

Superior Court of Washington, County of _____

In re custody of:

Children:

Petitioner/s (*person/s who started this case*):

Respondents (*parents and any guardian or custodian*):

No. _____

Order about Transfer to Tribal Court
(ORGTC / ORDYMT)

Clerk's action required: **3**.

Order about Transfer to Tribal Court

1. The court has considered a motion to transfer this case to tribal court that was filed by (*check one*):

- the Indian child, who is 12 years old, or older.
- the Indian child's parent.
- the Indian child's Indian custodian.
- the authorized representative of the Indian child's tribe.

The court has reviewed the motion, declarations, if any, and relevant court records.

➤ **The Court Finds**

2. All people with a right to receive notice of the hearing on this motion (*check one*):

- have have **not** been served.

3. The court (*check one*):

- should transfer the case to tribal court because the Indian child's parents have not objected to the transfer and there are no good reasons not to transfer the case.

- should **not** transfer the case to tribal court because (*check all that apply*):

- the Indian child's mother father objects to transferring the case.

there are good reasons **not** to allow this case to be transferred. (Specify reasons):

➤ **The Court Orders**

4. The *Motion to Transfer to Tribal Court* is (check all that apply):

approved. The case will be transferred to the tribal court of (name of tribe): _____

The party who requested the transfer must serve a copy of this order to the tribe by date: _____, and file *Proof of Service of Order about Transfer to Tribal Court* (form FL Non-Parent 442).

The Tribal Court has 75 days from the date of service to accept or decline the transfer. If the Tribal Court does not respond, that will be considered a decision to decline transfer of this case. To let the Superior Court know its decision, the Tribal Court must:

- Fill out an order about its decision (it may use form FL Non-Parent 443, *Tribal Court Order about Accepting Case*, available at www.courts.wa.gov/forms); and
- File a copy of its order with the Superior Court Clerk under this case number.

Superior Court Clerk's address: _____

This Court will review whether the Tribal Court has accepted transfer of this case.

- If the Tribal Court has accepted the transfer, this court will dismiss this case without prejudice.
- If the Tribal Court has not accepted the transfer or has not responded, this court will vacate this order and proceed with this case in Superior Court.

This court schedules a review hearing on (date at least 75 days after the date this order is served on the tribe): _____.

denied.

Ordered.

Date



Judge or Commissioner

Petitioner and Respondent or their lawyers fill out below.

This order *(check any that apply)*:

- is an agreement of the parties
- is presented by me
- may be signed by the court without notice to me

This order *(check any that apply)*:

- is an agreement of the parties
- is presented by me
- may be signed by the court without notice to me

▶ _____
Petitioner signs here or lawyer signs here + WSBA #

▶ _____
Respondent signs here or lawyer signs here + WSBA #

Print Name Date

Print Name Date

This order *(check any that apply)*:

- is an agreement of the parties
- is presented by me
- may be signed by the court without notice to me

This order *(check any that apply)*:

- is an agreement of the parties
- is presented by me
- may be signed by the court without notice to me

▶ _____
Other Petitioner or lawyer signs here + WSBA #

▶ _____
Other Respondent or lawyer signs here + WSBA #

Print Name Date

Print Name Date

**Washington State Indian Child Welfare Act
 RCW 13.38.080 – Transfer of Jurisdiction**

“(1) In any proceeding for the foster care placement of, or termination of parental rights to, an Indian child who is not domiciled or residing within the reservation of the Indian child's tribe, the court shall, in the absence of good cause to the contrary, transfer the proceeding to the jurisdiction of the Indian child's tribe, upon the motion of any of the following persons:

- (a) Either of the child's parents;
- (b) The child's Indian custodian;
- (c) The child's tribe; or
- (d) The child, if age twelve or older.

The transfer shall be subject to declination by the tribe. The tribe shall have seventy-five days to affirmatively respond to a motion or order transferring jurisdiction to the tribal court. A failure of the tribe to respond within the seventy-five day period shall be construed as a declination to accept transfer of the case.

(2) If the child's tribe has not formally intervened, the moving party shall serve a copy of the motion and all supporting documents on the tribal court to which the moving party seeks transfer.

(3) If either of the Indian child's parents objects to transfer of the proceeding to the Indian child's tribe, the court shall not transfer the proceeding.

(4) Following entry of an order transferring jurisdiction to the Indian child's tribe:

(a) Upon receipt of an order from a tribal court accepting jurisdiction, the state court shall dismiss the child custody proceeding without prejudice.

(b) Pending receipt of such tribal court order, the state court may conduct additional hearings and enter orders which strictly comply with the requirements of the federal Indian child welfare act and this chapter. The state court shall not enter a final order in any child custody proceeding, except an order dismissing the proceeding and returning the Indian child to the care of the parent or Indian custodian from whose care the child was removed, while awaiting receipt of a tribal court order accepting jurisdiction, or in the absence of a tribal court order or other formal written declination of jurisdiction.

(c) If the Indian child's tribe declines jurisdiction, the state court shall enter an order vacating the order transferring jurisdiction and proceed with adjudication of the child custody matter in strict compliance with the federal Indian child welfare act, this chapter, and any applicable tribal-state agreement.”