

**212 CHIPS: RELINQUISHMENT OF CUSTODY OF NEWBORN CHILD [WIS. STAT. § 48.13(2m)]**

The petition in this case alleges that the custody of (child) was relinquished by (his) (her) parent(s). Your role as jurors will be to answer the following questions in the special verdict:

1. Did (parent) relinquish custody of (child) to a (law enforcement officer) (emergency medical technician) (hospital staff member) on (date) without expressing an intent to return for the child?

**If the answer to question 1 is "yes," answer question 2:**

2. At the time (he) (she) took custody of (child) on (date), did the (law enforcement officer) (emergency medical technician) (hospital staff member) reasonably believe that (child) was 72 hours old or younger?

The burden of proof is on (petitioner) to convince you by evidence that is clear, satisfactory, and convincing, to a reasonable certainty, that the questions should be answered "yes."

The term "relinquish custody" means to give the child to a (law enforcement officer) (emergency medical technician) (hospital staff member) or leave the child with such a person. [A parent may relinquish custody directly or with the assistance of (another) (other) person(s).]

In answering question 1, you should consider whether (parent) made or gave any verbal or written statement or any other form of expression indicating an intent to return for (child).

In answering question 2, you should consider the age and appearance of (child) at the time the (law enforcement officer, emergency medical technician, or hospital staff member) took (child) into custody. You should also consider any statement made to the (law enforcement officer, emergency medical technician, or hospital staff member) by the parent (or person assisting the parent) about the age of the child.

### SPECIAL VERDICT

1. Did (parent) relinquish custody of (child) to a (law enforcement officer) (emergency medical technician) (hospital staff member) on (date) without expressing an intent to return for the child?

Answer: \_\_\_\_\_  
Yes or No

**If the answer to question 1 is "yes," answer question 2:**

2. At the time (he) (she) took custody of (child) on (date), did the (law enforcement officer) (emergency medical technician) (hospital staff member) reasonably believe that (child) was 72 hours old or younger?

Answer: \_\_\_\_\_  
Yes or No

### COMMENT

Wis JI-Children 212 and comment were approved by the Committee in 2001 and revised in 2004. An editorial change was made to the comment in 2005. The verdict was updated in 2009.

Wis. Stat. § 48.13(2m) reads:

**48.13. Jurisdiction over children alleged to be in need of protection or services.**  
The court has exclusive original jurisdiction over a child alleged to be in need of protection or services which can be ordered by the court, and:

(2m) Whose parent has relinquished custody of the child under s. 48.195(1).

The Committee sees a number of potential problems with this new legislation, especially with § 48.195.

The bracketed language in the third paragraph can be used in cases where the parent relinquished the child with assistance from another person or other persons.

A CHIPS finding that a newborn's custody was relinquished by his or her parent provides the basis for a TPR under Wis. Stat. § 48.415(1m). See Wis JI-Children 303.