

(5m) Either the court or the agency that prepared the permanency plan shall furnish a copy of the original plan and each revised plan to the child, if he or she is 12 years of age or over, to the child's guardian, to the child's foster parent, the operator of the facility in which the child is living, or the relative with whom the child is living, and, if the order under sub. (1) involuntarily terminated parental rights to an Indian child, to the Indian child's tribe.

(6) (a) Judgments under this subchapter terminating parental rights are final and are appealable under s. 808.03 (1) according to the procedure specified in s. 809.107 and are subject to a petition for rehearing or a motion for relief only as provided in s. 48.46 (1m) and (2) and, in the case of an Indian child, s. 48.028 (5) (c) and (6). The attorney representing a person during a proceeding under this subchapter shall continue representation of that person by filing a notice of intent to appeal under s. 809.107 (2), unless the attorney has been previously discharged during the proceeding by the person or by the trial court.

(b) The mother of a child who completes an affidavit under s. 48.42 (1g) may not collaterally attack a judgment terminating parental rights on the basis that the father of the child was not correctly identified.

(c) Except as provided in s. 48.028 (5) (c) and (6), in no event may any person, for any reason, collaterally attack a judgment terminating parental rights more than one year after the date on which the period for filing an appeal from the judgment has expired, or more than one year after the date on which all appeals from the judgment, if any were filed, have been decided, whichever is later.

(6m) If a person whose parental rights are terminated is present in court when the court grants the order terminating those rights, the court shall provide written notification to the person of the time periods for appeal of the judgment. The person shall sign the written notification, indicating that he or she has been notified of the time periods for filing an appeal under ss. 808.04 (7m) and 809.107. The person's counsel shall file a copy of the signed, written notification with the court on the date on which the judgment is granted.

(7) (a) If the agency specified under sub. (1) (a) is the department, the department shall seek a permanent adoptive placement for the child or seek to enter into a subsidized guardianship agreement under s. 48.623 (2) with a proposed guardian of the child and petition the court for the appointment of that individual as the guardian of the child under s. 48.977 (2).

(b) If a permanent adoptive or subsidized guardianship placement is not in progress 2 years after entry of the order, the department may petition the court to transfer legal custody of the child to a county department, except that the department may not petition the court to transfer to a county department legal custody of a child who was initially taken into custody under s. 48.195 (1). The court shall transfer the child's legal custody to the county department specified in the petition. The department shall remain the child's guardian.

History: 1979 c. 330; 1983 a. 27, 219, 286; 1985 a. 70, 176, 332; Sup. Ct. Order, 136 Wis. 2d xxv (1987); 1987 a. 383; 1993 a. 395, 446; 1995 a. 275; 1997 a. 237; 2005 a. 232, 293, 296; 2007 a. 20, 199; 2009 a. 28, 79, 94; 2011 a. 181, 258; 2013 a. 20, 165; 2015 a. 128.

Parents whose rights have been terminated do not inherit from a child; the child's siblings, whether parental rights as to them have been terminated or not, are the child's heirs. *Estate of Pamanet*, 46 Wis. 2d 514, 175 N.W.2d 234 (1970).

The appeal process in a termination case must be commenced within 30 days after the order is entered. *In Interest of J.D.*, 106 Wis. 2d 126, 315 N.W.2d 365 (1982).

Termination has the same effect on relationships between members of the biological parents' families and the child as it has on the parent-child relationship. Equitable considerations did not form a basis to allow biological grandparents to obtain visitation rights after termination and adoption. *Elgin and Carol W. v. DHFS*, 221 Wis. 2d 36, 584 N.W.2d 195 (Ct. App. 1998), 97-3595.

48.432 Access to medical information. (1) In this section:

(a) "Adoptee" means a person who has been adopted in this state with the consent of his or her birth parent or parents before February 1, 1982.

(ag) "Agency" means a county department or a licensed child welfare agency.

(am) "Birth parent" means either:

1. The mother designated on the individual's or adoptee's original birth record.

2. One of the following:

a. The adjudicated father.

b. If there is no adjudicated father, the husband of the mother at the time the individual or adoptee is conceived or born, or when the parents intermarry under s. 767.803.

(b) "Individual" means a person whose birth parent's rights have been terminated in this state at any time.

(2) (a) The department, or agency contracted with under sub. (9), shall maintain all information obtained under s. 48.427 (6) (b) in a centralized birth record file.

(b) Any birth parent whose rights to a child have been terminated in this state at any time, or who consented to the adoption of a child before February 1, 1982, may file with the department, or agency contracted with under sub. (9), any relevant medical or genetic information about the child or the child's birth parents, and the department or agency shall maintain the information in the centralized birth record file.

(3) (a) The department, or agency contracted with under sub. (9), shall release the medical information under sub. (2) to any of the following persons upon request:

1. An individual or adoptee 18 years of age or older.

2. An adoptive parent of an adoptee.

3. The guardian or legal custodian of an individual or adoptee.

4. The offspring of an individual or adoptee if the requester is 18 years of age or older.

4m. The parent, guardian, or legal custodian of an offspring of a deceased individual or adoptee, if the offspring is under 18 years of age.

5. An agency or social worker assigned to provide services to the individual or adoptee or place the individual for adoption.

(b) Before releasing the information under par. (a), the department, or agency contracted with under sub. (9), shall delete the name and address of the birth parent and the identity of any provider of health care to the individual or adoptee or to the birth parent.

(c) The person making a request under this subsection shall pay a fee for the cost of locating, verifying, purging, summarizing, copying and mailing the medical or genetic information according to a fee schedule established by the department, or agency contracted with under sub. (9), based on ability to pay. The fee may not be more than \$150 and may be waived by the department or agency.

(4) (a) Whenever any person specified under sub. (3) wishes to obtain medical and genetic information about an individual whose birth parent's rights have been terminated in this state at any time, or whose birth parent consented to his or her adoption before February 1, 1982, or medical and genetic information about the birth parents of such an individual or adoptee, and the information is not on file with the department, or agency contracted with under sub. (9), the person may request that the department or agency conduct a search for the birth parents to obtain the information.

(b) Upon receipt of a request under par. (a), the department, or agency contracted with under sub. (9), shall undertake a diligent search for the individual's or adoptee's parents.

(c) Employees of the department and any agency conducting a search under this subsection may not inform any person other than the birth parents of the purpose of the search.

(d) The department, or agency contracted with under sub. (9), shall charge the requester a reasonable fee for the cost of the search. When the department or agency determines that the fee will exceed \$100 for either birth parent, it shall notify the

requester. No fee in excess of \$100 per birth parent may be charged unless the requester, after receiving notification under this paragraph, has given consent to proceed with the search.

(e) The department or agency conducting the search shall, upon locating a birth parent, notify him or her of the request and of the need for medical and genetic information.

(f) The department, or agency contracted with under sub. (9), shall release to the requester any medical or genetic information provided by a birth parent under this subsection without disclosing the birth parent's identity or location.

(g) If a birth parent is located but refuses to provide the information requested, the department, or agency contracted with under sub. (9), shall notify the requester, without disclosing the birth parent's identity or location, and the requester may petition the circuit court to order the birth parent to disclose the information. The court shall grant the motion for good cause shown.

(7) (a) If the department or another agency that maintains records relating to the adoption of an adoptee or the termination of parental rights receives a report from a physician stating that a birth parent or another offspring of the birth parent has acquired or may have a genetically transferable disease, the department or agency shall notify the individual or adoptee of the existence of the disease, if he or she is 18 years of age or over, or notify the individual's or adoptee's guardian, custodian or adoptive parent if the individual or adoptee is under age 18.

(b) If the department or agency receives a report from a physician that an individual or adoptee has acquired or may have a genetically transferable disease, the department or agency shall notify the individual's or adoptee's birth parent of the existence of the disease.

(c) Notice under par. (a) or (b) shall be sent to the most recent address on file with the agency or the department.

(8) Any person, including this state or any political subdivision of this state, who participates in good faith in any requirement of this section shall have immunity from any liability, civil or criminal, that results from his or her actions. In any proceeding, civil or criminal, the good faith of any person participating in the requirements of this section shall be presumed.

(8m) The department, or agency contracted with under sub. (9), shall give priority to all of the following:

(a) Reports filed by physicians under sub. (7).

(b) A request or a court order for medical or genetic information under subs. (3) and (4) if it is accompanied by a statement from a physician certifying that a child has acquired or may have a genetically transferable disease.

(c) Any reports and requests specified by the department by rule.

(9) The department shall promulgate rules to implement this section and may contract with an agency to administer this section.

History: 1981 c. 359; 1983 a. 447, 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27; 2005 a. 443 s. 265; 2015 a. 134; 2017 a. 334.

Cross-reference: See also ch. DCF 53, Wis. adm. code.

48.433 Access to identifying information about parents. (1) In this section:

(a) "Agency" has the meaning given under s. 48.432 (1) (ag).

(b) "Birth parent" has the meaning given under s. 48.432 (1) (am).

(2) Any birth parent whose rights have been terminated in this state at any time, or who has consented to the adoption of his or her child in this state before February 1, 1982, may file with the department, or agency contracted with under sub. (11), an affidavit authorizing the department or agency to provide the child with his or her original birth certificate and with any other available information about the birth parent's identity and location. An affidavit filed under this subsection may be revoked at any time by notifying the department or agency in writing.

(3) Any person 18 years of age or over whose birth parent's rights have been terminated in this state or who has been adopted

in this state with the consent of his or her birth parent or parents before February 1, 1982, may request the department, or agency contracted with under sub. (11), to provide the person with the following:

(a) The person's original birth certificate.

(b) Any available information regarding the identity and location of his or her birth parents.

(4) Before acting on the request, the department, or agency contracted with under sub. (11), shall require the requester to provide adequate identification.

(5) The department, or agency contracted with under sub. (11), shall disclose the requested information in either of the following circumstances:

(a) The department, or agency contracted with under sub. (11), has on file unrevoked affidavits filed under sub. (2) from both birth parents.

(b) One of the birth parents was unknown at the time of the proceeding for termination of parental rights or consent adoption and the known birth parent has filed an unrevoked affidavit under sub. (2).

(6) (a) If the department, or agency contracted with under sub. (11), does not have on file an affidavit from each known birth parent, it shall, within 3 months after the date of the original request, undertake a diligent search for each birth parent who has not filed an affidavit. The search shall be completed within 6 months after the date of the request, unless the search falls within one of the exceptions established by the department by rule. If any information has been provided under sub. (5), the department or agency is not required to conduct a search.

(c) Employees of the department and any agency conducting a search under this subsection may not inform any person other than the birth parents of the purpose of the search.

(d) The department, or agency contracted with under sub. (11), shall charge the requester a reasonable fee for the cost of the search. When the department or agency determines that the fee will exceed \$100 for either birth parent, it shall notify the requester. No fee in excess of \$100 per birth parent may be charged unless the requester, after receiving notification under this paragraph, has given consent to proceed with the search.

(7) (a) The department or agency conducting the search shall, upon locating a birth parent, make at least one verbal contact and notify him or her of the following:

1. The nature of the information requested.

2. The date of the request.

3. The fact that the birth parent has the right to file with the department the affidavit under sub. (2).

(b) Within 3 working days after contacting a birth parent, the department, or agency contracted with under sub. (11), shall send the birth parent a written copy of the information specified under par. (a) and a blank copy of the affidavit.

(c) If the birth parent files the affidavit, the department, or agency contracted with under sub. (11), shall disclose the requested information if permitted under sub. (5).

(d) If the department or an agency has contacted a birth parent under this subsection, and the birth parent does not file the affidavit, the department may not disclose the requested information.

(e) If, after a search under this subsection, a known birth parent cannot be located, the department, or agency contracted with under sub. (11), may disclose the requested information if the other birth parent has filed an unrevoked affidavit under sub. (2).

(f) The department or agency conducting a search under this subsection may not contact a birth parent again on behalf of the same requester until at least 12 months after the date of the previous contact. Further contacts with a birth parent under this subsection on behalf of the same requester may be made only if 5 years have elapsed since the date of the last contact.

(8) (a) If a birth parent is known to be deceased, the department, or agency contracted with under sub. (11), shall so inform the requester. The department or agency shall provide the requester with the identity of the deceased parent. If both birth parents are known to be deceased, the department or agency shall provide the requester with his or her original birth certificate. If only one birth parent is known to be deceased, the department or agency shall provide the requester with his or her original birth certificate and any available information it has on file regarding the identity and location of the other birth parent if the other birth parent has filed an unrevoked affidavit under sub. (2).

(b) If a birth parent is known to be dead, the department, or agency contracted with under sub. (11), in addition to the information provided under par. (a), shall provide the requester with any nonidentifying social history information about the deceased parent on file with the department or agency.

(8m) If the department, or agency contracted with under sub. (11), may not disclose the information requested under this section, it shall provide the requester with any nonidentifying social history information about either of the birth parents that it has on file.

(8r) (a) In this subsection, "birth parent" has the meaning given in s. 48.432 (1) (am) and includes any other person who may be the person's biological parent and whose parental rights have been terminated.

(b) Any person 18 years of age or over whose birth parent's rights have been terminated in this state or who has been adopted in this state with the consent of his or her birth parent or parents before February 1, 1982, may file with the department, or agency contracted with under sub. (11), an affidavit authorizing the department or agency to provide the person's birth parent with any available information about the identity and location of the person. An affidavit filed under this subsection may be revoked at any time by notifying the department or agency in writing.

(c) Any birth parent whose rights have been terminated in this state at any time, or who has consented to the adoption of his or her child in this state before February 1, 1982, may request the department, or agency contracted with under sub. (11), to provide him or her with any available information about the identity and location of any person 18 years of age or over who was or may have been his or her child. Before acting on the request, the department or agency shall require the requester to provide adequate identification.

(d) If the department, or agency contracted with under sub. (11), has on file an unrevoked affidavit filed under par. (a) by a person 18 years of age or over who was or may have been a child of the requester, the department or agency shall disclose the information requested under par. (b) related to the person who filed the affidavit. In disclosing information under this paragraph, the department or agency may not disclose any information that would reveal the identity or location of a birth parent other than the birth parent requesting the information.

(9) The requester may petition the circuit court to order the department or agency designated by the department to disclose any information that may not be disclosed under this section. The court shall grant the petition for good cause shown.

(10) Any person, including this state or any political subdivision of this state, who participates in good faith in any requirement of this section shall have immunity from any liability, civil or criminal, that results from his or her actions. In any proceeding, civil or criminal, the good faith of any person participating in the requirements of this section shall be presumed.

(11) The department shall promulgate rules to implement this section and may contract with an agency to administer this section.

History: 1981 c. 359, 391; 1983 a. 471; 1985 a. 176; 1985 a. 332 s. 251 (1); 1989 a. 31; 1995 a. 27; 2005 a. 343; 2015 a. 134.

Cross-reference: See also ch. DCF 53, Wis. adm. code.

48.434 Release of identifying information by an agency when authorization is granted. (1) DEFINITIONS. In this section:

(a) "Adoptive parent" means a person who has adopted a child in this state or who has adopted in another state a child who was placed for adoption with that person in this state.

(b) "Birth parent" has the meaning given under s. 48.432 (1) (am).

(2) Any birth parent of a child may file with the agency that placed the child for adoption under s. 48.833 or that was appointed the guardian of the child under s. 48.837 (6) (d) a written authorization for the agency to release any available information about the birth parent's identity and location to one or both adoptive parents of the child.

(3) Any adoptive parent of a child may file with the agency that placed the child for adoption under s. 48.833 or that was appointed the guardian of the child under s. 48.837 (6) (d) a written authorization for the agency to release any available information about the adoptive parent's identity and location to one or both birth parents of the child.

(4) A written authorization filed under sub. (2) or (3) may be revoked at any time by notifying the agency in writing.

(5) Upon the request of an adoptive parent of a child, the agency receiving the request shall provide to the adoptive parent any available information about the identity and location of a birth parent of the child if the agency has on file an unrevoked written authorization filed by that birth parent under sub. (2) authorizing the release of that information to the adoptive parent.

(6) Upon the request of a birth parent of a child, the agency receiving the request shall provide to the birth parent any available information about the identity and location of an adoptive parent of the child if the agency has on file an unrevoked written authorization filed by that adoptive parent under sub. (3) authorizing the release of that information to the birth parent.

(7) This section does not apply if the adopted child is 21 years of age or over.

(8) Any person, including this state or any political subdivision of this state, who participates in good faith in any requirement of this section shall have immunity from any liability, civil or criminal, that results from his or her actions. In any proceeding, civil or criminal, the good faith of any person participating in the requirements of this section shall be presumed.

(9) An agency may assess a reasonable fee for responding to a request for information or a request to file a written authorization under this section.

(10) No agency may contact any person for the purpose of determining whether the person wishes to authorize the agency to release information under this section. An agency may contact the birth parent or adoptive parent of a child who was adopted before April 29, 1998, one time, by mail, to inform them of the procedure by which identifying information may be released under this section.

(11) A written authorization filed with an agency under this section shall be notarized.

History: 1997 a. 104.

NOTE: 1997 Wis. Act 104, which affected this section, contains explanatory notes.

48.435 Custody of children. The mother of a nonmarital child has legal custody of the child unless the court grants legal custody to another person or transfers legal custody to an agency.

History: 1979 c. 330; 1983 a. 447.

48.437 Change in placement; posttermination of parental rights. (1) REQUEST BY GUARDIAN OR PROSECUTOR.

(a) *Notice; information required.* 1. The agency appointed as the guardian of a child who is subject to a guardianship order under s. 48.427 (3m) (a) 1. to 4., (am), or (b), the district attorney, or the