

236 CHIPS: PLACED FOR ADOPTION IN VIOLATION OF LAW [WIS. STAT. § 48.13(5)]

The petition in this case alleges that (child) has been placed for adoption in violation of law. Your role as jurors will be to answer the following question in the special verdict:

1. Has (child) been placed for adoption in violation of law?

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

(Petitioner) alleges that (child) was placed for adoption with (_____) and that this placement violated law because _____.

Wisconsin (Federal) law provides (insert appropriate requirement or restriction on a lawful adoption cited in the petition, see, e.g., Wis. Stat. §§ 48.833 and 48.81 - 48.92.)

A placement for adoption means an arrangement, agreement, or understanding in which a child is placed with another person, an agency, or a facility for the purpose of adoption.

SPECIAL VERDICT

1. Has (child) been placed for adoption in violation of law?

Answer: _____
Yes or No

COMMENT

Wis JI-Children 236 and comment were approved by the Committee in 1999 and revised in 2004. The change in 2004 conformed the burden of proof language to Wis JI-Civil 205.

Wis. Stat. § 48.13(5) 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:

- (5) Who has been placed for care or adoption in violation of law.

The Committee believes this CHIPS ground applies when state or federal laws controlling the adoption process are not followed.

Section 48.63 provides that adoptive placements may be made only as provided under Wis. Stat. §§ 48.833, 48.835, 48.837, and 48.839.

A parent with custody of a child may place the child for adoption in the home of a relative without a court order. Wis. Stat. § 48.835.

An unauthorized placement for adoption is a Class H felony. See Wis. Stat. § 948.24; see also Wis. Stat. § 48.76.