

RESOLUTION NUMBER **TMBC1166-04-24** OF THE DULY ELECTED AND CERTIFIED GOVERNING BODY OF THE TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS


- 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 revision 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, approved a 30-day comment period by the adoption of Resolution No. TMBC1042-03-24 for the proposed amendments and no comments were received; now

THEREFORE BE IT RESOLVED that the Tribe is approving revisions to the Turtle Mountain Band of Chippewa Indians Children's Code Title 5, Chapter 5.023 Section 5.02.050

BE IT FURTHER RESOLVED that the Tribal Code will be codified accordingly to insert amendments to Title 5.

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 **nine (9)** constituting a quorum were present at a meeting duly called, convened and held on the **25th day of April, 2024** that the foregoing resolution was adopted by an affirmative vote of **eight (8) in favor** – Representatives Elmer Davis Jr., Blaine "Slugger" Davis, Craig Lunday, Kenneth Malaterre, Jon Jon Keplin, Ron Trottier Sr., Lynn Gourneau and Chad Counts; none (0) opposed; with the Tribal Chairman not voting.



Jolean A. Morin, Tribal Secretary
4/26/24

SIGNED INTO LAW/Dated this 6th day of May, 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.