

Adoption Release¹ Checklist – Non-Indian Child (Preliminary Matters)

If the court has an active abuse and neglect case and the parent is releasing his/her parental rights, the court MUST execute the release and termination order under the Adoption Code.²

A release requires **BOTH** parents' parental rights over a child to be terminated. See [MCL 710.22\(u\)](#); [MCL 710.28\(1\)\(a\)](#); [MCL 710.29\(8\)](#). Once one parent's/guardian's rights over the child are released, the other parent's parental rights **MUST** be released or involuntarily terminated in order to commit the child to the DHHS or a child placing agency. See [MCL 710.29\(8\)](#); [MCL 710.31](#).

Note that a release may *only* be given to the DHHS or a child placing agency.³ See [MCL 710.28\(5\)](#). A parent/guardian may not release his/her parental rights to the court or third party. Refer to the Michigan Judicial Institute's *Consent to Adopt Checklist* if a parent wants to consent to a third party adoption.

To make sure all the preliminary steps have been followed leading up to a release hearing, the court should make the following inquiries and determination:

- If child's parent/guardian requested the release, a court-ordered investigation was completed. See [MCL 710.29\(7\)](#). But see, *In re Blankenship*, 165 Mich App 706, 714 (1988) (court's questioning of parties during release procedure was sufficient to satisfy the investigation requirement of [MCL 710.29\(7\)](#)⁴).
- Ensure court file contains any requests made to Tribes seeking information or verification on a child's or parent's Tribal status. See Bureau of Indian Affairs, *Guidelines for Implementing the Indian Child Welfare Act*, 81 Federal Register 96476, B.7 (2016).

¹ Release is "a document in which all parental rights over a specific child are voluntarily relinquished to the department or to a child placing agency." [MCL 710.22\(u\)](#).

² See *In re Hernandez/Vera*, unpublished opinion per curiam of the Court of Appeals, issued April 16, 2013 (Docket No. 312136) (setting out procedures the trial court should have followed when a respondent-parent executes a release and termination of parental rights under the Adoption Code after the initiation of a child protective proceeding under the Juvenile Code); *In re Buckingham*, 141 Mich App 828, 837 (1985) (court's failure to properly execute a release and termination of parental rights under Adoption Code will invalidate a termination order). Unpublished opinions are not precedentially binding under the rule of stare decisis. [MCR 7.215\(C\)\(1\)](#).

³ For a detailed discussion on Freeing a Child for Adoption, see the Michigan Judicial Institute's *Adoption Proceedings Benchbook*, Chapter 2.

⁴ Formerly [MCL 710.29\(6\)](#).

- Child is not an Indian child as defined in [MCR 3.002\(12\)](#).⁵ If child is or the court has reason to believe the child is an Indian child, refer to the Michigan Judicial Institute's *Adoption Release Checklist (Indian Child)*.
 - Ask each participant if the participant knows or has reason to know whether the child is an Indian child and record each participant's response. [25 CFR 23.107\(a\)](#).
- Ensure the DHHS informed the parent/guardian what child placing agencies serve the county, and if a request was made, the DHHS referred the parent/guardian to one of the agencies. [MCL 710.28\(6\)](#).

Hold a release hearing.

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

⁵ *Indian child* is "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\(12\)](#).