

### 300 INVOLUNTARY TERMINATION OF PARENTAL RIGHTS: PRELIMINARY INSTRUCTION (GENERAL)

This is a fact-finding proceeding on a petition to terminate parental rights. It is conducted pursuant to the Children's Code of this state. It is a civil, not a criminal, proceeding.

This hearing is a part of the process that was started by the filing of a petition by \_\_\_\_\_. The petition asks that the parental rights of (parent) to (child), a \_\_\_\_-year old (boy) (girl), be terminated. The petition alleges that the (child) (insert grounds under Wis. Stat. § 48.415).

I want to emphasize to you that this hearing is only one part of a process that may result in the termination of parental rights. You will not be asked to decide if \_\_\_\_\_'s parental rights should be terminated. Your responsibility is to determine whether the grounds for termination alleged in the petition have been proved. In doing so, you should not consider what the final result of this proceeding might be. If you determine that grounds for termination of (parent)'s parental rights have been proved, it is my responsibility to determine whether (her) (his) (their) parental rights should be terminated.<sup>1</sup>

The petitioner, \_\_\_\_\_, is represented in this proceeding by Attorney \_\_\_\_\_.

The mother of (child) is (\_\_\_\_\_). She is represented by Attorney \_\_\_\_\_. [The father of (child) is (\_\_\_\_\_). He is represented by Attorney \_\_\_\_\_.] [Use the following if one parent is not in the courtroom:

(Parent), the (mother) (father) of (child), is not in the courtroom because (her) (his) parental rights are not a part of this proceeding.<sup>2]</sup>

The interests of (child) will be represented by Attorney \_\_\_\_\_, who is the child's guardian ad litem.<sup>3</sup> [(Child) is not in the courtroom because the laws governing this proceeding do not require that (he) (she) attend.]

At the end of this hearing, you will be given a special verdict to answer. I will give you further instructions on the law that applies to the verdict questions.

I want to remind you that (child) and (his) (her) family have a statutory right to keep their identities confidential. This is why these proceedings are closed to the public. You must never disclose the identity of the child or family members to anyone.

#### COMMENT

Wis JI-Children 300 and comment were originally approved by the Committee in 1996. Editorial changes were made in 2004. Editorial corrections were made to paragraphs 2, 3, and 5 in 2005. Footnote 2 was added in 2018. Footnote 3 was added in 2009. The comment was updated in 2008, 2009, and 2018.

#### NOTES

1. With respect to the extent to which a jury should be advised about its role in a case involving the termination of parental rights, see the related discussion and case citations in the Comment and Note 1 to Wis JI-Children 200.

2. The unpublished decision in *In re. G.L.S.*, 2018AP177 (August 23, 2018) addressed a termination of parental rights case in which grounds were established as to one parent, after a default finding as to that parent, midway through the trial on grounds. The court of appeals approved the following instruction, which was provided to the jury on the second day of trial:

There has been a development since we last met. The case involving [parent], who is the father, has now been resolved, and it will not be under consideration by you, so that part of the case is no longer before you. . . . [Father's] attorney, you will notice, no longer appears. There may be testimony that involves [Father] that's presented to you, but only as it affects the other parent . . . .

3. In jury trials under Chapter 48, the guardian ad litem (GAL) or the court may tell the jury that the GAL represents the interests of the person or unborn child for whom the GAL was appointed. Wis. Stat. § 48.235(6).