

**149 WITNESS EXERCISING PRIVILEGE AGAINST SELF-INCRIMINATION:
TERMINATION OF PARENTAL RIGHTS PROCEEDING**

(Respondent parent), exercised (his) (her) constitutional right not to answer (a question) (questions) on the ground that the answer(s) could potentially lead to (his) (her) self-incrimination. You may, but are not required to, infer that this refusal to answer suggests that the answer(s) would have been detrimental to the interest of (Respondent parent).

COMMENT

This instruction was approved in December 2023.

Wisconsin has long recognized that a person may invoke the Fifth Amendment privilege against self-incrimination as protection from the adverse use of such evidence in a subsequent criminal action. Grognet v. Fox Valley Trucking Serv., 45 Wis.2d 235, 239, 172 N.W.2d 812 (1969); S.C. Johnson & Son, Inc. v. Morris, 2010 WI App 6, 322 Wis.2d 766, 779 N.W.2d 19. However, in a civil case, as distinguished from a criminal case, an inference of guilt or against the interest of the witness may be drawn from the witness invoking the Fifth Amendment. Id. For comparison, see Wis JI-Criminal 317. See also Wis JI-Civil 425.

The rules of civil procedure apply to CHIPS and TPR cases unless Ch. 48 requires a different procedure. See In Interest of F.Q., 162 Wis. 2d 607, 470 N.W.2d 1 (Ct. App. 1991) and Door County DHFS v. Scott S., 230 Wis. 2d 460, 602 N.W.2d 167 (Ct. App. 1999).