



# Wisconsin State Public Defender

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Representative Samantha Kerkman  
 315 North, State Capitol  
 Madison, WI 53703

Dear Chair Kerkman,

Following our testimony to the Special Committee on the Permanency for Young Children in the Child Welfare System, we were asked for additional data regarding the average time it takes to resolve a termination of parental rights (TPR) case. In the context of additional discussion by the committee, we have focused the data on the average number of days to resolution in cases resolved by jury trials versus those resolved by court trials or resolved without a trial.

Here is a chart that details the average number of days over the last five fiscal years (covering cases opened between July 1, 2007 and June 30, 2012) to reach resolution in a TPR case:

<b>Resolution Type</b>	<b>Milwaukee Only</b>	<b>Rest of State</b>	<b>Statewide</b>
Non-trial	279	135	199
Jury Trial	407	190	279
Court Trial	372	182	310
All Resolution Types Average	310	146	224

The difference between Milwaukee's averages and the rest of the state indicate that potential legislation designed to reduce the timeframe of TPR cases should be drafted with careful consideration for the needs of Milwaukee County versus the rest of Wisconsin.

It may also be useful to look at the difference in the average number of days to reach resolution in TPR cases resolved by jury trial versus court trial in each of those fiscal years. A negative number indicates that court trials took, on average, longer to resolve than jury trials.

	<b>FY 2008</b>	<b>FY 2009</b>	<b>FY 2010</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FYs 08-12</b>
Milwaukee	-47	41	154	50	72	35
Rest of State	-35	20	17	35	5	8
Statewide	-90	-82	99	26	56	-31

If the right to a jury trial in TPR cases were removed, it is likely that those cases would instead be resolved by a court trial. The numbers in the last column indicate that over the course of the five prior fiscal years, on average in Milwaukee, a case in which a jury trial occurred lasted roughly a month longer than a case involving a court trial. In simple terms, between Fiscal Year 2008 and Fiscal Year 2012, a court trial in Milwaukee took 12.5 months to reach resolution while a jury trial took 13.5 months.

Finally, it may be helpful to look at the breakdown of TPR cases handled by the SPD by resolution type over the same five fiscal year period. The data shows that 1 in 4 TPR cases statewide are decided in a trial, and 1 in 10 are decided by a jury.

<b>Resolution Type</b>	<b>Number of Cases</b>	<b>Percent of Total</b>
Non-trial	2114	75%
Jury Trial	323	11%
Court Trial	385	14%

Given what is at stake for the parents in TPR cases, it would seem prudent to preserve the widest range of opportunity for respondents to determine the trier of fact. The answer to shortening the amount of time to reach resolution in TPR cases may not lay in the removal of trial by jury, but in other more wide-ranging and systemic changes that the committee is likely to identify as it continues its work.

Thank you again for the opportunity to provide information.

Sincerely,

Adam Plotkin  
Legislative Liaison

Cc: Attorney Margit Kelley  
Attorney Melissa Schmidt