

325 INVOLUNTARY TERMINATION OF PARENTAL RIGHTS: CONTINUING NEED OF PROTECTION OR SERVICES: THREE OR MORE CHIPS ORDERS [WIS. STAT. § 48.415 (2)(am)]

The petition in this case alleges that (child) is in continuing need of protection or services which is a ground for termination of parental rights. Your role as jurors will be to answer the following questions in the special verdict.

1. Has (child) on three or more occasions been adjudged to be in need of protection or services and placed outside (his) (her) home pursuant to court orders containing the termination of parental rights notice required by law?
2. Were the conditions that led to (child)'s placement in each of these occasions outside (his) (her) home caused by (parent)?

Before (child) may be found to be in continuing need of protection or services, (petitioner) must prove the following elements by evidence that is clear, satisfactory, and convincing, to a reasonable certainty.

First, that (child) on three or more occasions was adjudged in need of protection or services¹ and placed outside (his) (her) home pursuant to court orders containing the termination of parental rights notice required by law. [**Add the following language if there is no dispute as to this element:** Because there is no dispute in the evidence to this question, I have answered this question. My answer has no bearing whatsoever on what your answer should be to the other questions in the special verdict form.]

Second, that the conditions that led to (child)'s placement outside (his) (her) home under each of these orders were caused by (parent).² This question asks whether there was a causal connection between the parent's acts or the parent's failure to act and the conditions

that led to each of the orders placing (child) outside (his) (her) home. The question does not require you to find that the parent was "the cause" but rather "a cause." The reason for this is that there may be more than one cause producing the conditions. Before you answer this question "yes," you must find that the parent's acts or failure to act was a substantial factor in producing the conditions.

Before you may answer a question in the special verdict "yes," you must be convinced by evidence that is clear, satisfactory, and convincing, to a reasonable certainty, that the question should be answered "yes." If you are not so convinced, you must answer the question "no."

SPECIAL VERDICT

1. Has (child) on three or more occasions been adjudged to be in need of protection or services and placed outside (his) (her) home pursuant to court orders containing the termination of parental rights notice required by law?

Answer: (Answered by the Court)
Yes or No

2. Were the conditions that led to (child)'s placement in each of these occasions outside (his) (her) home caused by (parent)?

Answer: _____
Yes or No

COMMENT

Wis JI-Children 325 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. The comment was revised in 2007 and 2011.

This instruction covers the elements of a TPR based on Wis. Stat. § 48.415 (2)(am)1. 1997 Wisconsin Act 294.

Wis. Stat. § 48.415(2) 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:

(2) Continuing need of protection or services. Continuing need of protection or services, which shall be established by proving any of the following:

(am)1. That on 3 or more occasions the child has been adjudicated to be in need of protection or services under s. 48.13 (3), (3m), (10) or (10m) and, in connection with each of those adjudications, has been placed outside his or her home pursuant to a court order under s. 48.345 containing the notice required by s. 48.356 (2).

2. That the conditions that led to the child's placement outside his or her home under each order specified in subd. 1. were caused by the parent.

If you have three or more orders with the proper warnings, they do not have to be consecutive.

Indian Child Welfare Act. For a termination case involving an Indian child, see Wis JI-Children 420-424.

NOTES

1. The CHIPS orders must be based on Wis. Stat. § 48.13(3), (3m), (10), or (10m).
2. The parent's conduct must have caused each of the orders.