

# Temporary Placement<sup>1</sup> Checklist (Preliminary Matters)

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Before an adoption is finalized, an adoptee may be temporarily placed with a prospective adoptive parent.<sup>2</sup>

**Note:** Temporary placements do not become formal placements until the biological parents consent or release their parental rights or the court orders termination of their parental rights and approves the placement. [MCL 710.23a\(1\)](#); [MCL 710.23b\(1\)](#).

Because a child's temporary placement with a prospective adoptive parent occurs before court approval, most of the preliminary matters required for the child's placement occur without court involvement. Typically, a court does not get involved with a child's temporary placement until an adoption attorney or child placing agency files a transfer report within two days after a child is temporarily placed. See [MCL 710.23d](#).

To make sure all the preliminary steps have been followed, the court should inquire whether:

- ☐ The person authorizing the temporary placement has authority to do so. See [MCL 710.23d\(1\)](#), which permits a biological parent or guardian with legal and physical custody, and a child placing agency with written authorization from the parent or guardian.
- ☐ The compilation of identifying and nonidentifying information has been made. See [MCL 710.27\(1\)](#); [MCL 710.27\(3\)](#).

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<sup>1</sup> *Temporary placement* means "a placement that occurs before court approval under [[MCL 710.51](#)] and that meets the requirements of [[MCL 710.23d](#)]." [MCL 710.22\(x\)](#).

<sup>2</sup> For a detailed discussion on temporary placements, see the Michigan Judicial Institute's [Adoption Proceedings Benchbook](#), Chapter 5.

- ☐ The prospective adoptive parent completed the preplacement assessment within a year of the transfer date. See [MCL 710.23d\(1\)\(a\)](#).
- ☐ The child placing agency found the prospective adoptive parent to be a suitable parent for adoption. See [MCL 710.23d\(1\)\(a\)](#); [MCL 710.23f\(8\)](#).
- ☐ The child placing agency inquired whether the child was an Indian child as defined in [MCR 3.002\(12\)](#).<sup>3</sup> A parent's request for anonymity does not alter a duty to comply with the ICWA (including a duty to verify a child's Indian status).
  - ☐ Ensure agency documented and placed in court file all 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).
  - ☐ If the child is an Indian child,
    - ☐ ensure that the child's Indian Tribe<sup>4</sup> has been notified of the proceedings.<sup>5</sup> See [MCR 3.807\(B\)\(2\)](#).
    - ☐ ensure that the placement preferences as set out under [MCL 712B.23\(2\)](#)<sup>6</sup> have been followed or find on the record or in writing that good cause to the contrary has been shown.<sup>7</sup> [25 USC 1915\(a\)-\(b\)](#); [MCL 712B.23](#); [25 CFR 23.129\(c\)](#); [25 CFR 23.132\(c\)](#).

**Note:** "[25 USC 1915\(c\)](#) and [25 CFR 23.129\(b\)](#) require the court to give weight to a consenting parent's desire for anonymity when applying placement preferences.

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<sup>3</sup> *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\(12\)](#).

<sup>4</sup> "*Indian child's tribe* means: (1) [t]he Indian tribe in which an Indian child is a member or eligible for membership; or (2) [i]n the case of an Indian child who is a member of or eligible for membership in more than one Tribe, the Indian Tribe described in [[25 CFR 23.109](#)]." [25 CFR 23.2](#). See also [MCL 712B.3\(f\)](#) and [MCR 3.002\(13\)](#), which contain substantially similar language except that where an Indian child is a member of or eligible for membership in more than one tribe, it defines the *Indian child's tribe* to be the "Indian tribe with which the child has the *most* significant contacts[.]" [25 USC 1903\(5\)](#), which also contains substantially similar language except that where an Indian child is a member of or eligible for membership in more than one tribe, it defines the *Indian child's tribe* to be the "Indian tribe with which the Indian child has the *more* significant contacts[.]" (Emphasis added).

<sup>5</sup> Copies of the notice must also be sent to the appropriate Regional Director, which for Michigan is the Midwest Regional Director. [25 CFR 23.11\(a\)](#); [25 CFR 23.11\(b\)\(2\)](#).

- ☐ Transfer statements have been signed by the prospective adoptive parent and by the parent, legal guardian, or child placing agency. [MCL 710.23d\(1\)\(c\)](#), [MCL 710.23d\(1\)\(d\)](#).
- ☐ The transfer report was filed in the county where the biological parent or legal guardian resides, the prospective adoptive parent resides, or where the child is located. [MCL 710.23d\(2\)](#).

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

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<sup>6</sup> “Absent good cause to the contrary, the adoptive placement of an Indian child must be in the following order of preference: (a) A member of the child’s extended family[;] (b) A member of the Indian child’s tribe[;] (c) An Indian family.” [MCL 712B.23\(2\)](#). “The court must, where appropriate, also consider the placement preference of the Indian child or the Indian child’s parent.” [25 CFR 23.130\(c\)](#). “This language does not require a court to follow a child’s or parent’s preference, but rather requires that it be considered where appropriate.” Bureau of Indian Affairs, *Guidelines for Implementing the Indian Child Welfare Act*, 81 Federal Register 96476, H.1 (2016). “[A] preferred placement may not be excluded from consideration merely because the placement is not located in the State where the proceeding is occurring.” *Guidelines for Implementing the Indian Child Welfare Act*, *supra* at H.3.

<sup>7</sup> See [MCL 712B.23\(5\)](#) and [25 CFR 23.132\(c\)](#) for conditions a court *should* consider when determining whether good cause exists to deviate from the order of preference, and [MCL 712B.23\(4\)](#), [25 CFR 23.132\(d\)](#), and [25 CFR 23.132\(e\)](#) for conditions the court may *not* consider for deviation purposes.

