

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when you are seeking to change the name of your minor child(ren). If you are seeking to change your name and you are an adult (over the age of 18) please use the Name Change(Adult) form.

FORMS INVOLVED. The first form is a **Petition for Name Change of Minor Child(ren)**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the appropriate court. The second form is an **affidavit of consent to the name change**. This form is only to be used if one of the natural parents (mother or father) of the child(ren) is going to consent. Do not use this form if the other parent does not consent to the name change.

FILE THE PETITION FOR NAME CHANGE AND ANY AFFIDAVIT OF CONSENT WITH THE CLERK OF COURTS OF THE TRIBAL COURT WHERE YOU ARE FILING YOUR PETITION. No summons is required. The clerk will have you publish notice in a local newspaper and you will be responsible for the cost of such publication.

HOW TO FILE A PETITION FOR NAME CHANGE

A person can petition a court to have the name(s) of their minor child(ren) changed to another name. A person can request a change of their or their child(ren)'s first, middle or last name.

What is a petition. A petition is a document similar to a complaint except it does not require an answer from the respondent. It is a document where the petitioner formally requesting the court to order something and sets out the petitioner's version of the facts.

How to file a petition. A petition is filed when you take it to the courthouse and file it along with the filing fee with the clerk of courts. When you file your petition with the clerk, please date and sign the form in front of the clerk so they can notarize your signature.

Filing and service fees. The court will require payment of a filing fee unless waived to file your petition with the court. Use the **Motion to Waive Filing and Service Fees** form to ask the court to waive the filing fee or for a partial waiver of the fee.

Once you file your petition for name change the court clerk will schedule a hearing on your petition for name change . Notices will be sent to all interested persons (next of kin) of the adult or minor children. The court may require that you publish the notice of hearing in the Todd Country Tribune for 4 consecutive weeks before the hearing at your own expense (the newspaper will charge you for publishing the notice of hearing). You will need to bring an affidavit of publication to the hearing to prove to the court that notice of hearing was in fact published in the newspaper. You must get the affidavit of publication from the newspaper.

Jurisdiction. Petitioner must show the court that it has jurisdiction over the child(ren) the petitioner is seeking to change the name of. The child(ren) and the parent(s) of the child(ren)

should have resided on the on Rosebud Sioux Tribal land for more than the past six (6) continuous months. If the child(ren) is a member or eligible for membership of the tribe where petitioner is filing the name change, the court will find that it has jurisdiction. If one or both parents are members of the tribe, the court will probably find that it has jurisdiction.

NAME CHANGE HEARING

Any interested party (next of kin) may appear after receiving notice. An interested party may object to the name change. Any interested party can present evidence at the trial regarding their objection.

BURDEN OF PROOF. If a party files a Petition for Name Change of Minor Children, they have the burden of proving that claim in court. In a typical civil case a party has the burden of proving their claim by a **preponderance of the evidence**. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). The court may require that a party prove their Petition by clear and convincing evidence (evidence that is both clear and convincing to the court). This means that by representing your self in a legal matter it is your responsibility to prove your case. Don't expect the judge to prove your case for you. The petitioner has the burden of proving by a preponderance of the evidence the following to the court:

1. Petitioner must also show the court that their request for name change for the child(ren) is for a legitimate purpose. This means that petitioner cannot change their child(ren)'s name for any illegal or fraudulent reasons. If petitioner is seeking to change their child(ren)'s name to avoid child support or visitation or custody or to only alienate the child(ren) from their other parent or the other parent's family the court will not grant their request for a name change. If petitioner is seeking to change their child(ren)'s name to their grandfather's name, for example, to honor your grandfather's memory or wishes, the court may grant your request.

2. If the other natural parent consents to the child(ren)'s name change or fails to appear at the hearing, the court will more than likely grant your child(ren)'s name change unless the court finds that the request is for an illegal or fraudulent purpose or it is intended to alienate the child(ren) from their other parent or the other parent's family.

3. If either natural parent appears at the hearing and object to the child(ren)'s name change, the court will look at a list of factors in determining whether to change the child(ren)'s name. These factors would include (1) misconduct by the other parent; (2) failure of the other parent to support the child; (3) failure of the other parent to maintain contact with the child; (4) the length of time the child(ren) has used the name you want changed; (5) whether the last name you want changed is different from the non-custodial parent; and (6) whether a particular name will contribute to the estrangement of the child(ren) from the non-custodial parent who wants to foster and preserve the parental relationship (meaning that by changing the name of the child(ren) would distance the child from the non-custodial parent). The court will also look to any traditional practices of your tribe in the naming of children and any other factors you can present to the court.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form.

Instructions for filling out the petition:

- (1) on this line insert the name of each child you are seeking a name change for and their date of birth.
- (2) on this line insert your name.
- (3) on this line insert how you are related (natural mother or father) to the minor child(ren) you are seeking a name change for.
- (4) insert your mailing address.
- (5) insert “are” if you are an enrolled member of a tribe. Insert “are not” if you are not an enrolled member of a tribe.
- (6) insert the tribe you enrolled in. If not enrolled insert “none”.
- (7) insert each child’s name as it appears on their birth record.
- (8) insert each child’s correct date of birth (DOB).
- (9) insert the city, county and state where each child was born.
- (10) insert the name you want to change your child(ren)’s name to.
- (11) insert the minor child(ren)’s mother’s name as it appears on the birth certificate of that minor child.
- (12) insert the child(ren)’s mother’s mailing address.
- (13) insert the minor child(ren)’s father’s name as it appears on the birth certificate of that minor child.
- (14) insert the child(ren)’s father’s mailing address.
- (15) in detail tell why you want to change the minor child(ren)’s names. Please read the **Burden of Proof Section** above before you fill out this part of the petition.
- (16) insert “are” if the child(ren) are enrolled members of the tribe. Insert “are not but are eligible for enrollment” if they are not enrolled.
- (17) insert the name of the tribe the child(ren) is enrolled or are eligible for enrollment.
- (18) insert the name of the person where the child(ren) is living and their address.
- (19) on this line insert the day.
- (20) on this line insert the month.
- (21) on this line insert the year.
- (22) on this line insert your name by signing.

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD , SOUTH DAKOTA)

IN CIVIL COURT

DOCKET _____

IN RE THE MATTER OF:

(1) _____ DOB: _____

PETITION FOR NAME CHANGE
OF MINOR CHILD(REN)

(1) _____ DOB: _____

(1) _____ DOB: _____

(1) _____ DOB: _____

(1) _____ DOB: _____

(1) _____ DOB: _____

Comes now (2) _____, petitioner(s) and petitions this Court as follows:

1. That petitioner(s) is the (3) _____ of the above named minor children. Petitioner(s)'s address is (4) _____ and petitioner(s) (5) _____ member(s) of the (6) _____ Sioux Tribe. Petitioner and the above named minor child(ren) have resided on the Rosebud Indian reservation for at least the last six months.

3. That the petitioner wishes to change the name of the following child(ren):

a. (7) _____ DOB:(8) _____ at (9) _____
_____. Petitioner requests that this child's name be changed to
(10) _____.

b (7) _____ DOB:(8) _____ at (9) _____
_____. Petitioner requests that this child's name be changed to
(10) _____.

c. (7) _____ DOB:(8) _____ at (9) _____
_____. Petitioner requests that this child's name be changed to
(10) _____.

d. (7) _____ DOB:(8) _____ at (9) _____

_____. Petitioner requests that this child's name be changed to
(10)_____.

e. (7)_____ DOB:(8)_____ at (9)_____
_____. Petitioner requests that this child's name be changed to
(10)_____.

f. (7)_____ DOB:(8)_____ at (9)_____
_____. Petitioner requests that this child's name be changed to
(10)_____.

3. That above minor child(ren)'s mother's name is (11)_____
and her address is (12)_____.

4. That above named minor child(ren)'s father's name (13)_____
and his address is (14)_____.

5. That the petitioner requests that the above named child(ren)'s name(s) be changed for the
following reasons:
(15)_____

_____.

6. That the name change that the petitioner is seeking is not sought for any fraudulent or
illegal purposes.

7. That the above named minor child(ren) (16)_____ member(s)
of the (17)_____ Sioux tribe. The above named minor child(ren) currently
resides with (18)_____ at _____.

WHEREFORE, Petitioner prays that this Court order that:

- A. This court has jurisdiction over the parties and subject matter herein;
- B. This matter be set for hearing and that the clerk prepare Notice of Hearing for publication.
- C. Petitioner's name be changed as prayed for and that petitioner's birth record be amended accordingly by the state where petitioner was born.
- D. For such other and further relief the Court finds just and equitable.

Dated this (19)_____ day of (20)_____, (21)_____.

(22)_____
 Petitioner(s)

VERIFICATION

Rosebud Indian Reservation)
)SS
 Rosebud, South Dakota)

(2)_____, being first duly sworn on oath, state and depose that they are the petitioner in the foregoing Petition, that they have duly executed said Petition after reading the same, they know the content thereof to be true to their own knowledge, except those matters stated to be on information and belief, which matters they believe to be true.

Dated this (119)_____ day of (20)_____, (21)_____.

(22)_____
 Petitioner(s)

Subscribed and sworn to before me this _____ day of _____, _____.

(SEAL)

 Notary Public
 My commission expires:

Instructions for filling out the affidavit of consent:

DO NOT USE THIS FORM IF EITHER NATURAL PARENT IS NOT CONSENTING. USE THIS FORM IF ONE OR BOTH NATURAL PARENT CONSENTS OR AGREES TO THE NAME CHANGE.

- (1) on this line insert the name of each child you are seeking a name change of and their date of birth.
- (2) on this line insert the name of the natural parent consenting to the name change.
- (3) insert “mother” if the natural mother is consenting or “father” if the natural father is consenting.
- (4) insert the names of each minor child who is the natural child of the person giving consent.
- (5) insert the name of the person with whom the children currently live with.
- (6) insert the address of the person with whom the children currently live with.
- (7) on this line insert the day.
- (8) on this line insert the month.
- (9) on this line insert the year.
- (10) on this line insert your name by signing.

Have the parent who is giving consent date and sign this consent form before a Notary Public.

ROSEBUD SIOUX TRIBAL COURT)
ROSEBUD INDIAN RESERVATION)SS
ROSEBUD , SOUTH DAKOTA)

IN CIVIL COURT

IN RE THE MATTER OF:

DOCKET _____

AFFIDAVIT OF CONSENT
TO NAME CHANGE

(1) _____ DOB: _____

(1) _____ DOB: _____

(1) _____ DOB: _____

(1) _____ DOB: _____

(1) _____ DOB: _____

(1) _____ DOB: _____

(2) _____, being first duly sworn and upon oath, states and
deposes as follows:

1. That I am the natural (3) _____ of the minor child(ren) (4) _____

_____.

2. That the minor child(ren) currently under the care, control and custody of (5) _____
_____ whose address is
(6) _____.

3. That I, do hereby voluntarily and of my own free will consent to the name change of my
minor child(ren) as prayed for in the petition.

Dated this (7) _____ day of (8) _____, (9) _____.

(10) _____
Natural Parent

Sworn and subscribed to before me this _____ day of _____, _____.

Notary Public
My commission expires:

(SEAL)