

## **INSTRUCTIONS FOR FILLING OUT FORM**

**PURPOSE.** This form is to be used when you are seeking to adopt someone else's child(ren) and one or both natural parent's of the child(ren) consent to the adoption. This document allows the natural parent who does not wish to appear at the hearing the ability to consent to adoption and make their appearance in writing without being physically present at the hearing. This form is only to be used if one of the natural parents (mother or father) of the child(ren) petitioner(s) are seeking to adopt is going to consent. Do not use this form unless one or both parents consent. Make two (2) copies of this form (one for each parent to sign) if both parents consent. If petitioner(s) have the natural parents consent when petitioner(s) file the petition, petitioner(s) can file the consents by attaching any consent form to the petition. If the petition is already filed when written consent is executed petitioner(s) can file the consent with the court any time or at the hearing.

**FORMS INVOLVED.** The form is an **Affidavit of Consent to Traditional Adoption and Power of Attorney**. This form is only to be used if one of the natural parents (mother or father) of the child(ren) you are seeking to adopt is giving to consent. Do not use this form unless one or both parents consent. Make two (2) copies of this form (one for each parent to sign) if both parents consent and attach to the petition for adoption. If the petitioner has already filed the petition, you can submit the form to the court through the clerk of courts.

### **ATTACH THE CONSENT TO ADOPTION AND POWER OF ATTORNEY TO THE ADOPTION PETITION AND FILE THEM WITH THE CLERK OF CHILDREN'S COURT.**

The code mandates that no child can be adopted without the consent of both natural parents. The code also gives some exception to the consent requirement. Consent of a natural parents is not necessary if the adoptive parent can prove one of the following: (1) the natural parent's parental rights have been terminated by a court; (2) the natural parent has been adjudged by a court of competent jurisdiction to be mentally incompetent or mentally ill; or (3) the natural parent has abandoned their child(ren) for a consecutive period of one year from the date of filing the petition for adoption.

If either natural parent consent to the adoption and do not want to appear at the adoption hearing, that parent or both can use the **Consent to Adoption and Power of Attorney** form. This document allows the natural parent who does not wish to appear at the hearing the ability to consent to adoption and make their appearance in writing without being physically present at the hearing. This form is only to be used if one of the natural parents (mother or father) of the child(ren) petitioner(s) are seeking to adopt is going to consent. Do not use this form unless one or both parents consent. Make two (2) copies of this form (one for each parent to sign) if both parents consent. If petitioner(s) have the natural parents consent when petitioner(s) file the petition, petitioner(s) can file the consents by attaching any consent form to the petition. If the petition is already filed when written consent is executed petitioner(s) can file the consent with the court any time or at the hearing.

In an Ecagwaya or traditional adoption the natural parents parental rights to the children may or may not be terminated. The Court, in its discretion, on a case by case basis, will resolve any questions that arise over the parental rights of the natural parent and the adoptive parent(s) in this custom adoption. The decision of the Court concerning parental rights will be based on the best interests of my child(ren) and on recognition of where the child(ren)'s sense of family is. If the natural parent(s)' parental rights are terminated by the court, the natural parent will no longer be considered the parent of any of the adoptive child(ren) and they will no longer have any parental control or rights to the child(ren).

If a natural parent wants to maintain some parental rights they need to appear at the adoption hearing and present evidence that it would be in the child(ren)'s best interest the parental rights of the natural parent(s) should not be terminated.

If the natural parent(s) and the adoptive parent(s) request that the natural parents retain some parental rights, the court will consider that request but the outcome depends on what is in the best interest of child(ren).

**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. You can print this page in its entirety or you can scroll down to the petition form and if you scroll down farther you will find the affidavit of consent form. There will be a blank screen between these instructions and the forms and between the forms so keep scrolling or just copy this page in its entirety.

Instructions for filling out the Affidavit of Consent:

**DO NOT USE THIS FORM IF NEITHER NATURAL PARENT IS NOT CONSENTING. USE THIS FORM IF ONE OR BOTH NATURAL PARENT CONSENTS OR AGREES TO THE GUARDIANSHIP APPOINTMENT AND ATTACH TO THE PETITION FOR ADOPTION.**

- (1) on this line insert the name of each child up for adoption and their date of birth.
- (2) on this line insert the name of the natural parent consenting to the adoption.
- (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(s) with whom the children currently live with.
- (6) insert the address of the person(s) with whom the children currently live with.
- (7) insert petitioner(s)' name(s).
- (8) on this line insert the day.
- (9) on this line insert the month.
- (10) on this line insert the year.
- (11) on this line the natural parent who consents to the adoption signs their name.

Have the consenting parent(s) date and sign this form before a Notary Public, attach it to the petition and file it with the court.

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

IN CHILDREN'S COURT

DOCKET \_\_\_\_\_

IN RE THE MATTER OF THE ADOPTION OF:

(1) \_\_\_\_\_ DOB: \_\_\_\_\_

(1) \_\_\_\_\_ DOB: \_\_\_\_\_

(1) \_\_\_\_\_ DOB: \_\_\_\_\_

(1) \_\_\_\_\_ DOB: \_\_\_\_\_

(1) \_\_\_\_\_ DOB: \_\_\_\_\_

(1) \_\_\_\_\_ DOB: \_\_\_\_\_

CONSENT TO TRADITIONAL  
ADOPTION AND POWER OF  
ATTORNEY

(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) are currently under the care, control and custody of petitioner(s)  
(5) \_\_\_\_\_  
whose address is (6) \_\_\_\_\_.

3. That I, do hereby voluntarily and of my own free will consent to allow the petitioner(s)  
herein to adopt my said minor child(ren) by custom and surrender the custody and control of the  
above-named child(ren) to the petitioner(s).

4. That I do believe it is in my minor child(ren)'s best interest that petitioner(s) (7) \_\_\_\_\_  
\_\_\_\_\_ be allowed  
to adopt my child(ren).

5. I understand the Court, in its discretion, on a case by case basis, will resolve any questions that  
arise over my rights as the natural parent and the adoptive parent(s) in this custom adoption. I further  
understand that the decision of the Court concerning my parental rights will be based on the best interests

of my child(ren) and on recognition of where the child(ren)'s sense of family is.

6. That I understand that the adoption may or may not terminate my parental rights to my child(ren) named above and that if the court does terminate my parental rights, I will no longer be considered the parent of any of my children so adopted and that I will no longer have any parental control or rights to the child(ren).

7. That I waive my appearance and waive my right to any court notices for hearings on this matter and agree with the adoption and grant the court power of attorney to enter my appearance without my presence.

Dated this (8)\_\_\_\_ day of (9)\_\_\_\_\_, (10)\_\_\_\_\_.

(11)\_\_\_\_\_   
 Natural Parent

Sworn and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires:  
(SEAL)