

TEMPORARY PHYSICAL CUSTODY HEARING

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Significance of TPC Hearing

- TPC Hearing one of the most significant and critical hearings in a CHIPS case.
- Removal of children from their home is highly traumatic; they should not be removed, nor continued to be held outside their home, unless their safety demands it (sec. 48.355(1)). Foster care = Stranger care
- Usually first time parents will be in front of the court
 - Emotional and traumatic event for parents
 - Sets tone for how case will progress
 - Engage and motivate the parties

Law and Procedure

Wis. Stat. § 48.21

Wis. Stat. § 48.299

• *Hearing for child in custody*

• *Procedures at hearing*



Preparing for a TPC Hearing

- Review TPC request (note, now have TPC Request Chapter 48 form, JC-1608 and new TPC Request Supplement, JC-1609) and, if filed, the Petition
- Meet with your client
- Meet with or talk to prosecutor and Social Worker-discuss possible in-home safety plans and possible relative placements
- Determine if any related criminal charges
- Identify main issues (i.e. mental health, AODA, D.V, Poverty, Trauma)
- View TPC Hearing learning activity on the Children’s Court Improvement Program E-Learning Project Website (www.ccipttraining.com)

Time is of the Essence

- Child taken into custody - CHIPS
 - 48 hours
- Excludes Saturdays, Sundays, & legal holidays (Wis. Stat. § 995.20)
- Not held within 48 hours
 - Child released from custody



Counsel or GAL for Child

- Guardian ad Litem for child under 12
- SPD for child 12 years and older



Persons Allowed to Attend

- Parties
- Counsel or Guardian ad Litem
 - Client/ward
- Child’s foster parent or other physical custodian
- Other persons with proper interest in case or work of the court (including media)
- Court appointed special advocate (CASA)
- Ask client if objects to anyone

Counsel for Parents

- Right to hire
- Right to petition for court-appointed counsel
- SPD in Kenosha, Racine and WICWA
- Court has discretion to appoint counsel under *Joni B.*, 202 Wis. 2d 1 (1996).



Probable Cause to Continue Holding the Child

- Court must find jurisdiction under sec. 48.13

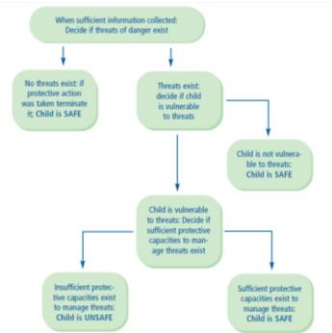
AND

- That child may injure self or be injured, is neglected, will runaway, or be taken away
 - Wisconsin Indian Child Welfare Act (WICWA) does not apply at TPC, but inquire.

Findings for Out-of-Home Placement

- Continued placement with parent is contrary to child’s welfare, i.e., unsafe
- Reasonable efforts to prevent removal and return home (except for not required cases)
- Agency with placement and care responsibility
- Reasonable efforts to place siblings together

Removal Decision: Safe or Unsafe?



Out-of-Home Placement

- Relative
- Non-relative
- Foster home
- Shelter care
- Hospital



Other Issues if Child Placed Out-of-Home

- Parents provide three names for placement.
- The court shall order the Agency to conduct a diligent relative search in order to locate and to all adult relatives within 30 days of removal. (Wis Stats. 48.21(5)(e)(2); Fostering Connections Act of 2008)
- Agency must provide for sibling interaction
- Parent's are entitled to reasonable visitation if not unsafe. See DCF Standards for guidelines as to recommended parental contact with children. Important part of "reasonable efforts."

Change in Placement Under TPC Order

- Caseworker or prosecutor:
 - Provide notice of change in placement 10 days prior or 48 hours after an emergency change
 - Hold hearing if objection is filed by participant
- Other parties:
 - Child, GAL/attorney, parents, guardian, legal custodian, Indian custodian, or court may request change in placement
 - Hearing required unless written waivers of objection
