Associate Counsel/ Authorized Representative  
Name  
[Supreme Court Number]  
Address  
Telephone Number  
[Fax Number]  
[E-mail Address]

## Authority

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

## Notes on Use

At any stage in the proceedings, regardless of whether notice has been given, the Tribe has the right to participate as a party in the child in need of care proceedings. 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 the right to intervene in the case at any time regardless of whether the Tribe has participated before or ever motioned the court to intervene. The Tribe is **not required** to make a written or oral motion to intervene; however, if a Tribe does wish to intervene the tribeTribe may use this forms. 25 U.S.C. 1911(c).

The tribe has the right to intervene in the child in need of care proceedings. The motion may be made at any point in the proceedings regardless of whether notice has been given, even when the case is on appeal. The Indian Child Welfare Act and associated regulations and guidelines are silent on whether an attorney is required to represent a Tribe in court. An attorney can be helpful in an ICWA proceeding, but an attorney is not mandated by federal law. The Oregon Court of Appeals held that due to economic and procedural barriers, requiring a Tribe to obtain legal counsel effectively burdens the intervention rights of the Tribe and essentially den[ies] that right in many cases. *In re Shuey*, 850 P.2d 378 (Or. Ct. App. 1993). The court reasoned that [t]he states interest in requiring attorney representation is not as substantial as the tribal interests in ICWA proceedings. *Id.* at 381. If it is economically feasible, an attorney versed in the ICWA should be consulted.

More than one tribe may be permitted to intervene, if the court finds cause to do so. The finding may be based on the child's best interest, the child has connections with another tribe, or the tribe has an interest in the child and resources to offer. The motion may be made by a representative of the tribe who is not licensed to practice law. The motion may be made orally, but the court should make a record of the motion and make it part of the file.

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 Tribe 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.

**Comment [LN1]:** <https://narf.org/nill/documents/icwa/faq/intervention.html#Q1>