

Post-Disposition Activities

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Learning Objectives

- Learn how to manage your cases using these post-dispositional hearings
- Learn how to obtain quicker permanency for children by effective hearings

Importance of Post-Disposition Hearings

- Provide opportunity to examine case progress
- Provide opportunity for correction and revision of the case plan
- Keep cases moving toward timely and successful completion/permanency
 - ▶ **Helps a case progress by requiring the parties to set timetables, take specific action, and make decisions**

Challenges to Conducting Effective Post-Dispositional Hearings

- Time
- Irregular or infrequent review
- Rubber-stamping agency or department recommendations
- Agency understanding of legal time lines

Managing Your Case

- Engage parents:
 - ▶ Discuss status of case & child
 - ▶ Hold parents accountable
 - ▶ Discuss permanency
- Engage agency:
 - ▶ Determine steps to assist the parents
 - ▶ Hold agency accountable

Extensions, Revisions, & Changes of Placement

Extension Hearing

Extension

- Purpose:
 - ▶ Give parents more time to complete conditions for supervision or safe return of the child
 - ▶ Enable agency to provide necessary services
 - ▶ Provide supervision and support for the family after the child returns home

Extension Requirements & Prohibitions

- Must be made before dispositional order expires
- No order can be extended without a hearing
- Child's placement cannot be changed through an extension
 - ▶ § 48.357

Temporary Extension

- Court may grant for up to 30 days
 - ▶ § 48.365(6)
- Specified periods of delay excluded
 - ▶ § 48.315(1)
- Order granting temp. extension (JD-1765)
- Court may grant appropriate relief if hearing not timely
 - ▶ § 48.315(3)

Out-of-Home Placement Findings

- Reason for the extension
- Reasonable efforts to achieve the permanency goal
- Reasonable efforts to place siblings together or provide frequent interaction
- WICWA Cases: active efforts to prevent the breakup of family

Extension Order - Forms

- Use JD-1787 for in-home placements
- Use JD-1788T for out-of-home placements
- Use IW-1788 if WICWA applies

Extension Order

Expiration Date – § 48.365 (5)

- In-home placement, up to one year
- Out-of-home placement, up to 18th/19th/21st birthday
 - ▶ Eliminates need for future hearings
 - ▶ Perm plan reviews continue
 - ▶ Order can terminate earlier
- If a consent decree was for 6 months or less, it can be extended for 6 months by motion § 48.32(2) (c).

Extension Order

- TPR Warnings – § 48.365
 - ▶ Orally advise parents of applicable TPR grounds and conditions for return or visitation
 - ▶ Remind parents of 15-month TPR timeframe
 - ▶ Attach written TPR warnings and conditions to order
 - ▶ Use JD-1788T (includes TPR warnings)

Revision Hearing

Revision Hearing

- Purpose:
 - ▶ Modify conditions of a dispositional order
 - ▶ Restrict or increase family interaction
 - ▶ Change child support
 - ▶ Transfer legal custody

Revision Prohibitions

- A revision cannot extend expiration date of dispositional order
 - ▶ § 48.365
- Child's placement cannot be changed through a revision
 - ▶ § 48.357

Revision Hearing

- Timing of Notice
 - ▶ Notice provided 3 days prior to the hearing
 - ▶ May proceed immediately with the hearing if all parties consent
 - ▶ Attach the request for revision to the notice

Revision Hearing

- If visitation denied or child outside of the home, advise parents:
 - ▶ Applicable TPR grounds
 - ▶ Conditions for return or visitation
 - ▶ Timeframe for filing TPR

Revision Order

- Issue Order for Revision of Dispositional Order (JD-1786 or JD-1786T)
- Clarify the revision being granted
- Attach conditions to the order and TPR warnings (JD-1753/JD-1786T)
- Determine parent's liability if child support revised

Revision of Consent Decrees

- Consent Decrees may be revised and amended using the same procedures as the original decree
- The revision may include a change of placement for the child
- Does not change length of 6 months or the one extension of 6 months
 - ▶ § 48.32 (2)

Change in Placement

Types of Change in Placement

- In-Home to Out-of-Home
 - ▶ Always requires a hearing (to make findings)
 - ▶ Will change the expiration date of the Dispositional Order, unless judge directs otherwise
 - ▶ Separate revision necessary to establish conditions for return
- Out-of-Home to Out-of-Home
- Out-of-Home to In-Home
 - ▶ Expiration date will change if order was set to expire more than one year from change in placement order
- In-Home to In-Home

Change in Placement – Notice vs. Request

Notice of Change in Placement (JD-1754)

- In-Home to In-Home, Out-of-Home to Out-of-Home, or Out-of-Home to In-Home
- AND
- Filed by prosecutor or county agency

*Hearing only required if objection

Request for Change in Placement (JD-1766)

- In-home to Out-of-Home
- OR
- Requests made by other parties,
- OR
- Local practice/directive (e.g., judge require hearing before returning the child home)

*Hearing required

Notice of Change in Placement

- Timing

- ▶ Placements may not be changed until 10 days after notice is sent to the court unless
 - ✓ All parties sign written waivers of objection
 - ✓ Change authorized in dispositional order
- ▶ If emergency change of placement, notice shall be sent within 48 hours

Emergency In-Home to Out-of-Home Change in Placement

- Emergency in-home to out-of-home placements shall have a hearing within 48 hours excluding holidays and weekends
- At that hearing the Agency must file a Change of Placement request, if agreed to the change may approve or must proceed with a 3-day notice

Change in Placement

- In-Home to Out-of-Home
 - ▶ Hearing required for in-home to out-of-home change of placement
 - ▶ The parent, if present at hearing, shall be requested to provide the names and other identifying information of 3 relatives of the child or other adults
 - ▶ Determine new expiration date (default is 18/19/21)

Change in Placement Order

- In-Home to Out-of-Home (JD-1789T)
 - ▶ Court shall make following findings:
 - ✓ Contrary to the welfare
 - ✓ Reasonable efforts to prevent removal
 - ✓ Reasonable efforts to place siblings together
 - ▶ Court shall order:
 - ✓ Notice to relatives and other identified adults
 - ✓ Frequent sibling contact if not placed together
 - ▶ TPR warnings and conditions for return

Change in Placement Order

- Out-of-Home to Out-of-Home (JD-1790, 1790T)
 - ▶ Court shall make a finding as to whether reasonable efforts have been made to place child in a placement that enables the sibling group remain together
 - ▶ Expiration date remains unchanged
 - ▶ TPR warnings and conditions for return

Change in Placement Order

- Out-of-Home to In-Home (JD-1792)
 - ▶ New expiration date cannot be more than one year after the date of the change of placement order
- In-Home to In-Home (JD-1793)
 - ▶ Changing from one parent to the other

Case Closure Orders

- Allows the Juvenile Court to close a CHIPS, JIPS, or delinquency case by entering an enforceable family court order (in same or different county)
 - ▶ § 48.355(4g) & § 938.355(4g)
- Must have a pending divorce/paternity case or already have a family court order deciding placement/custody/paternity
- **Any party** including the Court may move to enter an order, must give 5 days notice

Rationale

- Juvenile court jurisdiction is paramount in cases
 - ▶ See § 48.15 & § 938.15
- Juvenile court judge is in a good position to determine placement and custody
 - ▶ Familiar with current family situation, reports, evaluations, etc.
- Avoids re-litigation of placement question

When Available

1. Child is in a safe parental placement
2. Pending or existing family court order preventing juvenile case closure
3. CHIPS, JIPS, or delinquency dispositional order has been entered

Most importantly: Child's best interest

Case Closure Orders

- Can determine paternity using same procedures
- Can determine custody and placement
 - ▶ No need for mediation, parenting plans or studies
 - ▶ No transfer of custody to 3rd party or agency
 - ▶ Same factors as Family Court Ch. 767
- Can determine child support, visitation with others, health care and variable expenses

Case Closure Orders

- Closure order must be provided to all parties and filed in the family court (including other counties)
- Enforceable in the family court through contempt
- Subsequent modifications to be handled in family court. The standard revision provisions apply to the closure order
 - ▶ Presumptions, time limits, etc.

Modifying/Entering Family Court Order

- Can be a modification or original order
- Parenting plans, legal custody and physical placement studies, and mediation not required
- Court must follow the guidelines of Ch. 767
- Family court retains jurisdiction for enforcement and future modifications
 - ▶ Including all requirements and presumptions for modification in Ch. 767 (e.g., time limits, change in circumstances, etc.)

Issues That May Be Addressed

- Paternity
- Legal custody
- Physical placement
- Visitation with others
- Child support & dependency exemption
- Health care expenses

Procedure

1. File the Request for Case Closure Order (JD-1814) with the court
2. Hold hearing in front of juvenile court judge
 - ▶ Evidentiary rules are non binding – § 48.299(4)(b))
3. Enter Case Closure Order (JD-1815)
 - ▶ Sealed in family court case
4. Enter Order Relating to Paternity/Legal Custody/Physical Placement/Visitation/Child Support/Health Care Expenses (FA-614)
 - ▶ Provided to family court and entered in case
- 5. Terminate CHIPS, JIPS or delinquency dispositional order

Who May Request

- ▶ Juvenile court
- ▶ Child
- ▶ Child's counsel or GAL
- ▶ Parent
- ▶ Guardian or custodian
- ▶ Agency responsible under dispositional order
- ▶ District attorney/corporation counsel

Case Closure Orders

- Orders should be well tailored to address what is best for the child
 - ▶ Not all aspect of the family case need be addressed
 - ✓ Issues can be reserved for the Family Court
 - ▶ Best practices
 - ✓ Call the other judge
 - ✓ Rules of Evidence? – § 48.299(4)(b)

Juvenile Law vs. Family Law

Juvenile Cases

- Paramount interest is always the “Best Interests of the Child”
- Dispositional orders drafted with intention of continued involvement of DHS and oversight by the Court
- DHS resources/services available to family

Family Cases

- Paramount interest is BIOC but Court guided by specific factors that must be addressed
- Orders drafted to avoid continued litigation- finality, more “hands off”
- Limited resources/services available to family

Appellate Case

- *In the Interest of A.R.B.*, 2018AP546 (unpublished)
- Juvenile court judge in Marathon County modified a family court order in Outagamie County under a Case Closure Order
- If legal custody or physical placement is contested, a GAL must be appointed to fulfill the responsibilities and make recommendations pursuant to § 767.407(4)

Practice Tip

- Consider implementing a Pretrial or Settlement Conference procedure for these requests when appropriate
- Have parents complete parenting plan (FA-4147) to facilitate discussion and highlight important issues
- If possible, have a GAL versed in family law.
- Reach out and contact the receiving judge regarding their standard placement orders, conditions.

Case Closure Orders

- The decision to enter into a case closure order is discretionary
 - ▶ Case closure orders are a tool to allow for more efficiency where protection or services are no longer needed
 - ▶ Can be less burden on families
 - ▶ Less cost to families and counties
 - ▶ Allows for quicker time to permanency

Resources

- Case Closure E-Learning Activity
 - ▶ www.wiccciptraining.com
- Circuit Court Forms
 - ▶ JD-1814, JD-1815 & FA-614
 - ▶ www.wicourts.gov/forms1/circuit/index.htm
- Divorce & Family Law Self-Help Resources
 - ▶ www.wicourts.gov/services/public/selfhelp/divorce.htm
- DCF Child Support Tools
 - ▶ <https://dcf.wisconsin.gov/cs/order/tools>