TEMPORARY PHYSICAL CUSTODY HEARING PREPARATION GUIDE – CHAPTER 48

This guide is designed as a resource to assist caseworkers prepare for a Temporary Physical Custody Hearing in child in need of protection or services (CHIPS) cases, and includes questions that may be addressed by the court at the hearing. It is not intended to be filed with the court or provided to the parties.

WISCONSIN INDIAN CHILD WELFARE ACT INQUIRY

- ❒ Inquiry made to determine if the child is an Indian child
- ❒ Placement preferences were followed
- ❒ Placement is necessary to prevent imminent physical damage or harm to the child
- ❒ Notice of the hearing provided to the tribe (if known)

NOTICE AND RIGHTS PROVIDED TO PARTIES

	Mother	Father	Child (12+)	Guardian, Legal Custodian, or Indian Custodian
Notice of Rights	❒	❒	❒	❒
Hearing Time & Place	❒	❒	❒	❒

PREHEARING PREPARATION

- ❒ Temporary physical custody request (JC-1608) and supplement (JC-1609), if applicable:
  - ❒ Filed with court
  - ❒ Copies provided to parties and tribe
- ❒ Caseworker has requested parents provide names of at least 3 relatives or adults for contact/placement
- ❒ Paternity information sought, if non-marital child
- ❒ Caseworker has discussed the hearing with the family
- ❒ Hearing arrangements made:
  - ❒ Child's attendance, unless excused by the court
  - ❒ Phone or video appearance for any case participant
  - ❒ Interpreter for child or parents
  - ❒ Court informed of any security issues or other special circumstances
  - ❒ County practice followed for arranging legal representation

INFORMATION CONSIDERED FOR OUT-OF-HOME PLACEMENT

- ❒ Contrary to the welfare of the child to be placed in the home
- ❒ Reasonable efforts to prevent removal and return home (active efforts for an Indian child)
- ❒ Determination that the child is unsafe:
  - ❒ Presence of present or impending danger threat
  - ❒ Child is vulnerable to identified danger threat
  - ❒ Parent lacks sufficient protective capacities to keep child safe from danger threat
- ❒ Safety plan is not sufficient/feasible/sustainable to keep child safe in the home

ADDITIONAL INFORMATION TO BE DISCUSSED

- ❒ Information to support probable cause
- ❒ Efforts to locate missing or absent parties
- ❒ Why the child cannot return home today
- ❒ Actions or conditions needed for safety to be managed in the parental home
- ❒ Child well-being:
  - ❒ Relative placement
  - ❒ Placement with siblings
  - ❒ School/daycare continuity
  - ❒ Special needs of the child
  - ❒ Placement least restrictive based on child's needs
  - ❒ Pro-social activities
- ❒ Family interaction (parents, siblings, others)
- ❒ Special conditions requested by the agency
- ❒ All parties understand the next steps and the results of the hearing