

RESOLUTION NUMBER TMBC1042-03-24 OF THE DULY ELECTED AND CERTIFIED GOVERNING BODY OF
THE TURTLE MOUNTAIN BAND OF CHIPPEWA

- WHEREAS, the Turtle Mountain Band of Chippewa Indians, hereinafter referred to as the Tribe, is an unincorporated Band acting under a revised Constitution and By-Laws approved by the Secretary of the Interior on June 16th, 1959 and amendments thereto approved; and
- WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and By-Laws empowers the Tribal Council with the authority to represent the Band and to negotiate with Federal, State, and Local Governments and with private persons; and
- WHEREAS, Article IX (a) Section 1 of the Turtle Mountain Constitution and Bylaws requires a 30-day comment period prior to the adoption of any ordinances or amendments to the Tribal Code, whether proposed by resolution or otherwise. Adoption must occur through a roll call vote of the Tribal Council at a publicly held meeting; and
- WHEREAS, the Tribe is proposing revisions to Title 5 Children's Code, Chapter 5.02 Section 5.02.050 Summons; Content and Service Thereof to add language for the process server to be at least 18 years of age and not a party to nor interested in the action with a strikethrough of ~~as appointed by the Court~~; and
- WHEREAS, the Tribe approves a 30-day comment period for the proposed amendments to Title 5, Chapter 5.02 Section 5.02.050 Summons; Content and Service Thereof; now

THEREFORE BE IT RESOLVED that the Tribe is approving a 30-day comment period for the Turtle Mountain Band of Chippewa Indians Title 5, Chapter 5.023 Section 5.02.050 proposed amendments.

CERTIFICATION

I, the undersigned Tribal Secretary of the Turtle Mountain Band of Chippewa Indians, do hereby certify that the Tribal Council is composed of *nine (9) members* of whom *six (6)* constituting a quorum were present at a meeting duly called, convened and held on the *7th day of March, 2024* that the foregoing resolution was adopted by an affirmative vote of *five (5) in favor*- Representatives Lynn Gourneau, Jon Jon Keplin, Elmer Davis Jr., Kenneth Malaterre and Chad Counts; *three (3) absent*- Reps. Blaine "Sluggger" Davis, Ron Trottier Sr. and Craig Lunday; *none (0) opposed*- Rep. with the Chairman not voting.


Jolean A. Morin, Tribal Secretary *3/8/24*

SIGNED INTO LAW/Dated this *8th* day of *March*, 2024
 VETOED/Dated this _____ day of _____, 2024


Jamie Azure, Tribal Chairman

Amendment to Turtle Mountain Tribal Code Title 5 Children's Code

5.02.050 Summons; Content and Service Thereof

(a) Summons; When required.

After a petition is filed and after such further investigation as the Court may direct, the Court shall promptly issue a summons. No summons is required as to any person who appears voluntarily or who files a written waiver of service with the Clerk of Court at or prior to the hearing.

(b) Summons; Content; Requirement.

The summons shall contain the name of the Court, the title of the proceedings and (except for a published summons) a brief statement of the substance of the allegations in the petition. A published summons shall simply state that a proceeding concerning the child is pending in the Court and that adjudication will be made. The summons shall require the person or persons who have physical custody of the child to appear personally and bring the child before the Court at a time and place stated. If the person so summoned is not the parent, parents or guardian of the child, then a summons shall also be issued to the parent(s) or guardian as the case may be, notifying them of the pendency of the case and of the time and place set for the hearing. No summons need be issued to a parent(s) whose parental rights have been terminated.

(c) Summons; Other persons.

Summons may be issued to any person within the jurisdiction of the Court requiring the appearance of any person whose presence the Court deems necessary.

(d) Manner of Service; By whom served.

(1) Service of summons or process and the petition shall be made by *the* process server, ***who is at least 18 years of age and not a party to nor interested in the action.*** ~~as appointed by the Court.~~

(2) Service of summons and petition may be made by delivering a copy to the person summoned provided, however, that parents of a child living together at their usual place of abode may both be served personally by delivering to either parent, copies of the summons and petition, one copy for each parent.

(3) If the judge is satisfied that personal service of the summons and petition is impractical under the circumstances, he may order service by registered mail, with a return receipt requested to be signed by the addressee only, to be addressed at the last known address of the person to be served. Service shall be complete upon return to the Court of the signed receipt.

(e) Substituted service; Jurisdiction.

If the parent, parents, or guardian required to be summoned cannot be found within the jurisdiction of the Court, the fact of their child's presence within the reservation shall confer jurisdiction on the Court in proceedings in children's cases under this Code as to any parent or guardian, provided that due notice has been given in one of the following manners:

(1) If the address of the parent or guardian is known, by sending a copy of the summons and petition by registered mail with return receipt requested to be signed by the addressee only or by personal service

outside the reservation. Service by registered mail shall be complete upon the return to the Court of the signed receipt.

(2) If the address or whereabouts of the parent or guardian outside the reservation cannot be found after diligent inquiry, notice can be given by publishing a summons in a newspaper having general circulation on the reservation. The summons shall be published once a week for three successive weeks. Service shall be complete on the day of the last publication.

(f) Service; Time requirement.

In the case of the service on the reservation, service completed no less than ten (10) days before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction. In the case of service outside the reservation, service completed no less than ten (10) days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.

Process Servers

What is a Process Server- A process server serves a critical function within the legal system, acting as an unbiased messenger who delivers essential legal documents to individuals, businesses, or their representatives.¹

Issue- TM Tribal Court does not currently serve papers to anyone, including families and children under their legal authority. Instead, it is left to TMCWFS to serve papers. This causes a hardship for the following reasons:

1. TMCWFS is involved in the removal of a child to case closure and is, therefore, a biased party to the action.
2. As TMCWFS is a party to the action, they should also be served. TMCWFS should not be the process servers.
3. The safety of TMCWFS case managers/investigators is an issue. Court hearings may become violent and the presence of law enforcement is used to maintain order. Yet, TMCWFS workers are expected to serve papers to the families that they are working with. This is a safety issue for TMCWFS as some of the families are involved with TMCWFS against their will.
 - Title 5, 5.02.080 Conduct of Hearing- Maintenances of order during hearings. "Upon request of the Court, the Captain of Police, or his appointee or other officer shall aid the Court in maintaining order during any hearing.
4. No other Child Welfare entity serves papers on families they serve.
5. TM Tribal Court has a full-time position dedicated to this responsibility. TMCWFS should not be expected to do this duty.

Request amendment to Title 5, 5.02.050 Summons; Content and Service Thereof

¹ [Know Your Rights: What a Process Server Can and Can't Do | We Serve Law LLC](#)

Examples of Process Servers

<i>Jurisdiction</i>	<i>Responsible for Serving Papers</i>	<i>Characteristics</i>	<i>How Served</i>
Crow ²	Process Server/Bailiff		
Fort Mojave ³	Process Server		
Mille Lacs Band of Chippewa Indians ⁴	Clerk of Court issues, Bailiff/Process Server serves.	Not a party to the case. Friend or relative at least 18	In-person or via certified mail, with proof of receipt. Publish in the newspaper if no current address.
Muckleshoot ⁵	Process Server		
ND Court System ⁶	Anyone.	Not a party to nor interested in the action. Within the state- legal age (14 or older)	Personally, at the individual's dwelling, individual's spouse, individual's agent mail, or third-party delivery with a signed receipt
Northern Cheyenne ⁷	Bailiff/Process Server		

² Staff - Crow Tribal Court (crowtribalcourts.org)

³ Tribal Court | Fort Mojave Indian Tribe

⁴ [filing-a-civil-complaint-explanation-of-process.doc \(live.com\)](#)

⁵ Tribal Court (muckleshoot.nsn.us)

⁶ North Dakota Court System - RULE 4. PERSONS SUBJECT TO JURISDICTION; PROCESS; SERVICE (ndcourts.gov)

⁷ Law & Order Code (w amendments).pdf (cheyennation.com)

Quapaw Tribe ⁸	Licensing of Private Servers		18 years old, not convicted of a felony, good moral character, sworn oath, license fee.	Clerk of Court conducts background investigations and issues license
Rosebud ⁹	Any law enforcement officer or Tribal member	Not a party to the litigation.		
Shoshone-Paiute ¹⁰	Bailliff/Process Server/Assistant Clerk	A resident of reservation, 18 or older.		
Spirit Lake ¹¹	Clerk of Court, Process Server/Bailliff			
Standing Rock ¹²	Any law enforcement officer or by any adult not a party to the case	Not a party to the case		
Turtle Mountain ¹³	Process Server	Appointed by the Court	Personally, registered mail with return receipt, publish	

⁸ [Res. Process Server \(quapawtribe.com\)](#)

⁹ [title4civilprocedure.pdf \(narf.org\)](#)

¹⁰ [Sho-Pai Tribes - Court Home \(shopaitribes.org\)](#)

¹¹ [Title 2 Courts Update.pdf \(spiritlakenation.com\)](#) page 16

¹² [Title I - \(1\) Courts.pdf \(standingrock.org\)](#)

¹³ [Section 5.02.050\(b\) | Turtle Mountain Law Library \(tmchippewa.com\)](#)

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JOB ANNOUNCEMENT

Position: Civil Process Server-TAP
Classification: Regular Full-Time
Location: Turtle Mountain Tribal Court
Supervisor: Chief Clerk of Court
Department: Chief Judge
Salary: \$16.00
Opening Date: April 19, 2022 **Closing Date:** May 2, 2022

Duties and Responsibilities:

- Adhering to Oath of Confidentiality at all times on/off the job.
- Adhering to the Tribal Code, Constitution, Court Rules and Court Procedures.
- Acknowledging and adhering to the intellectual chain of command including but not limited to any and all requirements under the Personnel Policy and Procedures Manual.
- Maintaining the integrity and professionalism of the Court by conducting themselves as an officer of the Court,
- Responds and carries out all orders of the Judge.
- Responsible for personal service on all legal protection and restraining orders from the Court on the parties designated by the Court.
- Responsible to research location and find the proper recipient of which the documents must be served upon.
- Responsible for doing proper documentation of the required TAP service records and do quarterly/annual reporting to the Chief Clerk of Court.
- Responsible to maintain accurate records of Proof of Service listing person, time and place of service of documents.
- Must submit records to the Court in a timely manner.
- May provide testimony in Court when required.
- Will hand carry Protection or Restraining Orders and warrants to the Belcourt Law Enforcement Center on a daily basis.
- Will be required to work beyond regular work hours to provide assistance within the courthouse.
- Maintain effective working relationship with other employees, Victims of Crime, law enforcement personnel, and the general public.
- Will use copying Inaohirtes, calculators, fax machines, computers, and other office equipment on a daily basis.
- Must submit to random drug testing.
- All other duties as assigned by Supervisor.

QUALIFICATIONS:

- Must possess a High School Diploma or General Education Degree (GED).
- Must pass a FULL Federal; State, and Tribal background check.
- Must possess a valid driver's license, Reliable personal vehicle AND Proof of vehicle insurance.
- General knowledge of court procedures.
- General knowledge of police methods, practices, and procedures.
- Ability to follow oral and written instruction.
- Ability to analyze situations and adopt quick, effective, and reasonable courses of action.
- Knowledge of proper procedures and techniques in serving all related legal documents.
- Must possess sufficient research skills to accurately locate the proper individual to serve documents.
- Must be able to type, write reports, and utilize computer equipment and be familiar with various forms of computer software including Microsoft Word, Outlook Express, Microsoft Outlook, Microsoft Access and Microsoft Excel.
- Must possess a high level of professionalism.
- Must be able to communicate effectively verbally and in writing to the general public.
- Must be able to attend local and out-of-state training as directed by Supervisor.
- Ability to manage job related stress in a professional manner.

PHYSICAL DEMANDS:

- Must be able to physically serve documents at any location.
- Sit for extended periods; frequently required to stand and walk.
- Normal manual dexterity and eye-hand coordination.
- Corrected hearing and vision to normal range.
- Ability to develop skill in the use of a firearm (if needed).

How to apply: (Submit completed application to):

Personnel Department
 Turtle Mountain Band of Chippewa
 P.O. Box 900
 Belcourt, ND 58316

Also submit a **copy of transcript and/or copy diploma** of degree attained and training certificates, background check, Indian Preference, etc. (if applied). **Points in screening will be given only for documentation attached.**

For more information please contact Elaine Nadeau, Lori Monette, or Jarvis DeCoteau at 701-477-2600.

Indian Preference Statement

Candidates for employment or career advances shall be hired, trained, and promoted without regard to race, color, religion, sex, national origin, age or personal, political or religious beliefs. However, preference shall be given in hiring in the following order between equally qualified candidates who are:

1. Enrolled Member Veteran (10 points to be given to enrolled member veterans in screening process as follow: (see definitions)
2. Enrolled member
3. Other Tribal Member veterans
4. Other Tribal Members

Veteran Preference

Veterans and eligible spouses of deceased will receive special consideration for initial appointments for all positions being filled by the TMBCI. The intent of this policy is to promote and bring deserved services and benefits to our veterans for the personal sacrifices they have made. To be considered for a preferential treatment under this policy, candidate(s) must submit copies of verification documents to Personnel Office along with the employment application for eligibility determination purposes. An acceptable verification document is the discharge of transfer report form DD214.