

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

INSTRUCTIONS FOR STARTING A STEPPARENT ADOPTION ACTION

1. A stepparent may file a Petition for Adoption if either of the following applies:
 - a. The child's other parent is deceased; or
 - b. The parental rights of the child's other parent with respect to the child have been suspended or terminated.

2. **If the child's other parent is deceased:**
 - a. The child's stepparent must complete the Petition for Adoption and Summons (Adoption).
 - i. Include a copy of the obituary or a death certificate with the petition to validate the death.
 - b. Make a copy of the Petition for Adoption and Summons (Adoption) for yourself and your spouse who is the child's parent.
 - c. File the original and the copies of the Petition for Adoption and Summons (Adoption) and pay the \$25.00 filing fee with the Clerk.
 - i. The Clerk will look over your papers and fill in the case number and the court date on the Summons (Adoption).
 - d. Have your spouse complete the Admission of Service form and return the completed and notarized form to the court prior to the adoption hearing.
 - i. If this form is returned, you will not have to have your spouse served pursuant to sections 803.5-6(a) – (c) of the Oneida Judiciary Rules of Civil Procedure.

3. **If the Suspension or Termination of Parental Rights has already been completed for the child's other parent:**
 - a. The child's stepparent must complete the Petition for Adoption and Summons (Adoption).
 - i. Include a certified copy of the order suspending or terminating the parental rights of the child's other parent.
 - b. Make a copy of the Petition for Adoption and Summons (Adoption) for yourself and your spouse who is the child's parent.
 - c. File the original and the copies of the Petition for Adoption and Summons (Adoption) and pay the \$25.00 filing fee with the Clerk.
 - i. The Clerk will look over your papers and fill in the case number and the court date on the Summons (Adoption).
 - d. Have your spouse complete the Admission of Service form and return the completed and notarized form to the court prior to the adoption hearing.
 - i. If this form is returned, you will not have to have your spouse served pursuant to sections 803.5-6(a) – (c) of the Oneida Judiciary Rules of Civil Procedure.

Oneida Family Court
P O Box 19
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4. **If Suspension or Termination of Parental Rights has not been completed for the child's other parent, and the other parent is still alive:**
 - a. **The Petition for Adoption (completed by the stepparent) should be filed along with a Petition for Suspension or Termination of Parental Rights (completed by the child's parent that is married to the stepparent filing for adoption).**
 - i. **Petition for Adoption:**
 1. The child's stepparent must complete the Petition for Adoption and the Summons (Adoption).
 2. Make a copy of the Petition for Adoption and the Summons (Adoption) for yourself and for each of the other parties listed on the petition.
 3. File the original and the copies of the Petition for Adoption and Summons (Adoption) and pay the \$25.00 filing fee with the Clerk.
 - a. The Clerk will look over your papers and fill in the case number and the court date on the Summons (Adoption).
 4. Serve the Petition for Suspension or Termination of Parental Rights, the Uniform Child Custody Jurisdiction and Enforcement Act Affidavit, the Summons (TPR), the Petition for Adoption, and the Summons (Adoption) on the following parties:
 - a. The child's parent(s), including any alleged father.
 - i. To avoid having to serve the adoption documents on your spouse, have him or her complete the Admission of Service form and return the completed and notarized form to the court prior to the adoption hearing. If this form is returned, you will not have to have your spouse served as described in sections 5., 6. and 7.
 5. The documents must be served within 30 days after they are filed or prior to the scheduled hearing.
 - a. An additional 30 days may be requested in writing. The written request may be granted by the court upon a showing of good cause.
 - b. Serving a person means delivering the court papers to them in person. Service may be made by any law enforcement officer or other person, not a party, who is at least 18 years of age.
You may not deliver the court papers yourself!
 - c. The person serving the documents must complete an Affidavit of Service which is included in this packet. You should make a copy for each of the parties that you must serve. The Affidavit(s) of Service must be returned to the Clerk's office within 10 days of service upon the parties.
 6. If personal service is not possible, you may mail the documents to those entitled to notice via certified mail with return receipt requested.

Oneida Family Court
P O Box 19
Oneida, WI 54155
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If you complete service by certified mail, you must file the certified return receipt (green card) showing the date of delivery with the Clerk.

7. If personal service and mail service are not possible, you may ask the court to permit service by publication.

ii. Petition for Suspension or Termination of Parental Rights:

1. The child's parent must complete the Petition for Suspension or Termination of Parental Rights, the Uniform Child Custody Jurisdiction and Enforcement Act Affidavit, and the Summons (TPR).
 - a. Note: If the other parent of the child is not willing to do a voluntary suspension or termination of parental rights, grounds for an involuntary suspension or termination of parental rights must exist (*see* 7 O.C. 708.34).
2. Make a copy of the Petition for Suspension or Termination of Parental Rights, the Uniform Child Custody Jurisdiction and Enforcement Act Affidavit, and the Summons (SPR/TPR) for yourself and for each of the other parties listed on the petition.
3. File the original and the copies of the Petition for Suspension or Termination of Parental Rights, the Uniform Child Custody Jurisdiction and Enforcement Act Affidavit, and the Summons (SPR/TPR) with the Clerk.
 - a. The Clerk will look over your papers and fill in the case number and the court date on the Summons (SPR/TPR).
 - b. **To avoid a second \$25.00 filing fee, file these documents at the same time as the Petition for Adoption and Summons (Adoption).**
4. See sections 4.a.i.4. – 7. above for the service requirements.
5. Adoptions must be heard within 60 days of filing unless they are filed with a Suspension or Termination of Parental Rights. Under 7 O.C. 708.36-1, the initial hearing on the Petition for Suspension or Termination of Parental Rights shall be held within 45 days of the filing of the petition; therefore, if an adoption is filed with a Suspension or Termination of Parental Rights, it will be placed on the court's calendar within 45 days of filing. Both matters, the suspension/termination and the adoption, will be held concurrently, unless the suspension/termination is contested.

Any questions, call the Clerk of Court at 920-496-7200.

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

SUSPENSION VERSUS TERMINATION OF PARENTAL RIGHTS

It is the philosophy of the Oneida Nation that children deserve a sense of permanency and belonging throughout their lives and at the same time they deserve to have knowledge about their unique cultural heritage including their tribal customs, history, language, religion, and values. A united and complete family unit is of the utmost value to the community and the individual family members, and the parent-child relationship is of such vital importance that it should be suspended or terminated only as a last resort when all other efforts have failed to avoid suspension or termination and it is in the best interests of the child to proceed with suspension or termination of parental rights.

Suspension of Parental Rights:

A suspension of parental rights, which may be voluntary or involuntary, will lead to a customary adoption, which is a way for tribes to honor their tribal values and beliefs and meet the permanency needs of children. Tribal customary adoptions, which do not permanently deprive the adopted child of connections to, or knowledge of, the child's biological family, transfers custody of a child to adoptive parents without terminating the rights of the child's birth parents. Instead, the parental rights of the child's birth parents are permanently suspended. Features of a customary adoption include:

1. The relationship between an adoptive parent and adopted child has the same rights, responsibilities, and other legal consequences as a relationship between a biological child and parent.
2. The adopted child retains a right, absent a convincing and compelling reason to the contrary, to information and knowledge about his or her biological family and his or her Oneida heritage.
3. An adopted child may still inherit from a biological parent; however, the biological parents are unable to inherit from an adopted child in the same manner as parents would otherwise be entitled to inherit.
4. The biological parent may retain certain residual rights, such as the right to communication or visitation, if an agreement is reached with the adoptive parent.
5. A customary adoption does not end the legal relationship between the adopted child and the child's extended biological family. The child's extended biological family retains the right to reasonable communication and visitation with the adopted child, subject to reasonable controls of the adoptive parent.

Termination of Parental Rights:

A termination of parental rights, which may be voluntary or involuntary, will lead to a closed adoption, which permanently severs all ties between the adopted child and his or her biological family. Features of a closed adoption include:

1. The relationship between an adoptive parent and adopted child has the same rights, responsibilities, and other legal consequences as a relationship between a biological child and parent.
2. The relationship between the adopted child and the child's extended biological family shall be completely altered and all rights, duties, and other legal consequences of those relationships ends.
3. The adopted child's biological family shall not be entitled to information regarding the child.
4. The adopted child shall continue to be entitled to information and knowledge regarding his or her culture and heritage.
5. The adopted child shall be entitled to information regarding his or her biological family upon reaching the age of 18.

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

ONEIDA FAMILY COURT

IN THE INTEREST OF:

_____	Case No. _____
Name	Court will Assign

Date of Birth	

Petition for Suspension or Termination of Parental Rights

I STATE ON INFORMATION AND BELIEF:

- The petitioner is:
 - the Department.
 - the Nation's child welfare attorney.
 - the child parent (stepparent adoption cases only).

2.

Child's Address and Telephone Number		Tribal Affiliation <input type="checkbox"/> Enrolled Oneida <input type="checkbox"/> Eligible for enrollment in the Oneida Nation
Parent 1's Name, Address, and Telephone Number	Date of Birth	Tribal Affiliation
Parent 2's Name, Address, Telephone Number	Date of Birth	Tribal Affiliation
Check if applicable: <input type="checkbox"/> presumed <input type="checkbox"/> alleged <input type="checkbox"/> unknown		
Foster Parent, Legal Custodian, or Guardian's Name and Address		Tribal Affiliation

- The petitioner seeks suspension termination of parental rights of the mother, who will may will not consent to suspension or termination of her parental rights pursuant to 7 O.C. 708.33.

If suspension or termination is involuntary, grounds exist under 7 O.C. 708.34-1(_____).
A statement of the facts and circumstances which support these grounds is as follows:

See attached

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

4. The petitioner seeks suspension termination of parental rights of the father, who will may will not consent to suspension or termination of his parental rights pursuant to 7 O.C. 708.33.

If suspension or termination is involuntary, grounds exist under 7 O.C. 708.34-1(_____).
A statement of the facts and circumstances which support these grounds is as follows:

See attached

Additional possible fathers (known or unknown). Attach name(s) if known. The grounds for involuntary suspension termination of the parental rights of each possible father and the facts and circumstances which support these grounds are attached.

5. The child's placement meets does not meet the preferences for placement set forth in 7 O.C. 708.11-1(a) - (h).
6. The best interests of the child will be served by suspension or termination of the parental rights of the parent(s) and all efforts to avoid suspension or termination have failed.
7. The Uniform Child Custody Jurisdiction Act Affidavit is attached to this petition.
8. Other:

See attached

I request a hearing be scheduled on this petition.

Signature

Date

Name Printed or Typed

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

ONEIDA FAMILY COURT

IN THE INTEREST OF:

_____ **Case No.** _____
Name Court will Assign

Date of Birth

UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT AFFIDAVIT

I STATE ON INFORMATION AND BELIEF:

1. The child's name and present address is:
Name: _____
Present address: _____
2. The child has lived in the following places over the last 5 years: _____
 See attached
3. The name and present address of each person(s) with whom the child has lived over the last 5 years is:
Name: _____
Present address: _____
Time Period: _____

Name: _____
Present address: _____
Time Period: _____

Name: _____
Present address: _____
Time Period: _____

Name: _____
Present address: _____
Time Period: _____
4. I have participated as a party, witness or in any other capacity in any other proceeding concerning the custody, physical placement, or visitation with the child.
 Yes No If Yes, identify court, case number and date of any determination:

_____ See attached

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

5. I have information of other proceedings concerning the child pending in Wisconsin or any other state or tribal court, including enforcement, domestic violence, protective orders, suspension or termination of parental rights and adoption.

Yes No If Yes, identify court, case number and nature of proceedings:

_____ See attached

6. I know of persons not a party to this proceeding who have physical custody of the child or claim to have legal custody, physical placement, or visitation rights to the child.

Yes No If Yes, give name and address of each person:

_____ See attached

7. I understand that I have a duty to inform the Court if I learn in the future of any proceeding concerning the child in Wisconsin or any other state or tribal court.

Signature

Date

Name Printed or Typed

Subscribed and sworn before me
this _____ day of _____, 20____

NOTARY PUBLIC
My commission expires: _____

(SEAL)

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

ONEIDA FAMILY COURT

IN THE INTEREST OF:

_____ **Case No.** _____
Name Court will Assign

Date of Birth

Summons (SPR/TPR)

To the parties named in the petition:

A petition for suspension or termination of parental rights to this child has been filed and is attached to this summons.

You are summoned to appear on:

Date: _____
Time: _____
Presiding Judge: Oneida Family Court Judge
Location: Courtroom _____, 2630 W. Mason Street, Green Bay, WI 54303

A failure to appear and defend may result in a default judgment against you for the relief demanded in the petition.

BY THE CLERK:

Signature (Clerk)

Date

Signature (Petitioner or Petitioner's Attorney/Advocate)
Name:
Address:

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

AFFIDAVIT OF SERVICE

Case No. _____

In the Interest of: _____
(Child's initials and date of birth)

I, _____, swear that I personally served the Petition
(Name of person serving party)
for Suspension or Termination of Parental Rights, Summons (SPR/TPR), Petition
for Adoption, and Summons (Adoption) on the following person:

(Name of party being served)

DATE: _____

TIME: _____

PLACE: _____

To the best of my knowledge, _____, is present in
(Name of party being served)
the community and is not a member of the armed forces.

I swear the foregoing is true and correct.

Dated this _____ day of _____, 20_____.

(Signature of person serving party)

PLEASE NOTE: Only use this form if you are having the other person personally served. If you are serving the other person by certified mail, simply give the return receipt (green card) to the Clerk of Court.

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

ONEIDA FAMILY COURT

IN THE INTEREST OF:

Name

Case No. _____
Court will Assign

Date of Birth

Petition for Adoption

I STATE ON INFORMATION AND BELIEF:

- The petitioner is:
 - a relative of the child.
 - the child's stepparent.
 - a proposed adoptive parent with whom the child has been placed.

2.

Child's Address and Telephone Number:		Tribal Affiliation <input type="checkbox"/> Enrolled Oneida <input type="checkbox"/> Eligible for enrollment in the Oneida Nation
Parent 1's Name, Address, and Telephone Number	Date of Birth	Tribal Affiliation
Parent 2's Name, Address, and Telephone Number	Date of Birth	Tribal Affiliation
Proposed Adoptive Parent's Name(s), Address, and Telephone Number:		Tribal Affiliation

- Parent 1:
 - is deceased.
 - has had their parental rights suspended or terminated and a copy of the order suspending or terminating parental rights has been attached.
 - is my spouse.

- Parent 2:
 - is deceased.
 - has had their parental rights suspended or terminated and a copy of the order suspending or terminating parental rights has been attached.
 - is my spouse.

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

5. The child's name should be changed to _____.
6. The adoption is in the best interests of the child.

Signature Date

Signature Date

Name Printed or Typed

Name Printed or Typed

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

ONEIDA FAMILY COURT

IN THE INTEREST OF:

Name

Case No. _____

Court will Assign

Date of Birth

Summons (Adoption)

To the parties named in the petition:

A petition for adoption has been filed and is attached to this summons.

You are summoned to appear on:

Date: _____

Time: _____

Presiding Judge: Oneida Family Court Judge

Location: Courtroom ____, 2630 W. Mason Street, Green Bay, WI 54303

A failure to appear and defend may result in a default judgment against you for the relief demanded in the petition.

BY THE CLERK:

Signature (Clerk)

Date

Signature (Petitioner or Petitioner's Attorney/Advocate)

Name:

Address:

Oneida Family Court
P O Box 19
Oneida, WI 54155
(920) 496-7200

ONEIDA FAMILY COURT

IN THE INTEREST OF:

Name

Case No. _____

Date of Birth

Admission of Service

I have voluntarily received a copy of the documents that are checked below:

Petition for Adoption and Summons (Adoption).

I understand that when a Petitioner files an admission of service signed by a party, proof of service as otherwise required by law shall not be required and the law shall apply as if the document had been served at the time of filing the admission of service.

If a party timely returns an admission of service, the party shall have sixty (60) days, from the time the request was sent, to serve an answer to the document. Respondent may also reply orally at the hearing, especially when the hearing is required by law to be held prior to sixty (60) days after filing.

Signing an admission of service of a petition and summons or other document shall not waive any objection to personal jurisdiction or to venue.

Dated this _____ day of _____, 20____.

Signature

Name Printed or Typed

Date

State of _____
County of _____
Subscribed and sworn to before me on _____

Notary Public/Court Official

Name Printed or Typed
My commission/term expires: _____