

Instructions for filing petition(s) for custody are as follows:

1. Pay \$25.00 (money order) filing fee OR file the waiver of fee.
2. Petition must be completed to the best of your knowledge.
3. A copy of your petition must be served to the respondent(s) by another person not the petitioner. Once this is completed the individual who is serving the other party with a copy of the petition; fills out the affidavit of personal service; after service is completed have his or her signature notarized or bring it back to the SLTC and sign in presence of any clerk of court or the court administrator.
4. A copy of the SL Tribal code is provided in regards to service of process and alternate personal service methods.
5. Once the affidavit of service is completed and returned to the court; the petition is then forwarded to the judge for review and the judge then advises the clerk with instructions on how to proceed with the petition.

§4-1-127 What Constitutes Service.

Any notice or process to any person or party, which is required under the provisions of this Code, shall be served in accordance with one of the following provisions.

§ 4-1-128 Service of Process.

- (1) Summons and Complaint; Who May Serve. Summons and complaint may be served within the exterior boundaries of the Reservation by any Law Enforcement Officer or tribal member who is a resident of the Reservation, 18 years or older and who is not a party to the litigation. Service of summons and complaint upon any party outside the boundaries of the Reservation may be made in the manner prescribed for service of process in that jurisdiction.
- (2) Delivery of Summons and Complaint. The summons and complaint shall be served by delivering copies thereof. Service in the following manner shall constitute personal service:
 - (a) If the action is against two or more persons associated in business together and transacting such business under a common name, service need be made on only one of the associates but need not be made upon all.
 - (b) If the action is against a corporation, service shall be made on any officer, person in charge of any office, or registered agent thereof and such service may be made within or outside this jurisdiction.
 - (c) If the action be against a minor, service shall be made on a parent, person having custody of such minor or the legally appointed general guardian of such minor. If a guardian ad litem has been appointed, service shall also be made on the guardian ad litem.

- (d) If the action is against a person judicially declared to be of unsound mind or who is an inmate of any institution or mentally incompetent or for whom a general guardian has been legally appointed, service shall be on the superintendent of such institution or on such guardian.
 - (e) In all other cases on the defendant personally.
- (3) Alternate Personal Service Methods. Service in the following manner shall also constitute personal service.
- (a) If the defendant cannot be conveniently found, service may be made by leaving a copy of the summons and complaint at the defendant's dwelling house and delivered to a member of the defendant's family or household over the age of 14 years.
 - (b) Service may be made if the person to be served is informed of the purpose of the service and provided copies of the papers being served and said copies are either received by the person to be served or left within his reach. Whether the person accepts or refuses to accept said copies is immaterial.
- (4) Proof of Personal Service. Proof of personal service of a summons and complaint or any other legal document must state the time, place and manner of such service and must be made as follows:
- (a) If served by a Law Enforcement Officer or other Process Server, his certificate thereof
 - (b) If served by any other person, his affidavit thereof.
 - (c) If admitted by the party upon whom service may have been made, then by the written admission of such party or his attorney.

- (d) If served by publication, by the affidavit of the publisher of the newspaper or other employee showing such regular publication and an affidavit of the party or his attorney showing regular mailing of copies to the party to be served at his last known post office address.
- (5) Registered Mail. Service may be obtained by depositing a copy of the notice or process in the U.S. Mails, addressed to the person or party to be served, by registered or certified mail, restricted delivery with request for a return receipt signed by the addressee only. Upon return through the U.S. Mail of the receipt, signed by the addressee, the person so serving the notice or process shall file the return receipt with the Tribal Court.
- (6) Service by Publication. If the plaintiff can establish to the satisfaction of the Tribal Court by affidavit that he has made a diligent effort to obtain personal service as provided by these rules upon a defendant both within and without this jurisdiction, and that despite such diligent effort, personal service cannot be obtained on a defendant, then and in such event, the Tribal Court may authorize service by publication of the summons. Service by publication shall constitute publishing the contents of the summons in a local newspaper of general circulation at least once a week for four consecutive weeks and by mailing by first class mail, postage prepaid, a copy of the summons and complaint to the defendant at his last known post office address.
- (7) Amendment of Summons or Proof of Service. The Tribal Court may in its discretion on such terms as it deems proper at any time allow any summons or other process or proof of service to be amended unless it clearly appears that the substantial rights of the person against whom the process was issued would be prejudiced thereby.

THAT your Petitioner believes that said child(ren) are in need of protection as Deprived /Delinquent /Dependant /child/ren / and that it is for the best interest of said child/ren / youth, and of the Spirit Lake Tribe that further investigation be had of said matter, that a hearing to be had thereon and that a determination be made concerning the care, control and custody of said minor child/ren/ youth as provided by law.

WHEREFORE Petitioner prays:

1. That this petition be ordered filed, that a Notice of Hearing be issued and the Petition be heard as soon as possible, and
2. That the Court, upon proof by clear and convincing evidence make an Order best suited to the protection and physical, mental and moral welfare of said child/ren/youth.

Dated this _____ Day of _____ 20_____

Signature of Petitioner

Subscribed and sworn to before me this _____ day of _____ 20_____

in Fort Totten, North Dakota 58335

Clerk of Court

FAMILY INFORMATION SHEET

(fill out completely as the court needs both parties' addresses/current/last known)

PETITIONER;

NAME: _____

Place of Residence (district or unit #): _____

Current Mailing Address: _____

Home Phone Number: _____

Work Phone Number: _____

Place of Employment: _____

Date of Birth: _____

RESPONDENT:

NAME: _____

Place of Residence (district or unit #): _____

Current Mailing Address: _____

Home Phone Number: _____

Work Phone Number: _____

Place of Employment: _____

Date of Birth: _____

5. I (have /have no) information of any custody proceeding concerning the minor children pending in a Court of this State or any other State.

6. I do not know of any person not a party to the proceedings who has physical custody of the minor children or who claims to have custody or visitation rights with respect to the minor children.

7. I understand that I have a continuing duty to inform the Court of any custody proceeding concerning the minor children in this or any other state, if I obtain that information while this proceeding is still pending.

FURTHER AFFIANT SAYETH NOT.

Petitioner

Subscribed and sworn to before me this _____ day of _____ 20_____

Clerk of Court

SPIRIT LAKE TRIBAL COURT

FAMILY DIVISION

SPIRIT LAKE JURISDICTION

FT. TOTTEN, ND 58335

_____)	Petitioner(s))	APPLICATION FOR WAIVER
VS.))	OF FILING FEE FOR CUSTODY
_____)	Respondent(s))	&/OR VISITATION PETITION

Comes now, Petitioner herein and states to the Court good cause for waiver of filing fees:
(give an estimate on the bills you pay)

1. My income per month:_____
2. My spouse's income per month:_____
3. My monthly / weekly / biweekly bills (debts) are as follows:_____
4. Vehicle(s):_____
5. House / Rent:_____
6. Electricity:_____
7. Water:_____
8. Heat:_____
9. Telephone(s)/Cell phone:_____
10. Insurance: (Health-Car-Home, etc.): _____
11. Medical Payments:_____
12. Daycare / School / College:_____
13. Alimony / Child Support:_____
14. Food:_____
15. Clothing:_____
16. Gas:_____
17. Any other:_____

Your affiant respectfully requests that the court grant his motion to proceed with the above captioned civil matter without a filing fee.

Dated this _____ day of _____ 20_____,

Signature of Petitioner(s)

Subscribed and sworn to before me this _____ day of _____ 20_____

Clerk of the Spirit Lake Tribal Court

PG. #2

I have reviewed the above information listed in this application (request).

The application is: **GRANTED:**_____ **DENIED:**_____

Comments: _____

Dated

Judge of the Spirit Lake Tribal Court

SPIRIT LAKE TRIAL COURT
SPIRIT LAKE JURISDICTION

CIVIL DIVISION
FORT TOTTEN, ND 58335

Plaintiff/Petitioner

vs.

Affidavit of Personal Service

Defendant/Respondent

Court File No. _____

STATE OF _____)
) SS
COUNTY OF _____)
(County where Affidavit signed)

I, _____, being sworn, state that I am at least
(Name of person who hand-delivered documents)

18 years of age having been born on _____, and that on

_____, I served the _____
(Month & Date) (year) (list all papers handed to the other party)

(list all papers handed to the other party)

upon _____ by handing a true and correct copy of the
(Name of other party)

documents to him/her at _____
(street, address, city, state)

Dated: _____

Signature (Sign only in front of notary public or court clerk.)

Name: _____

Sworn/affirmed before me this
_____ day of _____, _____

Address: _____

City/State/Zip: _____

Notary Public/Clerk of Court

Telephone: (____) _____