

**INDIAN CHILD WELFARE ACT
(ICWA) AFFIDAVIT**

STATE OF SOUTH DAKOTA:

IN CIRCUIT COURT

SS:

COUNTY OF _____

_____ JUDICIAL CIRCUIT

IN THE INTEREST OF,

File No: _____

(DOB: _____)

(DOB: _____)

Child(ren), and concerning

(DOB: _____)

(DOB: _____)

Respondent Parents

**INDIAN CHILD WELFARE ACT
(ICWA) AFFIDAVIT**

Comes now, (FIRST AND LAST NAME) (**Family Services Specialist**), being first duly sworn upon Oath, and deposes and says:

1. That Affiant is a resident of the State of South Dakota and over the age of 18 years.
2. That Affiant is a Family Services Specialist for Child Protection Services.
3. That in the above capacity, the Affiant was consulted and involved concerning the removal of the child(ren) from the Respondent Parents' care.
4. That Respondent Mother, (FIRST AND LAST NAME), is birth mother to the minor child(ren) and her address is (ADDRESS). She is a resident of (COUNTY NAME) County.
5. That Respondent Father, (FIRST AND LAST NAME), is the birth father to the minor child(ren) and his address is: (ADDRESS). He is a resident of (COUNTY NAME) County.
6. That Mother (IS / IS NOT) an enrolled member of the (TRIBE NAME) Tribe.
 - **According to whom? Call the tribe immediately and ask. Document this here.**
7. That father (IS / IS NOT) an enrolled member of the (TRIBE NAME) Tribe.
 - **According to whom? Call the tribe immediately and ask. Document this here.**
8. The child(ren) are enrolled/affiliated with (TRIBE NAME) Tribe. Document this here.

9. That the minor child(ren) were taken into the temporary emergency legal and physical protective custody by Law Enforcement Officer (OFFICER FIRST AND LAST NAME) on (DATE) and transferred to the care of the Department of Social Services. The minor child(ren) were placed into licensed foster/kinship/fictive kinship/group care on the same date.
10. Prior to the removal of the child(ren), the Department of Social Services made the following active efforts to prevent the removal of the child(ren):
- **Specialist (FIRST AND LAST NAME) assessed the possibility of managing the present danger through implementation of a Present Danger Plan. A present danger plan was determined insufficient to manage the present danger due to:**
 - i. **(Regarding the Present Danger Plan, provide information below that was used to determine the plan's insufficient status.)**
 1. **Parent was assessed by the Department of Social Services staff (FIRST AND LAST NAME) and Law Enforcement Officer (FIRST AND LAST NAME) to be too impaired/intoxicated to consent to a Present Danger Plan.**
 2. **Parent refused to provide names**
 3. **Parent provided names and these individuals were contacted, but not able to be reached.**
 4. **Parent provided names and these individuals refused or were assessed and determined unable to manage the present danger due to....**
 5. **Parent's whereabouts were unknown.**
 6. **Whatever the reason...**
 - **Non-Court Services were in place from (DATE) to (DATE).**
 - **Any other services, etc. that were done PRIOR to custody**
11. That temporary custody of the child(ren) by the Department of Social Services is necessary to prevent imminent physical damage or harm to the child(ren); for the reasons stated below:
- **(Provide Description of Present Danger resulting in custody)**

In addition to the above-stated facts, the facts that warrant the continued separation of the child(ren) from their parents or custodian to prevent imminent physical damage or harm to the child(ren) are as follows:

- **Describe why Present Danger Continues**
 - **What other factors influence the present danger (Prior History with related Danger Threats, Pattern, Severity, Vulnerability of Child, Ability to Protect),**
12. The Department has made the following active efforts to comply with ICWA placement preferences:
- **On (DATE), Specialist (NAME) spoke with Mother about relative placement options....**

- On (DATE), Specialist (NAME) spoke with Father about relative placement options....
 - On (DATE), Specialist (NAME) reviewed the Department of Social Services' records and located (NAME) as possible relative(s) and possible contact information for (NAME). Specialist (NAME) called (NAME); there was no answer and a voicemail was left.
 - Facebook search? FACIS search? Etc.
 - On (DATE), Specialist (NAME) sent electronic correspondence to the (TRIBE NAME) Tribe Indian Child Welfare Act representative (REPRESENTATIVE NAME) alerting him/her to the placement of the Indian Child(ren) and requested assistance in locating relatives.
 - On (DATE), Specialist (NAME) sent facsimile to the (TRIBE NAME) Tribe's Indian Child Welfare Act representative (REPRESENTATIVE NAME) notifying him/her of the placement of the child(ren) into temporary emergency custody and requested assistance in locating relatives.
 - On (DATE), Specialist (NAME) reviewed the emergency list for foster homes available in the area; no Native American foster homes currently have openings for the child(ren). Office/Region has (NUMBER) number of Native American foster homes.... Summary).
 - On (DATE), Kinship Specialist (DATE) was assigned to search for relatives. Kinship search efforts are ongoing for the purposes of placement, maintaining connections, and concurrent planning.
13. The following active efforts have been made to rehabilitate and reunite the family by the Department of Social Services and to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian Family and these efforts have proved unsuccessful;
- (Likely repeat number 10's supporting bullets)
 - Law Enforcement Officer (OFFICER NAME) determined emergency protective custody of the minor child(ren) was necessary to ensure their safety after it was determined a Present Danger Plan was insufficient to manage the child(ren)'s safety.
 - A voluntary Present Danger Plan was considered, but not approved for the following reasons: (i.e.)
 - The Respondent Parents refused to provide relative names and contact information to the Department; this negatively affected the Department's ability to maintain the Indian Family.
 - The Mother was assessed by Law Enforcement Officer (OFFICER NAME) and Specialist (SPECIALIST NAME) and deemed too impaired from alcohol/drugs to meaningfully consent to a voluntary plan; this negatively affected and hindered the Department's ability to maintain the Indian Family.

- Specialist (NAME) inquired as to the parent's whereabouts from (ENTER TEXT). Called last known phone number, sent Facebook message, etc. There was no answer; this negatively affected and hindered the Department's ability to maintain the Indian Family.
- Specialist (NAME) spoke with the Division of Child Support regarding (ENTER TEXT) address and contact information; a message was left requesting a call back.
- Specialist (NAME) assessed (ENTER TEXT) for kinship placement; these efforts were unsuccessful.
- Specialist (NAME) contacted (ENTER TEXT) and requested a urinalysis on. (DATE).
- Specialist (NAME) reviewed (ENTER TEXT)'s Department of Social Services' and local criminal history. The information was assessed and discussed with Supervisor(ENTER TEXT). Based on the totality of the alcohol-related reports, criminal convictions, and previous placements in the care of the Department of Social Services, it was determined that the completion of the Initial Family Assessment is a service necessary to ensure the safety of child(ren). Specialist (NAME) was assigned for completion of the Initial Family Assessment.
- Supervisor (ENTER TEXT) and Specialist (NAME) discussed the case history, circumstances, and present danger. A Team Decision Making Meeting referral was submitted on (ENTER TEXT) to discuss family strengths, identify needs, and identify relative placements and/or supports.
- Family Group Coordinator (ENTER TEXT) was assigned on (ENTER TEXT) to facilitate family meetings and concurrent planning.

14. The Affiant finds that the ICWA requirements have been met and the least restrictive alternative available in the child(ren)'s best interest is continued placement in **FOSTER/KINSHIP/FICTIVE KINSHIP/GROUP CARE** with the Department of Social Services.
15. In the event a temporary custody order is entered at the conclusion of a 48 Hour Hearing, the South Dakota Department of Social Services shall immediately report to the State Court that the justification for the temporary custody order has ended because returning the child to its parent or custodian will not place the child at imminent risk of physical damage or harm.

Further Affiant sayeth not.

Dated this (DAY) day of (MONTH), (YEAR)

Affiant

STATE OF SOUTH DAKOTA:

SS:

COUNTY OF _____:

Subscribed and sworn to before me on, (DAY) day of (MONTH), (YEAR).

(Notary Public)

My commission expires on (DATE)

(SEAL)