

SAFE HAVEN LAW

August 21, 2025
WJCCA Conference

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§ 48.195 –
Taking a Newborn
Child into Custody

Also known as:
Infant Relinquishment
“Safe Haven” Law

BASICS

WHY?

- Allow a safe way for parents to relinquish their infant without criminal prosecution
- Prevent death or injury to the baby (e.g., baby left in unsafe place or intentionally killed)



WISCONSIN STATE LEGISLATURE

WHO?

A “parent” may relinquish custody of their newborn child

- Statutes do not specify which parent or require agreement by both



WHERE?

- Law enforcement officer
- Emergency medical services (EMS) practitioner
- Hospital staff member
- Newborn Infant Safety Device (Safe Haven or Baby Box)
 - Less than 10 currently located in Wisconsin
 - <https://project-safe-haven-babybox.vercel.app/>
- Parent can call “911” if unable to travel to places listed above

WHEN?



Child is 72 hours old or younger

- Law enforcement, emergency, or medical staff must “reasonably believe” child is 72 hours or younger

WHAT THEN?

- Person who took the child into custody must:
 1. Take any action necessary to protect the child’s health and safety,
 2. Deliver the child to an intake worker of the county social services department, and
 3. File a birth record for the child
 - Must also contact law enforcement if:
 - Relinquishing person is not the child’s parent,
 - Child is more than 72 hours old,
 - Child has been abused or neglected, or
 - Parent is being induced or coerced into relinquishing the child
- [s. DCF 39.09 (4), Wis. Adm. Code.]

ANONYMITY & CONFIDENTIALITY

RIGHT TO REMAIN ANONYMOUS

- Parent and anyone assisting the parent generally has right to remain anonymous
 - Does not apply if coerced or child subject to abuse or neglect
- Person taking custody of child must inform them of this right & offer them DCF's *Relinquishment Brochure and Questionnaire*



Infant Relinquishment and Questionnaire

You were not prepared to have a baby.

Unsure what to do?

Leaving your newborn in a safe place is an option.

Information hotlines:

Division of Safety and Permanence
Bureau of Safety and Well-Being

IDENTIFYING INFORMATION

- If the parent voluntarily provides identifying information, the person taking custody must make a reasonable effort to obtain:
 1. Social and health history,
 2. Ethnicity and race of the child, including any tribal affiliation, and
 3. Contact information and any other identifying information of each parent and any person assisting a parent

[DCF 39.08 (5) (a) and 39.09 (1), Wis. Adm. Code]

CONFIDENTIALITY

- Person taking custody of child must keep information related to relinquishment confidential EXCEPT may disclose to:
 - Birth parent of the child, if waived right to remain anonymous
 - Adoptive parent of the child, if child is later adopted
 - County agency providing services to the child
 - Intake or ongoing/dispositional caseworker
 - Physician for purposes of diagnosis and treatment of the child
 - Child's foster parent or other physical custodian
 - Court, DA/corporation counsel, and GAL in the CHIPS or TPR case
 - Tribal court and tribal attorney

WHAT IF A PARENT CHANGES THEIR MIND?

- If a parent seeks to reclaim custody of the child prior to TPR being granted, the child welfare agency will:
 - Obtain genetic tests to confirm parentage,
 - Conduct a thorough investigation to, in part, identify the factors contributing to the relinquishment and assess any threat of danger or risk of maltreatment if the child is returned to the parent, and
 - Determine the need for continued protection or services
- Ultimately, up to the judge to determine how to proceed with any pending CHIPS or TPR case
 - Parent would become a party to the case and have same rights

COURT PROCEEDINGS

CHIPS GROUND

- Infant Relinquishment - §48.13(2m)
 - "The child's parent has relinquished custody of the child under s. 48.195 (1m)."



CHIPS - REASONABLE EFFORTS

- Reasonable Efforts Not Required Finding - §48.355(2d)
 - Agency would not be required to make reasonable efforts to prevent removal/return the child home
 - Permanency Hearing must be held within 30 days of finding
 - Can be made at Temporary Physical Custody (TPC) Hearing or Dispositional Hearing

CHIPS - NOTICE

- Notice of hearings not addressed for infant relinquishment CHIPS cases
 - §48.273 would not apply because no last known address
 - Most counties use publication – no circuit court form so corporation counsel/district attorney has created own form

TPR CASES

- Infant Relinquishment TPR Ground - §48.415(1m)
 - Summary Judgment or default typically used
- Notice to Parents by Publication - §48.42(4)(b)
 - JC-1635 - Notice and Order of Hearing (For Publication)
- Note: relinquishment is different than “abandonment”

PUBLICATION

- Local practice varies on information provided in publication
 - "Any unknown parent", "Parents of a child relinquished at...on...date", "Any man who may be the father of this child", "The unknown mother and all unknown alleged fathers"
 - Some notices contain information that the child was relinquished (date and location), while others only have the child's DOB, place of birth, and approximate dates of conception

WICWA

- If the court knows or has reason to know the case involves an Indian child, must treat as subject to WICWA until confirm otherwise
- If location or identify of the tribe is unknown, registered mail with return receipt requested must be sent to the Bureau of Indian Affairs
- Confirming status of "Indian child" can be difficult given lack of information in these cases

WRAP-UP

DISCUSSION

- Are there any issues that you have observed or experienced related to infant relinquishment cases?
- Any questions or comments?



LINKS

- DCF Safe Haven for Child Welfare Professionals webpage :
<https://dcf.wisconsin.gov/cwportal/safety/safehaven>
- Infant Relinquishment Information/Rights:
<https://dcf.wisconsin.gov/files/publications/pdf/4073a.pdf>
- Newborn Relinquishment Questionnaire:
<https://dcf.wisconsin.gov/files/forms/pdf/2316.pdf>
- Notice and Order of Hearing (For Publication) – JC-1635:
<https://www.wicourts.gov/formdisplay/JC-1635.pdf?formNumber=JC-1635&formType=Form&formatId=2&language=en>