

Consent to Adopt¹ Checklist – Non-Indian Child (Consent Hearing)

Hold a consent hearing *promptly* upon examining and approving the investigative report or foster family study OR at an interested party's request, *within seven days* of an investigative report or foster family study filing.² [MCL 710.44\(1\)](#); [MCR 3.804\(B\)\(1\)](#). "Except as otherwise provided, the court may allow the use of videoconferencing technology for proceedings under [subchapter 3.800, Adoption] in accordance with [MCR 2.407](#)." [MCR 3.811](#).

The court has 14 days from receipt of the investigative report to accept the consent (the 14-day period may be extended for good cause shown or when a hearing is held before a termination order). See [MCL 710.51\(1\)-\(2\)](#).

Procedures to follow during the consent hearing:

- Call case, identify case number and full name of child.
- Verbatim record is made of consent hearing.³ See [MCL 710.44\(1\)](#).
- Determine Indian child status and state on the record that the child is not an Indian child.
- Swear in witnesses, establish paternity and maternity, establish witness date of birth and child's date of birth and birthplace.

¹ *Consent* means "a document in which all parental rights over a specific child are voluntarily relinquished to the court for placement with a specific adoptive parent." [MCL 710.22\(/\)](#).

² For a detailed discussion on Freeing a Child for Adoption, see the Michigan Judicial Institute's [Adoption Proceedings Benchbook](#), Chapter 2.

³ Although statutory language requires a verbatim record if a parent or guardian is executing the consent, it is good practice to create a verbatim record for all consent hearings.

- Ensure all interested parties have been notified of the hearing. See [MCL 710.24a](#); [MCR 3.800\(B\)\(2\)](#).
- Ensure person consenting is:
 - a parent (if the parent is a minor, his/her consent is not valid unless a parent, guardian, or guardian ad litem of the minor parent has also executed the consent, [MCL 710.43\(4\)](#)); OR
 - Note:** Both parents' parental rights must be terminated in order to issue an adoption order UNLESS it is a stepparent adoption and the parent having legal custody of the child is married to the petitioner. See [MCL 710.43\(7\)](#).
 - the prospective adoptee 18 years of age or older; OR
 - the court with permanent custody of the child; OR
 - an authorized representative of DHHS or a child placing agency to whom the child has been permanently committed by court order; OR
 - the child's guardian, only if he/she has obtained authority to execute the consent from the appointing court; OR
 - the parent's guardian, only if he/she has obtained authority to execute the consent from the appointing court; OR
 - the prospective adoptee between 14-17 years of age consenting to his/her adoption alongside the parent's, guardian's, court's, the DHHS's, or the child placing agency's consent. See [MCL 710.43](#).
- For an *unrepresented minor parent* consenting to the adoption, ensure the adoption attorney or child placing agency provided the minor parent with an opportunity to meet with an attorney, unrelated to the adoption proceedings, to discuss the legal ramifications of his/her consent. See [MCL 710.55a\(2\)](#).
- If *prospective adoptee* is consenting, affirm the following:
 - Explain that by signing the consent, he/she consents to acquire permanently the adopting parents as legal parents as though he/she had been born to the adopting parents. [MCL 710.44\(7\)](#).
 - Explain that by signing the consent, he/she consents to the termination of right to be an heir at law of his/her former parent(s) whose rights have been terminated.

- Ensure a verified accounting statement was filed that itemizes all money or things of value received, promised, or paid in connection with the consent. [MCL 710.44\(5\)](#); [MCL 710.44\(8\)\(c\)](#).
- For direct placement consent, ensure the parent/guardian filed a verified statement that affirms the following:
 - Parent/guardian has received a list of support groups and information regarding the duties of adoption facilitators as described in [MCL 722.956\(1\)\(c\)](#).
 - Parent/guardian has received counseling related to the adoption of his/her child or waived the counseling.
 - Parent/guardian has not received or been promised any money or anything of value for the consent to adoption of the child, except for lawful payments that are itemized on the verified accounting statement filed with the court.
 - Validity/finality of the consent is not affected by any collateral or separate agreement between the parent/guardian and the adoptive parent.
 - Parent/guardian understands that it serves the child's welfare for the parent to keep the child placing agency, court, or DHHS informed of any health problems that the parent develops that could affect the child.
 - Parent/guardian understands that it serves the child's welfare for the parent/guardian to keep his/her address current with the child placing agency, court, or DHHS in order to permit a response to any inquiry concerning medical or social history from an adoptive parent of a minor adoptee or from an adoptee who is 18 years or older. [MCL 710.44\(5\)\(a\)-\(f\)](#).
- For a direct placement consent, fully explain to the parent/guardian his/her legal rights and that consenting to the child's adoption means he/she is voluntarily and permanently relinquishing his/her rights to the child, [MCL 710.44\(6\)](#), including:⁴
 - Right to have/seek care and custody of child. [MCL 710.44\(8\)\(c\)\(i\)](#); [MCL 722.2](#).
 - Right to have/seek parenting time with child. [MCL 710.44\(8\)\(c\)\(ii\)](#).

⁴ These rights are specified by statute in the context of an out-of-court consent; however, it is good practice to review these items on the record during a consent hearing.

- Right to inherit from child or have child inherit from parent. [MCL 710.44\(8\)\(c\)\(iii\)](#); [MCL 700.2103\(b\)](#).
- Right to services and earnings of child. [MCL 710.44\(8\)\(c\)\(iv\)](#); [MCL 722.2](#).
- Right to determine child's schooling, religious training, and parenting practices. [MCL 710.44\(8\)\(c\)\(v\)](#).
- Ask the parent/guardian to verbally affirm whether he/she is voluntarily and permanently relinquishing these rights.
- Inform parent that he/she remains obligated to support the child until the court modifies or terminates the obligation, enters an order of adoption, or the child is emancipated. [MCR 3.804\(C\)\(2\)](#).
- Ensure the consenting parent understands that parental rights may be reinstated without further hearing if the adoption of the child is not confirmed. [MCL 710.62](#).
- Advise parent that he/she can request a rehearing or appeal within 21 days after an order is entered terminating his/her parental rights. See [MCL 710.64](#); [MCR 7.104](#).
- Explain to parent his/her continuing parental responsibilities:
 - Duty to support continues unless modified or terminated by court, or if minor is emancipated by operation of law. [MCL 722.3](#); *In re Beck*, 488 Mich 6, 14-15 (2010).
 - Generally not relieved from support arrearages.⁵
- Determine whether to accept or deny the consent.
 - DENY consent and state reasons for denial on the record (or in writing), [MCL 710.63](#); OR
 - ACCEPT consent if consent is genuine, the person has authority to consent, and it is in the child's best interests. [MCL 710.51\(1\)\(a\)-\(b\)](#).
 - Have consenting person sign the consent. See [MCL 710.44\(1\)](#).
 - Sign the consent.
 - Collect nonidentifying and identifying information from consenting parent/guardian. See [MCL 710.27\(4\)](#).

⁵ See www.legislature.mi.gov/Publications/FriendofCourt.pdf; [Friend of the Court Model Handbook](#).

- ❑ Sign the order terminating parental rights,⁶ and approve formal placement of child with the petitioning adoptive parent.⁷ [MCL 710.51\(1\)](#).

Note: The court must not enter a termination order against a custodial parent married to the petitioner in a stepparent adoption. See [MCL 710.51\(5\)](#).

- ❑ Child becomes court ward pending adoption order UNLESS it is a stepparent adoption or child is being placed for adoption in Michigan by an agency of another state or country that prohibits providing consent at time of placement. See [MCL 710.51\(3\)-\(4\)](#).

For court forms related to adoption proceedings, see the One Court of Justice [website](#).

⁶ Once the termination order is entered, the consent to adopt cannot be withdrawn. [MCL 710.51\(3\)](#).

⁷ To formally place the child in a direct placement or relative adoption after one parent or guardian has consented to the adoption, the other parent's or guardian's rights over the child must be terminated.

