

## FORM SUMMARY

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**Name of Form:** **Order for Change in Placement (In-Home to Out-of-Home Placement Only) - Indian Child Welfare Act**

**Form Number:** **IW-1789**

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**Statutory Reference:** §§48.357 and 938.357, Wisconsin Statutes; 25 U.S.C. §§1912, 1915.

**Benchbook Reference:** JV 11

**Purpose of Form:** Order of the court for change in placement from the child's/juvenile's home to an out-of-home placement.

**Who Completes It:** Court, corporation counsel, or district attorney.

**Who Signs It:** **BY THE COURT:** Circuit Court Judge/Circuit Court Commissioner.  
**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

**Distribution of Form:** Court; child/juvenile/attorney/guardian ad litem, parents/guardian, legal and/or physical/Indian custodian/attorney, foster home, case worker, tribe, district attorney or corporation counsel.

**Accompanying Forms:** Generally none.

**New Form/Modification:** Modified; last update 11/15.

**Modifications:** Changed term "Change of Placement" to "Change in Placement" to match statutory language. Added Circuit Court Commissioner and updated Wambolt language. (02/02/2017, added language in 2<sup>nd</sup> paragraph of "Comment".)

**Comments:** 2013 WI Act 334, extending supervision until age 21 under certain circumstances. Effective August 1, 2014.

Additionally, in order to follow the requirements of the Indian Child Welfare Act, the order must contain a finding as to whether the continued custody of the child/juvenile by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child/juvenile. This finding must be supported by the testimony of one or more qualified expert witnesses. Pursuant to the Federal ICWA regulations, the evidence must show that a causal relationship exists between the particular conditions in the home and the likelihood that continued custody of the child will result in serious emotional or physical damage to the particular child who is the subject of the child-custody proceeding. Evidence that shows only the existence of community or family poverty, isolation, single parenthood, custodian age, crowded or inadequate housing, substance abuse, or

nonconforming social behavior does not by itself constitute clear and convincing evidence or evidence beyond a reasonable doubt that continued custody is likely to result in serious emotional or physical damage to the child.

The order must also contain a finding whether active efforts have been made to prevent the break up of the Indian family. Finally, the order must state whether the placement preferences of ICWA have been followed.

RMC recommends that the court not rely upon attachments alone as the basis for its findings. Where attachments are used, specific reference to the document title, page and paragraph should be made.

**About this Form:**

This form is the product of the Wisconsin Records Management Committee, a committee of the Director of State Court's Office and a mandate of the Wisconsin Judicial Conference.

**If you have additional information that does not change the meaning of the form, attach it on a separate page. The form itself shall not be altered.**