

Juvenile Clerks Meet Up June 2024

Termination of Parental Rights (TPR)

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Please note this information is not meant
to be construed as legal advice.

Any guidance provided should not override
a judge's decision and authority.

Please do not include any confidential case
specific information in the chat.

Materials are posted on
www.wiccuptraining.com under Resources

Who may file a TPR Petition?

- Parent
- Guardian
- Relative
- Child
- Guardian ad Litem or Counsel for any of the above
- Corporation Counsel, District Attorney, or other contract attorney
 - Representing the interests of the public, not the county agency

Venue

Venue is in the county where:

- the child resides or is present.
- the birth parent or child resides at the time the TPR petition is filed for a Voluntary Consent.
- when the child has been placed outside the home pursuant to a dispositional order, venue shall be in the county where the dispositional order was issued, unless the child's county of residence has changed or the parent of the child has resided in a different county of this state for 6 months.
 - The court may, upon a motion and for good cause shown, transfer the case, along with all appropriate records, to the county of residence of the child or parent.
- Post-TPR proceedings shall be in the county where the termination of parental rights order was issued.

§48.185 (1), (2) and (5).

Court Commissioners

Court commissioners may not conduct hearings for termination of parental rights.

§757.69 (1m)(c)

Filing Fees

- There is no filing fee for a TPR case.
- However, a jury fee may be collected if a jury trial is requested pursuant to §814.61 (4).
 - County practice varies.

Class Codes

Voluntary TPR ~ 65001

Applies when the only/both parents **will** be voluntarily consenting to the TPR under §48.41.

This information can be found in:
#5 on JC-1630 – Petition for Termination of Parental Right or
#6 on IW-1630 – Petition for Termination of Parental Rights (ICWA).

Involuntary TPR ~ 65003

Applies when one or both parents **may** or **will not** consent to the TPR under §48.415.

This information can be found in:
#5 on JC-1630 – Petition for Termination of Parental Rights or
#6 on IW-1630 – Petition for Termination of Parental Rights (ICWA).

Charges

Voluntary Charges

- 48.41 (1) TPR-Voluntary Consent

Involuntary Charges / Grounds

- These should match the grounds alleged in the petition.
- For example,
 - 48.415 (6)(a) TPR-Fail/Assume Parental Responsibility
 - 48.415 (2) TPR-Continuing Need/Protection/Services
- It might be helpful to include a note indicating which grounds belong to each parent.

Public vs Privately Filed

Public - filed by:
the District Attorney,
Corporation Counsel,
county child welfare agency, or
an attorney contracted by
District Attorney,
Corporation Counsel, or county
child welfare agency.

*Typically, there is an
underlying CHIPS case

Private - filed by
an individual, attorney,
or agency other than
the District Attorney,
Corporation Counsel, or county
child welfare agency.

*Step-parent or private
adoptions

Party or Notice Recipient?

Parties:

- Petitioner
- Child and Child's
Attorney/Guardian ad Litem
- Parent - Mother and Father or
Adjudicated Father
- Guardian and Legal Custodian
- Tribe and Indian Custodian

Notice Recipients:

- Alleged Father
- Foster Parent, Physical
Custodian, Group Home
- Relative
- Social Worker
- Agency
- Stepfather and Stepmother
- Other

Permanency Goals

- A Termination of Parental Rights Petition can be filed regardless of the child's permanency goals that have been ordered by the court.
- Legally, it is not required to have Adoption as a permanency goal to file a TPR petition.

Petition for TPR (JC-1630)

- Legal definitions for adjudicated, adoptive, marital, and alleged can be found in the TPR Petition form summary.
- Will consent = Voluntary TPR
- May or will not consent = Involuntary TPR
- If there are 3 or more parents, 2 petitions can be filed.

PTPR

**Petition for termination of
parental rights**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF _____	<input type="checkbox"/> Amended Petition for Termination of Parental Rights
Name _____	Case No. _____
Date of Birth _____	

I state on information and belief that the following is true: (if unknown or cannot be ascertained, so state)

1. Petitioner's Name and Address _____		
Child's Address _____	Name(s) of Foster Parent or Other Physical Custodian _____	Child's Sex <input type="checkbox"/> Female <input type="checkbox"/> Male
Child has previously been adopted? <input type="checkbox"/> Yes <input type="checkbox"/> No	County where child is present at time of filing Petition: _____	
Parent #1's Name _____	Parent #1's Address _____	Birthdate _____
Parent #2's Name _____	Parent #2's Address _____	Birthdate _____
Child's Legal Guardian _____	Legal Guardian's Address _____	
Child's Legal Custodian _____	Legal Custodian's Address _____	
Is an interpreter needed? <input type="checkbox"/> No <input type="checkbox"/> Yes Language(s) _____ Party Name(s) _____		

2. The petitioner is interested as _____.

3. The child is a ☐ marital ☐ non-marital child.

4. The above-named father is ☐ adjudicated ☐ adoptive ☐ marital ☐ alleged ☐ unknown.

5. ☐ Parent #1 who ☐ will ☐ may ☐ will not consent to the termination of his/her parental rights under §48.41, Wis. Stats.
If involuntary, grounds for termination of parental rights exist under §48.415 (_____) Wis. Stats.
A statement of the facts and circumstances which support these grounds is as follows: ☐ See attached

☐ Parent #2 who ☐ will ☐ may ☐ will not consent to the termination of his/her parental rights under §48.41, Wis. Stats.
If involuntary, grounds for termination of parental rights exist under §48.415 (_____) Wis. Stats.
A statement of the facts and circumstances which support these grounds is as follows: ☐ See attached

☐ 6. Names and addresses of additional possible fathers, if known, are attached. The statutory grounds for termination of the parental rights of each possible father (known or unknown) and the facts and circumstances which support these grounds are attached.

JC-1630, 11/23 Petition for Termination of Parental Rights (SS48.41(1), 48.415, and 48.42, Wisconsin Statutes)
This form shall not be modified. It may be supplemented with additional material.
Page 1 of 2

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN THE INTEREST OF _____ ☐ Amended

Name _____

Date of Birth _____

Petition for Termination of Parental Rights

Indian Child Welfare Act

Case No. _____

I state on information and belief that the following is true: (if unknown or cannot be ascertained, so state)

1. **Petitioner's Name and Address** _____

Petitioner's Attorney's Name and Address _____

Child's Address	Name(s) of Foster Parent or Other Physical Custodian	Child's Place of Birth	Child's Tribal Affiliation	Sex <input type="checkbox"/> Female <input type="checkbox"/> Male
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Child has previously been adopted? ☐ Yes ☐ No County where child is present at time of filing petition _____

Mother's Name and Address	Mother's Date of Birth	Mother's Place of Birth	Mother's Tribal Affiliation
Father's Name and Address	Father's Date of Birth	Father's Place of Birth	Father's Tribal Affiliation

Other known information in regard to tribal affiliation or enrollment, including all potential tribes that the child may be a member and aliases or enrollment numbers of parents, grandparents, or other direct lineal ancestors: _____

Child's Legal Guardian	Legal Guardian's Address
Child's Indian Custodian/Legal Custodian	Legal Custodian's Address

Is an interpreter needed? ☐ No ☐ Yes Language(s) _____ Party Name(s) _____

2. The petitioner is interested as _____.

3. The child is subject to the federal Indian Child Welfare Act (25 USC §§1901-1963).
Tribal address: _____

4. The child is a ☐ marital ☐ non-marital child.

5. The above-named father is ☐ adjudicated ☐ adoptive ☐ marital ☐ alleged ☐ unknown.

6. The petitioner seeks termination of parental rights of the
☐ mother, who ☐ will ☐ may ☐ will not consent to the termination of her parental rights under §48.41, Wis. Stats.

If involuntary, grounds for termination of parental rights exist under §48.415 (_____), Wis. Stats.

A statement of the facts and circumstances which support these grounds is as follows: ☐ See attached

☐ father, who ☐ will ☐ may ☐ will not consent to the termination of his parental rights under §48.41, Wis. Stats.

If involuntary, grounds for termination of parental rights exist under §48.415 (_____), Wis. Stats.

Petition for TPR - ICWA (IW-1630)

- Will consent = Voluntary TPR
- May or will not consent = Involuntary TPR
- Specific information regarding notice is at the bottom of this petition.
- WICWA applies to both public and privately filed TPRs.

PTPRI

**Petition for termination of
parental rights - ICWA**

TPR Petition Attachments

UCCJEA - GF-150

- The Uniform Child Custody Jurisdiction and Enforcement Act Affidavit must be attached to the TPR petition.

UCCA

Uniform child custody affidavit

Statement of Active Efforts - IW-1609

- The Statement of Active Efforts is required for Involuntary TPR cases.

SAE

Statement of Active Efforts

Petition for Adoptive Placement ~ JC-1640

- Seeks to place the child with an adoptive placement in private adoption cases
- Filed in the TP case with the TPR petition, not in a new JA case

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF _____	
Name _____	Petition for Adoptive Placement
Date of Birth _____	Case No. _____

UNDER OATH, I STATE:

- ☐ A. The child was born on the date indicated above and resides at _____.
☐ B. The child is due to be born about _____.
- The birth mother _____, age _____, resides at _____.
- The birth father _____, age _____, resides at _____.
- The proposed adoptive Parent 1 _____, age _____, resides at _____.
- The proposed adoptive Parent 2 _____, age _____, resides at _____.
- [Person/agency] _____ arranged placement of the child.
- The report of financial, medical and legal arrangements is attached.
- The placement is in a licensed foster home.
- The Petition for Termination of Parental Rights accompanies this Petition.
- ☐ A. The child is not subject to the federal Indian Child Welfare Act.
☐ B. The child is subject to the federal Indian Child Welfare Act, and:
(1) Indian tribe's name and address: _____
(2) Indian custodian's name and address: (if applicable) _____
(3) ☐ Placement has been made in accordance with the order of preference set forth in the Indian Child Welfare Act. **OR**
☐ There is good cause to depart from the order of placement preference in the Indian Child Welfare Act: _____
- Is an interpreter needed? ☐ No ☐ Yes Language(s) _____ Party Name(s) _____

State of _____ County of _____ Petitioner's Signature _____

PAP

Petition for adoptive placement

Scheduling the Initial TPR Hearing

Hearing on the Petition (sometimes referred to as Initial Appearance) shall be held within 30 days after TPR petition is filed with the court.

Scheduling the Initial TPR Hearing - ICWA

If the child is subject to the Indian Child Welfare Act (ICWA) in an involuntary TPR case,

- the Hearing on the Petition shall not occur until at least 10 days after receipt of the notice of the hearing if the tribe is known or until at least 15 days after receipt of the notice by the U.S. Secretary of the Interior.
- The Indian child's parent, Indian custodian, or tribe may request an additional 20 days to enable the requestor to prepare for the hearing – the court shall grant such request.

TPR Petition & Summons (JC-1633)

- Child - if 12 years or older
- Child's Guardian ad Litem/Adversary Counsel
- Parents
 - Mother
 - Adjudicated or marital father
 - Non-adjudicated father who filed a declaration of paternal interest
 - Alleged father(s)
 - Person who has lived in a familial relationship with the child and may be the father
- Guardian and Legal Custodian
- Tribe and Indian Custodian

SUM	Summons
PSUM	Proposed Summons

TPR Petition & Notice

- Parents' Attorneys
- Relative Caregiver/Foster Parent
- Caseworker
- District Attorney/Corporation Counsel

JD / IW-1724 - Notice of Hearing can be used.

NOT	Notice of hearing
NOTI	Notice of hearing - ICWA

Notice Timeframes

Notice:

- Personal Service must be provided to the parties required to be summoned at least 7 days before the hearing
- NOTE: Saturdays, Sundays, and holidays are excluded for time periods less than 11 days

For ICWA cases:

- In addition to personal service, registered mail notice must be sent to the parents and tribe at least 10 days before the hearing.
- If sending registered mail notice to the U.S. Secretary of the Interior, at least 15 days before the hearing
 - Applies when the parent whereabouts are unknown, unknown father, or tribal affiliation is unknown.

Notice - Publication

- If a party cannot be served after reasonable diligence, notice shall be given constructively through publication in a newspaper.
§ 48.42(4)(b)
- In determining which newspaper, consider the individual's last known address, residence of the relatives of the party, or the last-known location of the individual.
- Notice must be published once but can be published in different newspapers if party's location is unknown.

Notice in TPR Cases – Publication Forms

JC-1634

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF	Consent to Use Mother's Name for Publication
Name _____	Case No. _____
Date of Birth _____	
<p>If the natural father cannot be personally served, the law requires service by publication. Publication will be in a newspaper likely to give notice to the father.</p> <p>If publication is necessary, I <input type="checkbox"/> consent to the use of my name. <input type="checkbox"/> do not consent to the use of my name.</p>	
<p>_____ Mother's Signature</p> <p>_____ Name Printed or Typed</p> <p>_____ Address</p> <p>_____ Email Address Telephone Number</p> <p>_____ Date State Bar No. (if any)</p>	
<p>DISTRIBUTION:</p> <p>1. Court 2. Petitioner of TPR 3. Newspaper where notice will be published</p>	

CUMNP

Consent to use mother's name for publication

NAOH

Notice and Order of Hearing (For Publication)

JC-1635

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF	Notice and Order of Hearing (For Publication)
*Child's name (if ordered by the court) or girl/boy child _____	Case No. _____
Born to: _____	
*Mother's name (if mother consents) _____	
TO: _____	Physical Description of alleged parent: _____
and any unknown parent at unknown address.	
Additional identifying information:	
Date of conception: _____	
Place of conception: _____	
Date of birth: _____	
Place of birth: _____	
IT IS ORDERED:	
This Notice be published advising you that a Petition for Termination of your parental rights to the named-above child be heard at the _____ County Courthouse, _____ Wisconsin, Rm./Br. address _____, on [Date] _____, at [Time] _____.	
<p>IF YOU FAIL TO APPEAR, the court may hear testimony in support of the allegations in the Petition and grant the request of the petitioner to terminate your parental rights.</p> <p>You have the right to have an attorney present. If you desire to contest the matter and cannot afford an attorney, the state public defender may appoint an attorney to represent you.</p> <p>If you fail to appear and the court terminates your parental rights, a notice of intent to pursue relief from the judgment must be signed and filed in the trial court within 30 days after the judgment is entered, in order to preserve the right to pursue such relief.</p> <p><input type="checkbox"/> IT IS FOUND AND ORDERED THAT it is essential to include the child's name in this Notice in order to give effective notice to the father.</p> <p>*This Notice shall be published one time.</p>	
<p>JC-1635, 09/22 Notice and Order of Hearing (For Publication) §48.42(4)(b), Wisconsin Statutes This form shall not be modified. It may be supplemented with additional material. Page 1 of 2</p>	

Notice Not Required

Parent as a result of sexual assault

As evidenced by a judgment of conviction in a criminal case for the sexual assault

Exception: If the individual was under 18 at the time the assault was committed

Parent of a non-marital child

A father of a child who was not married to the mother at the time the child was conceived or born, and has not adopted the child, married the mother, or had paternity adjudicated.

Exception: An alleged father, a Declaration of Parental Interest has been made, OR a familial relationship already exists with the child.

However, notice is required to find an unknown father in default.

Unknown Fathers

- Any unknown fathers must have their parental rights terminated before adoption can occur. §48.91(2)
- Must be done as involuntary TPR
 - Involuntary TPR grounds must be alleged for “any and all unknown fathers”.
 - Typically, failure to assume parental responsibility and/or abandonment grounds are filed.
- Publication notice must be provided to unknown fathers. This is required to find an unknown father in default.

Foster Parents and Relative Caregivers

- Have right to receive notice of all hearings in the TPR case. § 48.42(2g)(a)
- Have right to be heard by making written or oral statement during or prior to hearing. § 48.42(2g)(am)
- Foster parents and relative caregivers do not have party status in the TPR case.

GAL or Adversary Counsel for Child?

Guardian ad Litem

The court shall appoint a guardian ad litem for any child who is subject to a voluntary or involuntary TPR.

§ 48.235 (1)(c)

Adversary Counsel

SPD will appoint if the court makes a referral or if the child requests adversary counsel.

§ 48.23 (3)

JD-1798A

Order Appointing Guardian ad Litem or
Attorney (Ch. 48 and 938)

OAG

Order Appointing
GAL

Additional documents that are required to be filed

- Court Inquiry on Declaration of Paternal Interest
- Court Report for TPR
- Family History Questionnaire Medical / Genetic
- Family History Questionnaire Medical / Genetic - Pregnancy and Delivery Information

* Birth Certificates are not required to be filed.

Court Inquiry on Declaration of Paternal Interest

****DO NOT USE THIS FORM TO FILE A DECLARATION OF PATERNAL INTEREST. USE FORM DCF-F-CFS0019A-E.****

Instructions: Complete the top section of this form to receive confirmation that a Declaration of Paternal Interest (DCF-F-CFS0019A-E) has been filed on behalf of the child listed below. Provide your return address, telephone number, email address and fax number in the designated sections. Email it to DCFDSPPaternalInterest@wisconsin.gov or fax to (608) 422-7157. Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04(1)(m), Wisconsin Statutes]. **THIS FORM MUST BE TYPED.**

Date of Inquiry (mm/dd/yyyy)			
Name – Child		Gender <input type="checkbox"/> M <input type="checkbox"/> F	Birthdate (mm/dd/yyyy)
Name – Mother		Age	Address – Mother (Street, City, State, Zip Code)
Requestor Information		Name – County / Agency	
Address (Street, City, State, Zip Code)		Requestor's Telephone Number	Requestor's Fax Number
Requestor Email Address			

s. 48.025(3)(c), Wis. Stats., "A court in a proceeding under s. 48.13, 48.133, 48.14, or 538.13 or under a substantially similar law of another state on a person authorized to file a petition under s. 48.25, 48.42, 48.837, or 938.25 or under a substantially similar law of another state may request the department to search its files to determine whether a person who may be the father of the child who is the subject of the proceeding has filed a declaration under this section..."

s. 48.42(4)(b)1m., If the child's custody was relinquished under s. 48.195, service to the parents of the child may be made by constructive notice.

DO NOT WRITE BELOW THIS LINE

Court Inquiry on Declaration of Paternal Interest Response

☐ **YES**, a Declaration of Paternal Interest has been filed on behalf of the child named above.

Name – Person Filing Notice	Date – Notice Filed (mm/dd/yyyy)
Address – Person Filing Notice (Street, City, State, Zip Code)	

The attached document is a true and complete copy of the original Declaration on file and of record in this office. Note that pursuant to s. 48.025(2)(b), Wis. Stats., the department is not provided with sufficient information to determine if all statutory requirements for filing have been met.

☐ **NO**, a Declaration of Paternal Interest has not been filed on behalf of the child named above as of the date below.

By: _____
SIGNATURE – Division of Safety and Permanence Representative

Date Signed

s. 48.025(3)(d), Wis. Stats., "Any person who obtains any information under this subsection may use or disclose that information only for the purposes of the proceeding in which it was obtained."

Court Inquiry on Declaration of Paternal Interest

- This form is completed by DCF to state whether or not a father has filed a declaration of paternal interest with DCF.
- It is typically filed if the DA's Office or Corporation Counsel is seeking to terminate any and all unknown fathers through default.

CIPi

**Ct. inquiry/paternal interest
declaration/response**

Court Report for TPR

- This report should only be filed in the TP case with a TP case number.
 - It should not contain the CHIPS case number or be filed in the CHIPS case.

CR	Court report
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COURT REPORT FOR TERMINATION OF PARENTAL RIGHTS		
Date: _____		
The Honorable Judge _____		
Court Number: _____	Branch Number: _____	County: _____
Case Type: CHIPS	Case Number: _____	
Hearing Date: _____	Hearing Time: _____	
IDENTIFYING INFORMATION		
Name (Last, First, MI) _____	Birthdate (mm/dd/yyyy) _____	Age _____
Address (Street, City, State, Zip Code) _____		Social Security Number _____
Native American Status <input type="checkbox"/> Yes <input type="checkbox"/> No	Native American Tribal Name _____	Verification of Status Provided By _____
Caretaker		
Name (Last, First, MI) _____	Telephone Number _____	
Address (Street, City, State, Zip Code) _____	Home: _____	Work: _____
Parent 1		
Name (Last, First, MI) _____	Role: <input type="checkbox"/> Biological <input type="checkbox"/> Step <input type="checkbox"/> Other	Birthdate (mm/dd/yyyy) _____
Address (Street, City, State, Zip Code) _____		Social Security Number _____
Telephone Number _____		Home: _____
Marital Status _____		Work: _____
Name - Parent 1 Spouse _____		
Parent 2		
Name (Last, First, MI) _____	Status: <input type="checkbox"/> Adjudicated <input type="checkbox"/> Presumptive <input type="checkbox"/> Alleged	Birthdate (mm/dd/yyyy) _____
Address (Street, City, State, Zip Code) _____		Social Security Number _____
Telephone Number _____		Home: _____
Marital Status _____		Work: _____
Name - Parent 2 Spouse _____		
In the interest of _____ a child under the age of 18 years, on this child was found to be in need of protection or services pursuant to Wisconsin Statutes s. 48.13 (_____, _____), _____ and the court order expires on _____.		

Family History Questionnaire Medical / Genetic

DEPARTMENT OF CHILDREN AND FAMILIES Division of Safety and Permanence		Adoption Records Search PO Madison, WI 53 (608)	
Family History Questionnaire Medical / Genetic			
Use of form: This form is used to collect biological family medical and genetic history for any child whose biological parent has terminated parental rights to that child in Wisconsin. Completion of this form meets the requirements of s. 48.425(1)(am), Wis. Stats. Any biological parent whose parental rights are being terminated in a Wisconsin court is required to complete this form at the time of the termination of parental rights proceeding. If a birth parent is adopted, only biological family information should be included. This form is also used to update medical / genetic history by any birth parent who has terminated their parental rights to a child in Wisconsin at any time. Another individual may complete this form on behalf of a birth parent if the birth parent is unable to do so. Personally identifiable information on this form is confidential and will be used only for identification purposes.			
The information on this form pertains to: <input type="checkbox"/> Birth Mother <input type="checkbox"/> Birth Father			
SECTION I INFORMATION ABOUT BIRTH PARENT AND CHILD PLACED FOR ADOPTION			
Name - Child (Last, First, Middle) _____		Birthdate (mm/dd/yyyy) _____	Birthplace (City, State) _____
Name - Hospital _____		Name - Attending Physician _____	
Name (Current) - Birth Mother (Last, First, Middle) _____		Name - Maiden (Last) _____	Birthdate (mm/dd/yyyy) _____
Address - Permanent (Street, City, State, Zip Code) _____		Telephone Number _____	
Name - Birth Father (Last, First, Middle) _____		Birthdate (mm/dd/yyyy) _____	
Address - Permanent (Street, City, State, Zip Code) _____		Telephone Number _____	
<input type="checkbox"/> Yes <input type="checkbox"/> No Are the birth parents related to each other in any way or do they have blood ties? If "Yes", specify relationship: _____			
SECTION II PROVIDER OF INFORMATION IF NOT COMPLETED BY BIRTH PARENT			
Name - Individual Providing Information on Behalf of Birth Parent _____		Address - Current (Street, City, State, Zip Code) _____	
Telephone Number _____		Relationship to Child _____	
Name - Agency Staff Person Reviewing Questionnaire _____		Name - Agency _____	
Telephone Number _____		Telephone Number _____	
SECTION III DESCRIBE BIRTH PARENT AND HIS / HER PARENTS			
Birth Parent		Your Mother	Your Father
Name (Last, First, Middle) _____	_____	_____	_____
Birthdate (mm/dd/yyyy) _____	_____	_____	_____
Height and weight _____	_____	_____	_____
Ethnic / national background _____	_____	_____	_____

- Completed by birth parent and filed within TPR case.
- It must be marked as Confidential within TP case.
- If Safe Haven baby, complete as much as possible by writing in unknown, N/A, or safe haven baby.

FHQ	Family history questionnaire
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Family History Questionnaire Medical / Genetic - Pregnancy and Delivery Information

- Completed by birth mother and filed within TPR case.
- It must be marked as Confidential within TP case.

FHQPD

**Family history question.-
pregnancy/delivery info**

DEPARTMENT OF CHILDREN AND FAMILIES
Division of Safety and Permanence

Adoption Records Search Program
PO Box 8816
Madison, WI 53708-8816
(608) 422-6928

**Family History Questionnaire
Medical / Genetic - Pregnancy and Delivery Information**

Use of form: This form is used to collect pregnancy and delivery information for any child whose biological mother has terminated parental rights to that child in Wisconsin. Completion of this form meets the requirements of s.48.425(1)(m), Wis. Stats. Another individual may complete this form on behalf of the birth parent if the birth parent is unable to do so. Personally identifiable information on this form is confidential and will be used only for identification purposes.

Instructions: After completion, this form must be attached to and submitted with the "Family History Questionnaire - Medical / Genetic," form CFS-149. If additional space is needed when completing this form, attach separate sheet(s).

Name - Child (Last, First, Middle) _____ Birthdate - Child (mm/dd/yyyy) _____

SECTION I PREGNANCY INFORMATION

1. When did you first suspect you were pregnant with this child? _____ 2. When was this pregnancy confirmed by a pregnancy test? _____

3. ☐ Yes ☐ No Did you receive prenatal care during this pregnancy? If "Yes", when did prenatal care begin? _____

4. ☐ Yes ☐ No Did you gain weight during this pregnancy? If "Yes", number of pounds? _____

5. ☐ Yes ☐ No Did you lose weight during this pregnancy? If "Yes", number of pounds? _____

6. ☐ Yes ☐ No Were you hospitalized during this pregnancy? If "Yes", list hospitalizations, reasons and dates below.

a. Hospital	Reason(s)	Dates(s) (mm/dd/yyyy)
b. Hospital	Reason(s)	Dates(s)
c. Hospital	Reason(s)	Dates(s)

7. ☐ Yes ☐ No Did you take medication during this pregnancy? (Include prescription and over-the-counter or nonprescription drugs.) If "Yes", list them below.

a. Medication	Purpose of Medication	Date(s) (mm/dd/yyyy)	Dosage Size and Quantity
b. Medication	Purpose of Medication	Date(s)	Dosage Size and Quantity
c. Medication	Purpose of Medication	Date(s)	Dosage Size and Quantity
d. Medication	Purpose of Medication	Date(s)	Dosage Size and Quantity

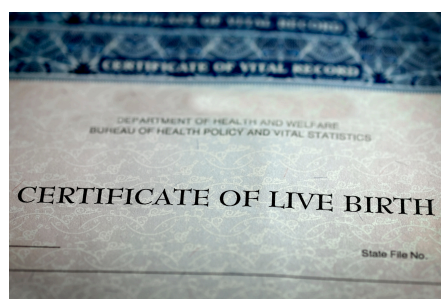
8. ☐ Yes ☐ No Did you smoke cigarettes during this pregnancy? If "Yes", number per day? _____

9. ☐ Yes ☐ No Did anyone in your household smoke during this pregnancy? _____

DCF-F-CFS0149A-E (R. 06/2015)

Birth Certificates

- A birth certificate should not be retained or scanned into the court file.
- §69.24 prohibits the copying of a vital record except under the limited circumstances specified in §69.30.
- There is not a statute requiring the birth certificate to be filed with the court in a TPR or adoption proceeding.



Birth Certificates - If Filed - Option 1

2 options regarding birth certificates:

1. If the judge or a party wants the birth certificate filed in the case, it should be sealed on the judge's own motion or the petitioner can file the Motion to Seal or Redact a Court Record (GF-246A).

GF-246A	Motion to Seal or Redact a Court Record	MSD	Motion to Seal Document
GF-246B*	<i>Proposed Order: Order on Motion to Seal or Redact a Court Record</i>	POSD	Prop. Order to Seal Document
GF-246B	Order on Motion to Seal or Redact a Court Record	OSD	Order to Seal Document

Birth Certificates - If Filed - Option 2

2. The Annotation of Birth Facts Abstracted from Certified Copy of the Birth Certificate form (GF-158) can be used to extract information from the birth certificate.

This form will be filed in the case in lieu of the certified copy of the birth certificate noting important information from the birth certificate.

ABF	Annotation of Birth Facts
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STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
Annotation of Birth Facts Abstracted from Certified Copy of the Birth Certificate	
Name _____ Date of Birth _____ Case No. _____	
It is illegal in the State of Wisconsin to photocopy a vital record and use it as legal proof of birth. This form will be filed in the case in lieu of the certified copy of the birth certificate.	
The abstractor should verify the following features of the legal certified copy of the birth certificate. The certified copy of the birth certificate contains all of the following: <input type="checkbox"/> Raised Seal of Registrar (not a notary seal on a photocopy) <input type="checkbox"/> Signature of Official that Issued Certificate and Date of Issuance <input type="checkbox"/> Watermark (chain link which can be seen when held up to the light, issue date 2000 and after)	
I abstracted the following information from the certified copy of the birth certificate:	
1. (First Name) _____	(Full Middle Name) _____ (Last Name) _____ (Title, e.g. Jr.) _____
2. Date of Birth (Month, Day, Year) _____	3. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female
4. Name of Mother Listed (First Name) _____	(Middle Name) _____ (Last Name) _____
5. Name of Father Listed (First Name) _____	(Middle Name) _____ (Last Name) _____
6. Place of Birth Country _____ <input type="checkbox"/> USA or Specify: _____	State _____ City, Village, Town _____ County _____
7. Certified Copy of Birth Certificate Issued by <input type="checkbox"/> State Registrar Office <input type="checkbox"/> Local Registrar Office <input type="checkbox"/> U.S. Dept. Of State (PS 240 or DS 1350) <input type="checkbox"/> Other (Foreign Country): _____	8. Date of Issuance (Month, Day, Year) _____
9. Date Certified Copy of Birth Certificate Presented to Court (Month, Day, Year) _____	10. Certified Copy of Birth Certificate Presented by: _____
Certification Statement: I affirm that, to the best of my knowledge and belief, I accurately abstracted the information listed on this form from a certified copy of the birth certificate presented as proof of identity for the above-listed individual. I returned the certified copy of the birth certificate to the person who presented it.	
Signature _____ Print or Type Name _____ Address _____ Email Address _____ Telephone Number _____ Date _____ State Bar No. (if any) _____	

GF-158, 02/23 Annotation of Birth Facts Abstracted from Certified Copy of the Birth Certificate
This form shall not be modified. It may be supplemented with additional material. §69.24, Wisconsin Statutes

In Wisconsin, the TPR court process is bifurcated.

There are two distinct phases in determining whether parental rights should be terminated:

Grounds

Does the court have a legal reason to TPR?

Focus: Parent's Constitutional and statutory rights are paramount

Disposition

Is it in the child's best interest to TPR?

Focus: Child's rights and needs are paramount

2 distinct phases in a TPR case:

Grounds

- Voluntary Consent
- No Contest plea to the Involuntary grounds
- Default to the Involuntary grounds
- Partial Summary Judgment
- Fact-Finding Hearing to the judge or jury

Disposition

- Child's best interest
- The court considers 6 Dispositional factors in §48.426.

Rights of Parties

- Contest the petition
- Jury trial & Substitution of judge – must be made by the end of the Hearing on the Petition or be waived
- All non-petitioning parties have right to request one substitution
- Continuance to consult with an attorney on the request for Jury Trial or substitution of judge
- If a person appears and claims to be the father of the child, court shall set a date for hearing on the issue of paternity
- Right to an attorney

Substitution of Judge

- Non-petitioning parties may request a substitution of judge.
- There is not a Circuit Court form to make this request. It will be a written request submitted.

RFS	Request for substitution
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- Create Application for Judicial Assignment GF-168 and forward to judge for approval.
- Once signed by judge, forward to DCA to assign a new judge.
- File Order Assigning Judge.

OAJ	Order assigning judge/judicial assignment order
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- Reassign the case to the new judge.
- Provide Notice of Assignment of Judge GF-144 to all parties.
- Schedule a hearing with the new judge within 30 days.

Continuance Requires a Good Cause Finding

- § 48.315(2): A continuance shall be granted by the court only upon a showing of good cause in open court or during a telephone conference under § 807.13 on the record and only for so long as is necessary, taking into account the request or consent of the district attorney or the parties and the interest of the public in the prompt disposition of cases.

Counsel for Parents

Voluntary TPR

Parent may consent without an attorney

Involuntary TPR

- Parent must be represented by an attorney, unless waived
- State Public Defender (SPD) will appoint counsel if indigent
- Parent under 18 years old cannot waive counsel

Additional Hearing Codes

- **ADHOP** - Adjourned Hearing on Petition
- **AJH** - Adjourned Hearing
- **CH** - Competency Hearing
- **MH** - Motion Hearing
- **SJH** - Summary Judgment Hearing

TPR Plea Options

- **Volc** - Voluntary Consent
 - Not contesting the grounds or Disposition phase
- **NC** - No Contest
 - Not contesting the grounds phase, but contesting the Disposition phase
- **DEN** - Denial
 - Contesting the grounds phase and Disposition phase
- **DEF** - Default

*Enter most negative plea until CCAP allows a plea for each parent.

Personal Appearance
in Court

Notarized Statement by
Alleged Father

Voluntary Consent Options

Affidavit for
Step-Parent Adoptions

WICWA Consent

Voluntary TPR – Personal Appearance In Court

- Typically done in the court where the TPR is being heard; however:
 - Testimony may be admitted by telephone or audio visual means at request of the parent
 - If difficult or impossible to appear personally, the parent may appear before embassy or consul official (if outside the U.S.), military judge, or a judge of court of record in another county, state, or country (JC-1637)

Consent to TPR - Judicial JD-1637

- The certificate of judge who recorded the voluntary consent is required.
 - If the parent is a minor or is incompetent, the parent's GAL must also approve the consent.
- § 48.41 (2)(b)1 allows a parent who resides out of county or state to file a voluntary consent to terminate their parental rights before a circuit court judge in their county for a case being handled in another Wisconsin county or another state.

CTPRJ

Consent to TPR - judicial

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF _____	Consent to Termination of Parental Rights (Judicial)
Name _____	Case No. _____
Date of Birth _____	

UNDER OATH, I STATE:

1. My name is _____
My address is _____
My date of birth is _____.
2. I am a parent or alleged to be a parent of the above-named child.
3. I am the: (Check one) ☐ mother, ☐ presumed father, ☐ biological (non-adjudicated) father.
☐ alleged father, ☐ adjudicated father.
4. My child is not a member of or eligible for membership in an Indian tribe. [For an Indian child, use the Indian Child Welfare Act version (IW-1637) of this form.]
5. I have been informed and understand that a court order terminating parental rights will permanently end **ALL legal rights and duties** that exist between myself and this child, such as:
 - Duty to support
 - Right to custody and visitation
 - Right to inherit
6. I wish to give up any parental rights that I may have to this child and consent to the Court entering an order terminating my parental rights.
7. I give up the right to know of any future hearing or proceedings in this matter.
8. I am making this decision on my own free will. No promises or threats have been made to get me to sign this document.

State of _____	Signature _____
County of _____	Name Printed or Typed _____
Subscribed and sworn to before me on _____	Address _____
Notary Public/Court Official _____	Name Printed or Typed _____
My commission/term expires: _____	Email Address _____ Telephone Number _____
<input type="checkbox"/> This notarial act involved the use of communication technology.	Date _____ State Bar No. (if any) _____

APPROVAL OF GUARDIAN AD LITEM (Needed for minor or incompetent parent) I am the guardian ad litem for the above-named parent who is a <input type="checkbox"/> minor or <input type="checkbox"/> incompetent. I am familiar with the facts. I join in the consent to the termination of this person's parental rights. _____ Guardian ad Litem _____ Name Printed or Typed _____ Address _____ Email Address _____ Telephone Number _____ Date _____ State Bar No. (if any) _____	CERTIFICATE OF JUDGE I certify that I am the judge of the _____ County, State of _____ court of _____ record. The above-named parent appeared before me on this date. I questioned this parent and found this consent to be informed and voluntary before I accepted it. _____ Judge _____ Name Printed or Typed _____ Date _____
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Voluntary TPR - Notarized Statement by Alleged Father

- As an alternative to appearing in court, an alleged father may provide consent by a written, notarized statement voluntarily consenting to TPR
- Use Consent to Termination of Parental Rights (Affidavit) – Form JC-1636
- Only applies to unadjudicated alleged fathers.
 - It does not apply to adjudicated or presumed/marital fathers
- An unadjudicated father may be the father of the child; however, there is no court action which has established paternity, the child was not conceived or born out of a marriage, or the parents have not subsequently married

Voluntary TPR - Affidavit for Step-Parent Adoptions

- As an alternative to appearing in court, a parent may sign an affidavit witnessed by two persons
- Use Consent to Termination of Parental Rights (Affidavit) – Form JC-1636
- May also apply if the child's birth parent who is voluntarily terminating their rights is a resident of a foreign jurisdiction

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF _____	Consent to Termination of Parental Rights (Affidavit)
Name _____	Case No. _____
Date of Birth _____	

UNDER OATH, I STATE:

1. My name is _____.
My address is _____.
My date of birth is _____.
2. My child is not a member of or eligible for membership in an Indian tribe.
3. **For stepparent adoptions:**
 - I am the ☐ mother ☐ father of this child
 - The child ☐ was ☐ was not born during a marriage with the other parent.**For non-marital, non-adjudicated alleged fathers:**
 - I have never been married to _____, mother of this child.
 - I have never been adjudicated (formally determined by a court) to be the father of this child.
 - I am aware that I am alleged to be the father of this child.
 - I am not admitting or denying that I am the father of this child.
4. I know that a petition to terminate my parental rights has been or will be filed.
5. I have been informed and understand that a court order terminating parental rights will permanently end **ALL legal rights and duties** that exist between myself and this child, such as:
 - Duty to support
 - Right to custody and visitation
 - Right to inherit
6. I wish to give up any parental rights that I may have to this child and consent to the court entering an order terminating my parental rights.
7. I give up the right to know of any future hearing or proceedings in this matter.
8. I am making this decision on my own free will. No promises or threats have been made to get me to sign this document.

State of _____	▶ _____
County of _____	Signature _____
Subscribed and sworn to before me on _____	Name Printed or Typed _____
_____ Notary Public/Court Official	Address _____
_____ Name Printed or Typed	Email Address _____ Telephone Number _____
My commission/term expires: _____	Date _____ State Bar No. (if any) _____
<input type="checkbox"/> This notarial act involved the use of communication technology.	

FOR STEP PARENT ADOPTIONS, YOU MUST HAVE TWO WITNESSES SIGN BELOW IN ADDITION TO COMPLETING THE NOTARY SECTION ABOVE.

_____ Signature of Witness	_____ Signature of Witness
-------------------------------	-------------------------------

Consent to TPR - Affidavit JD-1636

- This form is used when a parent consents to a voluntary termination of parental rights.
 - This only applies to unadjudicated fathers or step-parent TPRs/adoptions
- For step-parent TPRs/adoptions, there must be 2 witness signatures.

CTPRA

Consent to TPR - affidavit

Voluntary TPR - WICWA Consent

- Consent involving an Indian child must be:
 - Executed in writing (form IW-1637)
 - Recorded before a judge
 - May be done in a court other than the one hearing the TPR
 - Judge must certify parent understood terms and consequences of their voluntary consent
- Child must be at least 11 days old before consent
- NOTE: This applies to a Voluntary Consent, not stipulating to involuntary TPR grounds through a No Contest plea.

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF	Consent to Termination of Parental Rights (Judicial) Indian Child Welfare Act
Name _____	Case No. _____
Date of Birth _____	

UNDER OATH, I STATE:

1. My name is _____
My address is _____
My date of birth is _____.
2. I am the (check one) ☐ mother. ☐ presumed father. ☐ biological (non-adjudicated) father.
☐ alleged father. ☐ adjudicated father.
3. My child is a member of an Indian tribe or is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.
4. My child is at least 11 days old.
5. The terms and consequences of signing this consent have been fully explained in detail and in my own language. I understand that a court order terminating parental rights will permanently end **ALL legal rights and duties** that exist between me and this child, such as:
 - duty to support
 - right to custody and visitation
 - right to inherit
6. I wish to give up any parental rights that I may have to this child and consent to the court entering an order terminating my parental rights.
7. I give up the right to know of any future hearing or proceedings in this matter.
8. I am making this decision on my own free will. No promises or threats have been made to get me to sign this document.
9. My consent can be withdrawn for any reason at any time prior to the court's order terminating my parental rights.

APPROVAL OF GUARDIAN AD LITEM (Needed for minor or incompetent parent) I am the guardian ad litem for the above named parent who is a <input type="checkbox"/> minor <input type="checkbox"/> incompetent. I am familiar with the facts. I join in the consent to the termination of this person's parental rights. Guardian ad Litem Name Printed or Typed Date	CERTIFICATE OF JUDGE I certify that I am the judge of the _____ court of _____ County, State of _____, a court of record. The above named parent appeared before me on this date. The terms and consequences of the consent to terminate parental rights, including the limitation on withdrawing the consent, have been fully explained in detail and were fully understood by the parent and I therefore found this consent to be informed and voluntary before I accepted it. Judge Name Printed or Typed Date
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Consent to TPR - Judicial (ICWA) IW-1637

- This form is used by either parent of an Indian child who consents to a voluntary termination of parental rights.
- It must be signed in front of a judge and accompanied by a written certification by the judge. The GAL's approval is needed for a minor or incompetent parent.

CTPJI

Consent to TPR - judicial - ICWA

Involuntary TPR

Involuntary TPR Grounds

- Abandonment - §48.415(1) – 5 types
- Relinquishment - §48.415(1m) – aka “Safe Haven”
- Continuing CHIPS - §48.415(2) – 2 types
- Continuing Parental Disability - §48.415(3)
- Continuing Denial of Periods of Physical Placement/Visitation – §48.415(4)
- Child Abuse - §48.415(5)
- Failure to Assume Parental Responsibility - §48.415(6)
- Incestuous Parenthood - §48.415(7)
- Homicide or Solicitation to Commit Homicide of Parent - §48.415(8)
- Parenthood as a Result of Sexual Assault - §48.415(9)
- Commission of Felony Against a Child - §48.415(9m)
- Prior Involuntary TPR - §48.415(10)

No Contest Plea

Default

Involuntary TPR Methods

Partial Summary Judgment

Fact-Finding Hearing

No Contest Plea

Parent is not contesting the TPR grounds phase, but is contesting the Dispositional phase.

- A plea colloquy is still required by the court
 - Address the party & determine that the plea is made voluntarily & with understanding of the nature of the acts alleged in the petition & potential disposition
 - Establish whether any threats or promises were made
 - Unrepresented parties: take valid waiver of counsel
 - Make such inquiries as satisfactorily establish that there is a factual basis for the admission
- Testimony must be provided in support of the allegations in the petition.
- The court will find parent unfit.

Default Judgment

Parent or other party may be defaulted for:

- Failure to obey a summons,
- Failure to appear at trial, or
- Failure to obey a court order

A parent cannot be defaulted for failing to obey a summons or failing to appear at trial if the parent's attorney appears

Parent's attorney can be discharged by the court if:

- Parent ordered to appear in person, fails to appear, and parent's conduct is egregious and without justifiable excuse - § 48.23(2)(b)3

Default Judgment

Court must conduct an evidentiary hearing to establish involuntary TPR grounds exist.

- This is typically where the caseworker testifies.

If grounds exist, the court will find parent unfit.

The dispositional phase must still be conducted—it is not waived because a parent does not appear and/or is found in default.

Types of Default

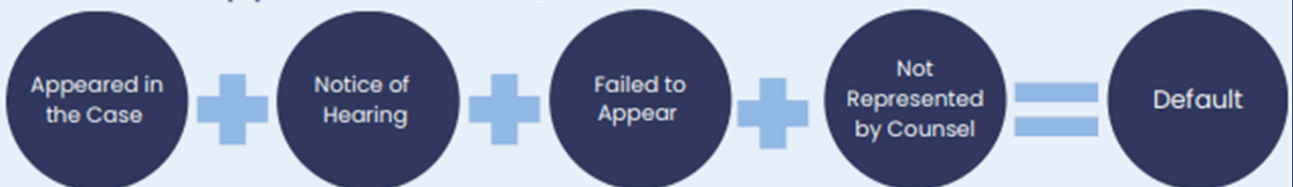
1 Failure to obey a summons – § 806.02(1)



2 Failure to obey a court order – § 805.03



3 Failure to appear at trial – § 806.02(5)



Partial Summary Judgment

- Petitioner must submit motion with supporting affidavit(s) at least 20 days before the scheduled hearing.
- Parent(s) must serve opposing affidavit(s) at least 5 days before hearing.
- Partial Summary Judgment occurs before or during the TPR grounds phase and is when the facts can be decided upon without needing to go to trial, where the opposing party would lose due to a lack of evidence.

Court will grant partial summary judgment only if there are no material issues of fact and the proponent is entitled to judgment as matter of law on a specific ground for TPR.

Partial Summary Judgment

- A motion for partial summary judgment is frequently filed with:
 - Continuing Denial of Periods of Physical Placement or Visitation ground,
 - Prior Involuntary TPR ground, or
 - Abandonment
- An affidavit by caseworker is typically filed with the motion.
- Partial summary judgment – court finds summary judgment regarding the involuntary TPR ground(s) and the parent is found unfit.
- If granted, TPR case proceeds to disposition phase.

Involuntary TPR - Pre-Trial Activities

- **Motions in Limine** – the court will determine evidentiary decisions prior to trial to include or exclude certain evidence.
- **Depositions**
 - Prosecutor may depose the parent regarding the Conditions for Return or other issues.
 - A social worker may be deposed regarding reasonable efforts.
 - A service provider may be deposed if s/he is unavailable to testify at trial.
- **Daubert Motions** – to determine whether someone qualifies as an expert.
 - For example: AODA/psychological evaluators or some treatment providers.
- **Interrogatory Questions** – questions for the parent to answer prior to trial.

Discovery

- All records relating to the child that are “relevant to the subject matter of a proceeding” shall be open to inspection - § 48.293(4)
- Code of Civil Procedures, including discovery applies to CHIPS and TPR Cases - § 48.293(4)

Involuntary TPR – Fact-Finding Hearing

- Trial to the judge, unless a jury trial is demanded by the end of the Hearing on the Petition (Plea Hearing).
- Court or jury only determines whether “grounds” exist to TPR at Fact-Finding Hearing.
- Petitioner has burden to prove TPR grounds of petition by clear and convincing evidence.
 - WICWA cases also include a burden to prove the serious damage finding beyond a reasonable doubt - that placement of child with parent or Indian custodian is likely to result in serious emotional or physical damage.

Involuntary TPR – Fact-Finding Hearing Codes

- **CT** - Court Trial
- **FFH** - Fact Finding Hearing
- **PTC** - Pre-Trial Conference
- **SHE** - Status Hearing

Jury Codes:

- **JS** - Jury Selection
- **JSH** - Jury Status Hearing
- **JT** - Jury Trial

Involuntary TPR – Jury Trial Consideration

- If jury trial, it is a 12 person jury unless lesser number is agreed upon by the parties.
 - Voir Dire – jury selection process
 - 5/6th (10 of 12) verdict is required; not unanimous
 - Cannot include evidence about best interests or adoption!
 - It could result in mistrial or an appeal.
- Refer to GAL as representing “interests” of the child.
- If grounds are found, the parent shall be found unfit. The case will then proceed to Disposition.

TPR Dispositional Hearing

Court Report for TPR

- This report should only be filed in the TP case with a TP case number.
 - It should not contain the CHIPS case number or be filed in the CHIPS case.
- It must be filed before the TPR Dispositional Hearing.

CR

Court report

COURT REPORT FOR TERMINATION OF PARENTAL RIGHTS			
Date: _____			
The Honorable Judge _____			
Court Number: _____	Branch Number: _____	County: _____	
Case Type: CHIPS	Case Number: _____		
Hearing Date: _____	Hearing Time: _____		
IDENTIFYING INFORMATION			
Name (Last, First, MI) _____		Birthdate (mm/dd/yyyy) _____	Age _____
Address (Street, City, State, Zip Code) _____		Social Security Number _____	
Native American Status <input type="checkbox"/> Yes <input type="checkbox"/> No	Native American Tribal Name _____	Verification of Status Provided By _____	
Caretaker			
Name (Last, First, MI) _____		Telephone Number _____	
Address (Street, City, State, Zip Code) _____		Home: _____	Work: _____
Parent 1			
Name (Last, First, MI) _____	Role: <input type="checkbox"/> Biological <input type="checkbox"/> Step <input type="checkbox"/> Other	Birthdate (mm/dd/yyyy) _____	Social Security Number _____
Address (Street, City, State, Zip Code) _____		Telephone Number _____	Home: _____ Work: _____
Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced		Name - Parent 1 Spouse _____	
Parent 2			
Name (Last, First, MI) _____	Status: <input type="checkbox"/> Adjudicated <input type="checkbox"/> Presumptive <input type="checkbox"/> Alleged	Birthdate (mm/dd/yyyy) _____	Social Security Number _____
Address (Street, City, State, Zip Code) _____		Telephone Number _____	Home: _____ Work: _____
Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Widowed <input type="checkbox"/> Divorced		Name - Parent 2 Spouse _____	
In the interest of _____ a child under the age of 18 years, on this child was found to be in need of protection or services pursuant to Wisconsin Statutes s. 48.13 (_____), _____ and the court order expires on _____.			

TPR Disposition

- If grounds are established, court “shall find the parent unfit” and the statute presumes court will proceed immediately to disposition - § 48.424(4)
 - There are no “degrees of unfitness” —Julie A.B.
- While it is presumed court will proceed immediately, the hearing may be delayed not more than 45 days after fact-finding (unless good cause to schedule beyond).

Activity / Hearing codes:

- **DH** - Disposition hearing
- **ADH** - Adjourned disposition hearing

TPR Dispositional Hearing

- Standard = Best interest of the child
- Any party may present relevant evidence
 - Including a previously defaulted parent, if they make themselves available
 - Expert testimony may be presented.
- Any party may make alternative dispositional recommendations.
- Foster parent/relative caregiver has right to make oral or written statement.

TPR Dispositional Factors

Must consider the following (others may be considered):

1. Likelihood of the child's adoption after TPR
2. Age and health of child – now and at the time of removal
3. Whether the child has substantial relationships with parent or family members and whether it would be harmful to the child to sever the relationships
4. Wishes of the child
5. Duration of the separation of the parent from the child
6. Whether the child will enter into a more stable and permanent family relationship as a result of TPR, taking into account:
 - The conditions of the child's current placement, the likelihood of future placements, and the results of prior placements.

TPR Orders

- TPR Orders are based on whether each parent had a voluntary or involuntary TPR.
 - It is possible to have both a voluntary and an involuntary TPR order.
- The orders are specific to each parent, not the child
- JC-1638 and IW-1638 – Order Concerning TPR (Voluntary)
- JC-1639 and IW-1639 – Order Concerning TPR (Involuntary)
- A deceased parent's right do not need to be terminated.
 - The child can inherit the social security death benefits.

Voluntary TPR Order JC-1638

POTPV	Prop Order concerning TPR - voluntary
OCTPV	Order concerning TPR - voluntary

TPR Orders

Involuntary TPR Order JC-1639

POTPI	Prop Order concerning TPR - involuntary
OCTPI	Order concerning TPR - involuntary

Voluntary TPR Order IW-1638

POTPV	Prop Order concerning TPR - voluntary
OTPV	Order concerning TPR - voluntary - ICWA

ICWA TPR Orders

Involuntary TPR Order IW-1639

POTPI	Prop Order concerning TPR - involuntary
OTPII	Order concerning TPR - involuntary - ICWA

Notice of Right to Seek Postdisposition Relief (Termination of Parental Rights) - JC-1644

- This form is provided to each parent present at the end of the TPR hearing.
- If a parent is not present, it should be mailed with the TPR Order.

NRSPR	Notice of right to seek postdisposition relief
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Disposition Codes

- If the TPR petition is granted, enter TPR.
- If the TPR petition is dismissed or denied, enter DSMIS.

TPR	Termination of Parental Rights
DSMIS	Dismissed

- If the TPR petition is dismissed early, Order Dismissing Petition JD-1748 should be issued.

ODP	Order Dismissing Petition
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Procedures after TPR Hearing for Juvenile Clerks

Family History Questionnaires

- It is the Juvenile Clerk's responsibility to send the Family History Questionnaire(s) to DCF - Adoption Records Search Program after the TPR is granted.
(address is on the top right corner of the form)
 - Adoption Records Search Program
Division of Safety and Permanence
PO Box 8916
Madison, WI 53708-8916
 - *Certified TPR orders are sent to public adoption agencies, not DCF.
- This applies to both public and private TPRs.

Certified TPR Orders

- When there is a public TPR (filed by Corporation Counsel, the DA's Office, or the county agency), a certified copy of the TPR order must be sent to the DCF Public Adoption Agency. § 48.43(4).
 - Certified TPR orders should be sent to the DCF Public Adoption Agency.
 - Addressses can be found in the TPR orders form summaries.
 - Milwaukee - TPR order is provided to the worker that stays on for the adoption case.
- The DCF Public Adoption Agency should also receive notice of any post-TPR change in placement, post-TPR permanency plan hearing, or Notice of TPR appeal when DCF is the guardian of the child.

Withdrawing Parents from TP Case

- Unless there is a local court rule, we recommend withdrawing parents 30 days post-TPR.
 - This will allow the TPR orders to be filed, for attorneys to submit any bills, and for the parent/parent's attorney to e-file any Notice of Intent to Pursue Postdisposition or Appellate Relief.
- A terminated parent should not receive notice of any post-TPR permanency hearings or post-TPR changes in placement.
- If an attorney needs to opt in to review the TPR case before filing the appeal, the attorney should be added as "other" and only be given access for a short time.
 - Post-TPR permanency plans and changes in placement should be restricted from "other" parties.

Post-TPR Procedures and Activities

Post-TPR Guardian and Caseworker

- If a public TPR is granted, the TPR order will transfer the case guardianship of the child to DCF.
- DCF contracted adoption agencies provide case management and adoption services, not the county agency
 - Ex: Lutheran Social Services (LSS) and Children's Wisconsin
 - Exception - Milwaukee County does not transfer the case.
 - The case remains with the same contracted agency – Children's Wisconsin or Wellpoint (formerly SaintA's)
- If adoption doesn't occur within 2 years of the TPR, the case is transferred back to the county agency.
- *Public adoption caseworkers should also be entered as Notice Recipients, similar to county agency caseworkers.

POST-TPR

Statewide (except Milwaukee)

- TPR order transfers case and guardianship of the child to DCF.
- DCF contracted adoption agencies provide case management and adoption services, not the county agency.
 - Lutheran Social Services (LSS) and Children's Wisconsin

Milwaukee / DMCPs

- Milwaukee County does not transfer the case.
- The case remains with the same contracted agency - WellPoint or Children's Wisconsin.

Post-TPR Change in Placement

- The Agency appointed as guardian, Corporation Counsel, or DA may file a Notice of Post-Termination of Parental Rights Change in Placement through JC-1664.
 - This includes the public adoption caseworker.
- Notice provided to court and case participants:
 - 10 business days prior to proposed change in placement
 - 48 hours after emergency change in placement
- Within 10 days, judge must decide whether to approve the change in placement or schedule a hearing.

NCIP	Notice of post-TPR change in placement
POCIP	Prop Order post-TPR change in placement
OCIP	Order post-TPR change in placement

Post-TPR Permanency Hearing

- While the TPR case is pending, permanency planning will continue in the underlying CHIPS case (not the TPR case).
- Once TPR is granted and adoption has not occurred, permanency planning occurs in TPR case.
 - Lutheran Social Services has a permanency panel
 - Children's Wisconsin has all permanency hearings in court
- Once parent's rights are terminated, they should no longer receive notice of hearings, permanency plan, changes in placement, etc.

RPH	Request for Permanency Hearing
PPHO	Prop Permanency Hearing Order
PHO	Permanency Hearing Order

PPHOI	Prop Permanency Hearing Order - ICWA
PHOI	Permanency Hearing Order - ICWA

Amended TPR Order

- If there is a typo in the child's name or birthday, public adoption will likely request an amended TPR order prior to the child being adopted.
- It's very important this information is correct on the TPR Order!

JUDICIAL CHECKLIST – POST-TPR PERMANENCY HEARING

A Permanency Hearing is a critical event where the court must assess the appropriateness of a child's permanency goal and progress towards that goal. This checklist is designed to highlight key questions that the court should ask at every Post-Termination of Parental Rights Permanency Hearing to elicit more detailed information.

AT EVERY PERMANENCY HEARING:

1. Address appearances, written information and youth consultation:

- ☐ Are all parties and participants present, including the child? If not, did they receive proper notice?
- ☐ Is the hearing timely?
- ☐ Have you consulted with the child? What is the child's opinion about the proposed plan?
- ☐ If child is 14 years or older, was the child consulted by the agency in preparation of the plan? Did the agency describe the programs and services for transition from out-of-home care to successful adulthood?
- ☐ If the child is an Indian child, have you consulted with the Indian child's tribe?
- ☐ If the child is not present, why not? When did the guardian ad litem (GAL) or adversary counsel consult with the child? What is the child's opinion about the proposed plan?
- ☐ Were any written statements submitted? If so, have they been distributed to all parties?
- ☐ Would the child's caregiver like to make a statement or submission in writing?
- ☐ Would the Indian child's tribe like to make a statement or submission in writing?
- ☐ Has everyone received a copy of the Permanency Plan and any additional reports?

2. Examine the child's current placement:

- ☐ Does the current placement remain necessary, safe, and appropriate?
- ☐ Does the current placement meet all the child's physical, emotional, and educational needs?
- ☐ Does the child have opportunity to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities?
- ☐ How does the child feel about his or her current placement?
- ☐ Is the child placed with a relative? If not, why?
- ☐ Has the agency searched for relatives and examined them as potential placements or adoptive resources? If not, why?
- ☐ If the child has siblings, are the child and siblings placed together? If not, why?
- ☐ If the siblings are not placed together, are they spending time together? How often and in what setting? How is the sibling interaction going and is it appropriate and sufficient?
- ☐ If this case is subject to the Wisconsin Indian Child Welfare Act, is the child placed in accordance with the placement preferences under Wis. Stat. § 48.028(7)?
 - ☐ If not, is there good cause to depart from the order of preference?
 - ☐ If not, what efforts have been made in the last six months to locate a placement that meets the preferences?

3. Review the child's post-TPR placement status and permanency goal(s):

- ☐ How long has the child resided outside the home?
- ☐ What is the proposed permanency goal and concurrent permanency goal (if any)?
- ☐ Why is this goal in the child's best interests? Is this goal appropriate?
- ☐ How will this goal provide stability and permanency?

4. Evaluate progress made to address service needs of the child:

- ☐ What services has the agency offered or provided? Are services available? Are there additional services that should be offered to the child?
- ☐ Have adequate efforts been made to involve appropriate service providers?
- ☐ Have the agency, service providers, identified permanent resource, and child complied with the permanency plan?
- ☐ If this case is subject to the Wisconsin Indian Child Welfare Act, has the agency engaged in active efforts under Wis. Stat. § 48.028(4)(g)? [The agency should also indicate which activities are not applicable due to the TPR.]

5. Review the child's progress toward permanency:

- ☐ Does the child have an identified permanent resource?

An Identified Permanent Resource Currently Exists:

- ☐ Is the child placed with the identified permanent resource? If not, what are the barriers?
- ☐ If this case is subject to the Wisconsin Indian Child Welfare Act, does the resource meet the placement preferences under Wis. Stat. § 48.028(7)?
- ☐ If the Indian child's resources does not meet the placement preferences under Wis. Stat. § 48.028(7), what efforts have been made in the last six months to locate a placement that meets the preferences?
- ☐ Is the resource appropriate and willing to serve as a permanent family to the child?
- ☐ What is the likelihood of adoption or guardianship finalization?
- ☐ Has the home study been completed and approved? If not, what are the delays?
- ☐ Has the adoption or guardianship finalization paperwork been completed (including subsidy agreements)? If not, what are the delays? Is a TPR appeal pending?
- ☐ Has the adoption or guardianship petition been filed? If not, what is the date it will be filed?

An Identified Permanent Resource DOES NOT Currently Exist:

- ☐ Is the agency making reasonable efforts to locate permanent resource? If not, why?
- ☐ What recruitment efforts have been made to locate a permanent resource? If no efforts have been made, why?
 - ☐ Has a relative search been completed? If not, why?
 - ☐ Was a Child Description for Adoption Recruitment completed? If not, why?
 - ☐ If a Child Presentation Meeting was completed, what was the response?
 - ☐ Is the child photolisted? If not, why?
 - ☐ Does the child have a video recruitment? If not, why?

Other Planned Permanent Living Arrangement (OPPLA) (age 16 or older only):

- ☐ Has the agency made intensive and ongoing efforts to place the child for adoption or guardianship, and have those efforts proven unsuccessful?
- ☐ Why is OPPLA the best permanency goal for the child?
- ☐ Have compelling reasons been documented as to why it would not be in the child's best interests to have one of the other permanency goals?
- ☐ Does the child have regular, ongoing opportunities to engage in age or developmentally appropriate activities and is the caregiver applying the reasonable and prudent parent standard?
- ☐ Does the goal include an appropriate, enduring relationship with an adult?

6. Schedule next hearing.

- ☐ Has a guardianship or adoption hearing scheduled and, if not, can it be?
- ☐ Should a review hearing be scheduled prior to the next Permanency Review/Hearing?

Right to Appeal TPR

- Parent must sign written acknowledgement of appeal rights - JC-1644

NRSPR

Notice of right to seek postdisposition relief

- If pursuing appeal, parent must sign and file the Notice of Intent to Pursue Postdisposition Relief (Form CA-100) within 30 days of the TPR order

NIPPR

Notice of intent to pursue post-conviction relief

- The 30 day appeal period is not a buffer for the parent to change his/her mind. The appeal must be based on legal error or new evidence.

TPR Appeal

- During a TPR appeal, the parent's rights are still terminated until the Court of Appeals reverses the order.
- Terminated parents do not receive Notice of Hearings in the TP Circuit Court case during the TPR appeal.
- §48.368 – The CHIPS Dispositional Order remains in effect until a TPR appeal is concluded.

TPR Records Retention

Termination of parental rights and adoption case files.

All documents deposited with the clerk of circuit court, register in probate or clerk of court for juvenile matters in every termination of parental rights and adoption proceeding: 150 years.

150 years

SCR 72.01 (42)

TPR Resources on www.wicciptraining.com

Module 2: Termination of Parental Rights -

Voluntary Hearing on the Petition	23:30
Involuntary Hearing on the Petition	32:00
Involuntary Fact-Finding Hearing	21:00
TPR Dispositional Hearing	24:00

E-Learning Activities

Project Materials -

Tailored Dispositional Orders Pilot Project +

TPR Timeliness Project -

[TPR Timeliness Project Report](#)
[TPR Flow Chart & Types of Default](#)
[TPR Hearing on the Petition Judicial Checklist](#)
[TPR Voluntary Consent Judicial Checklist](#)
[TPR Dispositional Hearing Judicial Checklist](#)
[TPR Readiness Checklist](#)
[Sample TPR Scheduling Orders](#)
[Sample TPR Order to Appear](#)
[Sample Summary Judgment Motions](#)

Resources

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