

CHILD CUSTODY PROCEEDING BY A NON-PARENT
Instructions for starting the process for non-parental custody of a child.

Step 1. Does the Lummi Tribal Court have jurisdiction, and is there a bases for non-parental custody?

Jurisdiction: (jurisdiction is the authority of the court to hear and decide the case)

The Court only has jurisdiction over a non-parental child custody proceeding if the child is:

- a permanent resident on the Lummi Nation Reservation;
- found on the Lummi Nation Reservation; or
- enrolled as a member of the Lummi Nation.

Bases for non-parental custody:

The code only permits non-parental custody be granted if one of the following conditions is met:

- The child is not in the physical custody of either parent
- The parents agree to custody being placed with the petitioner(s)
- The petitioner alleges that neither parent is a suitable custodian

Step 2. Fill-out the *Petition for Child Custody (non-parental)*.

NOTE: Lummi Child Welfare must be made a party to the action and agree to the filing of the proceeding, if the child(ren) is in a current child dependency case with Lummi Child Welfare.

Step 3. Fill-out a Summons – *Child Custody Proceeding (non-parental)*.

If you are not asking for immediate custody of the child, then go to Step 5.

If you are asking for immediate custody of the child, go to Step 4.

Step 4. Fill-out an *Ex Parte Motion for Temporary Child Custody by a Non-Parent*.

Step 5. Submit the documents to the Lummi Tribal Court Clerk’s Office.

- Ask the Court Clerk for copies of the documents you file with the Court.
 - One copy is for the petitioner.
 - Obtain a copy for each party to the case. For example: You will need one copy for each parent.

Step 6. Service of Process. If the parents have not consented to custody with the non-parent by signing the consent form before a notary, then the respondent(s) must be served with the summons and petition (and all other documents). Service of documents is the responsibility of the petitioner(s). Service may be accomplished by certified mail, return receipt requested, or by personal service by any person over the age of eighteen (18) years who is competent to testify and is not a party to the action, or by publication under the circumstances set out in Lummi Code of Laws §3.03.040.

Step 7. Attend the Court hearing. Once you are given a Court date, please bring all of your documents and evidence with you to each hearing.

1 The child resides () on the Lummi Nation Reservation; () off the Lummi Nation Reservation.

2 The child has lived there since: _____

3 Child's tribal membership: _____

4 5. OTHER PROCEEDINGS OR CLAIMS REGARDING THE CHILD(REN)

Other Legal Proceedings.

5 List any legal proceedings concerning the child(ren), including any CPS investigations,
6 paternity, dependency, or custody proceedings:

Type of Proceeding	Court	Case Number

7 If applicable, attach any orders from any court regarding the child(ren).

8 List any other person(s) that have rights, or claim the rights, to custody or visitation with the
9 child(ren): _____

10 11 12 6. JURISDICTION

Check all that apply: This court has jurisdiction over this matter under LCL 11.04.010(a)(1)
13 because

14 The child(ren) is a permanent resident on the reservation.

15 The child(ren) is now present on the reservation.

16 Explain the circumstances:

17 _____
18 _____
19 _____

20 The child(ren) is an enrolled Lummi Tribal member

21 The Lummi Tribal Court has continuing jurisdiction because the court previously made
22 a child custody determination regarding the child(ren). Please provide the case number,
23 Case #: _____

24 25 7. BASIS OF PETITION

For the following reasons, the Petitioner should become the legal custodian of the child(ren)

Check all that apply:

23 The mother agrees to the petitioner(s) having custody of the child(ren).

24 The father agrees to the petitioner(s) having custody of the child(ren).

If the parents have not agreed to the petitioner(s) having custody, then check all that apply:

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- The child(ren) is not in the physical custody of one of his/her parents.
- Neither parent is a suitable custodian of the child(ren).

Explain how the child came to be in the physical custody of the petitioner(s). If the petitioner is alleging that neither parent is a suitable custodian of the child(ren), please state the reasons (continue onto another sheet if necessary):

8. RELIEF REQUESTED

Petitioner requests from the Court:

- 1. An order granting petitioner(s):
 - a. () permanent, or () temporary custody of the child(ren).
- 2. Child support:

- 1 a. That the issue of child support be reserved to a later date.
- 2 b. That the issues of child support be addressed by the Court and ordered in
- 3 compliance with the Title 11.06 of the Lummi Code of Laws (attach Financial
- 4 Declaration).
- 5 3. That the Court grant such other relief as the Court may deem just and proper.

6 **CERTIFICATION**

7 I declare under penalty of perjury of all applicable civil and criminal laws that 1) I have read this

8 Petition or it has been read to me; and 2) I understand the contents of the Petition and believe the

9 contents to be true and correct to the best of my knowledge, information, and belief, formed after

10 reasonable inquiry. Below is the address at which I can receive all legal documents, and I

11 understand I have the duty to update this address with the court if it changes.

12 _____

13 Date

14 _____

15 Signature of Petitioner

16 _____

17 Print or Type Name

18 _____

19 Address

20 _____

21 City, State, Zip Code

22 _____

23 Telephone Number

24 _____

25 Date

26 _____

27 Signature of Petitioner

28 _____

29 Print or Type Name

30 _____

31 Address

32 _____

33 City, State, Zip Code

34 _____

35 Telephone Number

36 Lummi Child Welfare must agree to the filing of this petition if the Child is in a Dependency.

37 Agreed by Lummi Child Welfare

38 _____

39 Date

40 _____

41 **LUMMI CHILD WELFARE REPRESENTATIVE**

1 **CONSENT OF MOTHER**

2 I have read this petition and agree that the Petitioner should be declared to be the [] temporary
3 [] permanent custodian of the child(ren). I waive any hearing in this matter. I declare under
4 penalty of perjury that the foregoing is true.

4 Dated: _____

5 _____
Mother

6 STATE OF WASHINGTON)
7) ss:
COUNTY OF _____)

8 On this day personally appeared before me _____, to me known to be the
9 individual described in and who executed the within and foregoing instrument, and acknowledged that s/he signed
the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

9 DATED this ___ day of _____, 20__.

10 _____
11 NOTARY PUBLIC in and for the State
of Washington
12 My appointment expires:

13 **CONSENT OF FATHER**

14 I have read this petition and agree that the Petitioner should be declared to be the [] temporary
15 [] permanent custodian of the child(ren). I waive any hearing in this matter. I declare under
16 penalty of perjury that the foregoing is true.

16 Dated: _____

17 _____
Father

18 STATE OF WASHINGTON)
19) ss:
COUNTY OF _____)

20 On this day personally appeared before me _____, to me known to be the
21 individual described in and who executed the within and foregoing instrument, and acknowledged that s/he signed
the same as his/her free and voluntary act and deed, for the uses and purposes therein mentioned.

22 DATED this ___ day of _____, 20__.

23 _____
24 NOTARY PUBLIC in and for the State
of Washington
25 My appointment expires:

1 ADDITIONAL CHILDREN

2
3 #3 Child's Name: _____ D.O.B. _____

4 Child is currently living with () a parent, () petitioner(s), () other: _____

5 The child resides () on the Lummi Nation Reservation; () off the Lummi Nation Reservation.

6 The child has lived there since: _____

7 Child's tribal membership: _____

8 #4 Child's Name: _____ D.O.B. _____

9 Child is currently living with () a parent, () petitioner(s), () other: _____

10 The child resides () on the Lummi Nation Reservation; () off the Lummi Nation Reservation.

11 The child has lived there since: _____

12 Child's tribal membership: _____

13 #5 Child's Name: _____ D.O.B. _____

14 Child is currently living with () a parent, () petitioner(s), () other: _____

15 The child resides () on the Lummi Nation Reservation; () off the Lummi Nation Reservation.

16 The child has lived there since: _____

17 Child's tribal membership: _____

18
19 #6 Child's Name: _____ D.O.B. _____

20 Child is currently living with () a parent, () petitioner(s), () other: _____

21 The child resides () on the Lummi Nation Reservation; () off the Lummi Nation Reservation.

22 The child has lived there since: _____

23 Child's tribal membership: _____

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3 **IN THE TRIBAL COURT**
4 **FOR THE LUMMI NATION, WASHINGTON**

5 IN THE MATTER OF:

6 _____,
7 Child's Name _____, _____ DOB

8 _____
9 Petitioner,

10 and

11 _____
12 Father, Respondent

13 _____
14 Mother, Respondent

15 **LUMMI CHILD WELFARE (check if applicable.)**

16 _____
17 Necessary Party

Case No.: _____ CVNP _____

**SUMMONS – CHILD CUSTODY
PROCEEDING (NON-PARENTAL)**

18 TO: MOTHER AND FATHER OF CHILD(REN):

19 **YOU ARE HEREBY GIVEN NOTICE** that a Petition for Non-Parental Custody has been filed
20 in the above court. A copy is attached to this summons.

21 You must respond to this summons and the petition by:

22 (1) contacting the Clerk of Court and stating that you will appear in court to respond orally on
23 the record; or

24 (2) filing a written response with the court, and serving the petitioner as shown.

25 Your written response must state if you oppose the petition and the reasons for your opposition.
If you do not take either action within **21 days** after the date the summons and petition were
served on you, the court may enter an order of default against you, and the court may, without
further notice to you, enter an order granting custody as requested in the petition.

1 If you wish to seek the advice of an attorney in this matter, you should do so promptly so that
2 your response, if any, may be made by the deadline.

3 This summons is issued pursuant to Lummi Code of Laws 3.03.030 – 3.03.070.

4 Dated: _____

_____ [PETITIONER'S SIGNATURE]

7 _____ [PRINTED NAME]

9 Dated: _____

_____ [PETITIONER'S SIGNATURE]

12 _____ [PRINTED NAME]

14 FILE ORIGINAL OF YOUR RESPONSE
15 WITH THE CLERK OF THE COURT AT:

SERVE A COPY OF YOUR RESPONSE ON:

Lummi Nation Tribal Court 2665 Kwina Road Bellingham, WA 98226	Petitioner: _____ Address _____ City, State, Zip Code
	Lummi Nation Office of the Reservation Attorney Child Welfare 2665 Kwina Road Bellingham, WA 98226

2. I made the following efforts, if any, to provide the parents with notice of the request for a temporary order and the following reasons exist why actual notice should not be required:

II. AFFIDAVIT

STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

I have read the contents of this document and I swear under penalty of perjury under all applicable civil and criminal laws that the statements in this Motion and any attachments to this Motion, and the Petition for Custody filed in this matter, are true and correct to the best of my knowledge, information and belief, formed after reasonable inquiry.

Date

Petitioner's Signature

Print or Type Name

SUBSCRIBED AND SWORN to before
me this _____ day of _____, 20__.

Notary Public
My Commission Expires:

Date

Petitioner's Signature

Print or Type Name

SUBSCRIBED AND SWORN to before
me this _____ day of _____, 20__.

Notary Public
My Commission Expires:

1
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3 **IN THE TRIBAL COURT**
4 **FOR THE LUMMI NATION, WASHINGTON**

5 IN THE MATTER OF:

6 [Redacted], [Redacted]
7 Child(ren)'s Name, DOB

Case No.: _____ CVNP _____

8 [Redacted]
9 Petitioner(s),

DECLARATION OF SERVICE

10 and

11 [Redacted]
12 Father, Respondent

NON-PARENTAL CHILD CUSTODY

13 [Redacted]
14 Mother, Respondent

15 **LUMMI CHILD WELFARE (check if applicable.)**
16 Necessary Party

17 **Instructions: This Declaration of Service is to be used for personal service of documents on the**
18 **respondents. Once properly signed, it is evidence of proof of service. The Petitioner(s) shall**
19 **keep this document and present it to the court on or before the date of hearing. The use of a**
20 **paid process server is not required. The server must be a nonparty who is over the age of 18**
21 **years.**

21 [Redacted] declares as follows:
22 (Print name of server)

23 On [Redacted] 202[Redacted], I served [Redacted]
24 (Date) (Print name of person served)

25 Declaration of Service

Court Form AC - 01 3/18/21

Lummi Tribal Court
2665 Kwina Road
Bellingham, WA 98226
(360) 312-2239

1 with the following documents (check the box for each document served):

2 Petition for Child Custody (Non-Parental)

3 Summons – Child Custody Proceeding (Non-Parental)

4 Ex Parte Motion for Temporary Child Custody Order by a Non-Parent

5 Order Granting Temporary Child Custody – Ex Parte

6 Other: _____
(write in title of document served)

7 I am NOT a party in this case, I am over the age of 18, and declare I served the checked listed documents by:

8 **CHECK ONE:**

9
10 [] by delivering to and leaving with him/her personally a copy of the checked listed documents at the following address: _____.

11 [] by leaving the checked listed documents with a person of suitable age and discretion at the residence of the person to be served, with directions to deliver the documents to the person being served at the following address: _____.

13 I DECLARE under penalty of perjury under the laws of the Lummi Nation that the foregoing is true and correct.

14 Dated this _____ day of _____, 20____, in _____, WA.
15 (place where signed)

16
17 _____
Signature of Server

18 _____
Print Name of Server