

Withholding Consent to Adoption—Section 45 Hearing Checklist (Hearing)

Procedures to follow during the hearing:¹

- Call case, identify case number and child's full name.
- Determine whether venue is proper. See [MCL 710.45\(4\)](#).
- Determine Indian child status and state on the record that the child is or is not an Indian child.²
- State on the record that all interested parties have been notified of the hearing. See [MCL 710.45\(5\)](#).
- Determine within 91 days of the motion if the petitioner has established by clear and convincing evidence that the decision to withhold consent was arbitrary and capricious (91-day period may be extended for good cause shown). See [MCL 710.45\(6\)](#); [MCL 710.45\(7\)](#).

If YES,

- issue a written decision (required).
- may enter any order deemed appropriate, including order to terminate the child placing agency's, the DHHS's, or the court's authority over the child and to reimburse the adoptive parent for any applicable costs. [MCL 710.45\(8\)](#).

If NO,

- deny the motion and state reasons for denial on the record (or in writing), and
- dismiss the petition to adopt. [MCL 710.45\(7\)](#); [MCL 710.63](#).

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

¹ For a detailed discussion on Withholding Consent to Adoption, see the Michigan Judicial Institute's [Adoption Proceedings Benchbook](#), Chapter 7.

² *Indian child* means "any unmarried person who is under age 18 and is either (a) a member of an Indian tribe, or (b) is eligible for membership in an Indian tribe as determined by that Indian tribe." [MCR 3.002\(12\)](#).

