

Terminating Rights of Father Without Release or Consent Checklist (Preliminary Matters)

A child born out of wedlock may not be placed for adoption until the consent or release of the child's biological father is obtained or the court terminated the father's parental rights.¹ [MCL 710.31\(1\)](#).

A child's mother may file a petition to identify a putative father. Upon receipt of the petition, the court must hold a hearing if:

- the child was allegedly born out of wedlock;² AND
- the child's mother executed or proposes to execute a release or consent relinquishing her parental rights OR the mother and her spouse are petitioning the court for a stepparent adoption; AND
- the biological father's consent or release cannot be obtained. [MCL 710.36\(1\)](#).

Note: As evidence of the identity and location of the child's father, the child's mother may file an affidavit or verified written declaration in lieu of providing live testimony at the hearing. See [MCL 710.36\(6\)](#).

To make sure all the preliminary steps have been followed leading up to the hearing, the court must:

- Ensure a notice of hearing:

¹ For a detailed discussion on Identifying the Father, see the Michigan Judicial Institute's [Adoption Proceedings Benchbook](#), Chapter 3.

² *Born out of wedlock* means "a child conceived and born to a woman who was not married from the conception to the date of birth of the child, or a child whom the court has determined to be a child born during a marriage but not the issue of that marriage." [MCL 710.22\(h\)](#).

was served on the putative father and any other potential father that informs him of the hearing and that his failure to appear will constitute a denial of his interest to custody of the child and such denial will result in the court terminating his parental rights to the child. [MCL 710.36\(4\)](#). Hold a hearing.

OR

was NOT served on the putative father but that the mother has filed proof of the efforts made to identify or locate the father in a statement verified under MCR 1.109(D)(3). [MCR 3.802\(B\)\(1\)](#). Take evidence regarding the mother's attempt to identify or locate the putative father.

If a reasonable attempt was made to identify or locate the putative father, proceed to terminate his parental rights. [MCR 3.802\(B\)\(2\)](#).

If NO reasonable attempt was made to identify or locate the putative father, adjourn the hearing and order the child's mother to:

make a further attempt to identify or locate the putative father and properly serve him; OR

serve the putative father in an alternative manner. [MCL 710.36\(7\)](#); [MCR 3.802\(B\)\(2\)](#).

Hold a hearing to determine whether the child was born out of wedlock, the father's identity, and determine or terminate the father's parental rights. [MCL 710.36\(1\)](#).

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