

**303 INVOLUNTARY TERMINATION OF PARENTAL RIGHTS:
RELINQUISHMENT [WIS. STAT. § 48.415(1m)]**

NO INSTRUCTION IS RECOMMENDED.

COMMENT

Wis JI-Children 303 comment was approved by the Committee in 2001 and revised in 2004.

Wis. Stat. § 48.415 (1m) reads:

48.415. Grounds for involuntary termination of parental rights. At the fact-finding hearing the court or jury may make a finding that grounds exist for the termination of parental rights. Grounds for termination of parental rights shall be one of the following:

(1m) Relinquishment. Relinquishment, which shall be established by proving that a court of competent jurisdiction has found under § 48.13(2m) that the parent has relinquished custody of the child under § 48.195(1) when the child was 72 hours old or younger.

The CHIPS ground for relinquishment of custody is JI-Children 212.

Only the parent who has relinquished custody and was the subject of the CHIPS order may have his or her parental rights terminated on this ground.

The Committee concludes that a jury instruction for this ground is not necessary. The statute provides that a CHIPS finding of relinquishment, in combination with the fact that the child was 72 hours or younger at the time of relinquishment, is conclusive in establishing this ground for termination of the rights of the parent who relinquished custody. See *Lee v. State Board of Dental Examiners*, 29 Wis.2d 330, 139 N.W.2d 61 (1966); *In re Estate of Safran*, 102 Wis.2d 79, 306 N.W.2d 27 (1981).

We recognize there is a difference in language between the CHIPS finding (reasonably believe the child was 72 hours or younger) and the TPR finding (child was 72 hours or younger). This difference could create a triable issue.

Summary Judgments and Directed Verdicts. See Special Materials, SM-2, at the end of this publication for a discussion of the use of summary judgments and directed verdicts in CHIPS and TPR proceedings.