

# THE CIRCUIT COURT

## FOR THE THIRD JUDICIAL CIRCUIT OF MICHIGAN

### FAMILY DIVISION – JUVENILE

#### **Putative Father - Petition for Hearing to Identify Father and Determine or Terminate His Rights (MCL 710.31, 710.34, 710.36 and 710.37)**

#### INSTRUCTIONS

The putative father's parental rights may be addressed both before and after the child is born. Below is the process for **AFTER THE CHILD IS BORN**:

- In conjunction with, or after the filing of the Petition for Adoption (PCA 301), or the Petition for Direct Placement Adoption (PCA 301a), the agency or attorney and the birth mother sign and file a *Petition for Hearing to Identify Father* (PCA 310), requesting a hearing to terminate the parental rights of the putative father. The biological mother will consent to the termination of her parental rights at the scheduled hearing. Please note that the consent from the biological mother is not needed for step-parent adoptions. This is applicable with Direct Placement, Step-Parent, Relative or Guardian Adoptions. **OR**
- In conjunction with an Agency's request to the Court to schedule a hearing for the biological mother to release her parental rights of the child to the agency (*Release of Child by Parent - PCA 305*). Please see the *Release Instructions for more information*.
- At the hearing, proof of service and the paternity clearance shall be evidence to terminate the parental rights of the putative father. MCL 710.36 and 37. If served with the *Notice of Intent*, the father needs no further notice of the hearing.
- If the putative father's whereabouts is unknown or he cannot be identified, the birth mother and her agency or attorney must sign and submit a *Declaration of Inability to Identify/Locate Father* (PCA 315).
- If the putative father is available and is willing to voluntarily release or consent to the termination of his parental rights, the most secure method of termination of his parental rights is by taking a release or consent. A release is signed if a child is being released to an agency or the Department of Human Services (DHS). A consent is signed if a child is being adopted by specific petitioners, and the Petition for Adoption has already been filed with the court.
- If there is also a legal father and he is not the biological father of the child. "Born out of wedlock" means a child conceived or 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 the marriage." MCL 710.22 (g). The court must hold a hearing to make the above determination. This is done during the Petition for Hearing to Identify Father hearing.
- The Court will schedule a hearing once all below required documents have been filed and accepted.
- Notice of the hearing is required to all interested parties.
  - Notice of this hearing shall be served upon a putative father who has filed a *Notice of Intent To Claim Paternity* or a putative father who was not served with a *Notice of Intent to Release or Consent*. (MCL 710.36).
  - The putative father may waive notice of the hearing by signing the Custody Statement portion of the PCA 316. The *Notice of Hearing to Identify Father and Determine or Terminate his Rights* is PCA 311.

- If the putative father must be served with a notice of hearing it must be done according MCR 3.802(A)(2).
- Personal service is required 7 days prior to the hearing (MCR 5.108).
- Service by mail must be made 14 days before the hearing; however, an additional 14 days are needed in order for the certified mail receipt to be returned from the post office to the court.

## **REQUIRED DOCUMENTS:**

- ❑ Petition for Hearing to Identify Father and Determine or Terminate His Rights (PCA 310) – (1). Must be signed and dated by biological mother and agency representative.
- ❑ Declaration of Inability to Locate Father (PCA 315), if applicable – (1). Must be signed by biological mother and agency representative.
- ❑ Custody Statement of Putative Father (PCA 316), if applicable – (1)
- ❑ Notice of Intent to Claim Paternity from the Department of Community Health Clearance
- ❑ Notice of Hearing to Identify Father and Determine or Terminate His Rights (PCA 311), if applicable – (court will create)
  
- ❑ Consent to Adoption By Parent – (PCA 308) - (1)
  - OR
- ❑ Release of Child by Parent (PCA 305) – (1) – AGENCY PLACEMENTS ONLY
  
- ❑ Statement to Accompany Consent in Direct Placement (PCA 339) - (1)
  - OR
- ❑ Statement to Accompany Release (PCA 338) –(1) – AGENCY PLACEMENTS ONLY
  
- ❑ Advice of Rights After Termination of Parental Rights (Adoption Code) (PCA 323) – (2)
- ❑ Parent's or Guardian's Verified Accounting for Adoption Release or Direct Placement Consent (PCA 348) - (1)
- ❑ Order Terminating Parental Rights After Release or Consent (PCA 318) - (COURT WILL CREATE)
- ❑ Order Terminating Rights of Father Without Release or Consent (PCA 312) – (COURT WILL CREATE)
  
- ❑ Order Placing Child After Consent - (PCA 320) - (COURT WILL CREATE)
  - OR
- ❑ Order Placing Child (Step Parent) (PCA 319) – (COURT WILL CREATE)
  - OR
- ❑ Order Committing to Agency or Department of Human Services (PCA 322) – (1) – AGENCY PLACEMENTS ONLY
  
- ❑ Copy of biological mother's photo identification

**\*NOTE:** If the biological parent is a minor, the minor parent's parent or guardian's signature is needed on all documents signed by the minor parent, unless the minor parent has been legally emancipated.