



## **Juvenile Clerks Meet-up Sanctions, Waiver, and QRTP**

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**Please note that the information contained in this presentation is not meant to be construed as legal advice.**

**Any guidance provided should not override a judge's decision and authority.**

**Questions are welcome; however, CCIP is unable to provide input on individual cases.**

**Thank you!**

# Post-Disposition Consequences



## 72-Hour Holds

- Juvenile may be held up to 72 hours in secure (delinquency) or non-secure (JIPS) custody either for investigation into or as a consequence of a violation of Dispositional Order
  - May not exceed 72 hours for same course of conduct
  - Subject to intake rules and county board policies
- Hearing not required, unless exceeding 72 hours
- Court must have previously explained conditions and possible sanctions or juvenile acknowledged the same in writing prior to the violation
- Notice is to be provided using Short-Term Detention Pending Investigation/As a Consequence form (JD-1770)
  - Enter Short-Term Detention (**SHTD**) event code

## Stayed Orders

- Court may stay a Dispositional Order in whole or in part, based on juvenile's compliance with specified conditions, which must also be verbally explained by the court
- If the juvenile violates condition(s), the supervising agency or district attorney may request imposition of any stayed portion of the Dispositional Order by filing Request to Impose Stayed Delinquency Dispositional Order (JD-1750A)
  - Hearing must be held within 30 days of the request (unless the hearing is waived by the juvenile)
  - Notice of the hearing must be provided to the same individuals as the Dispositional Order at least three days prior to the hearing (unless waived)
  - Burden of proof to lift stay: preponderance of the evidence
- Court enters decision on the request using Order to Impose Stayed Delinquency Dispositional Order (JD-1750B)
  - If stay is lifted by court or juvenile waives, use event code Waiver of Stayed Delinquency Dispositional Order/Order Lifting Stay (**WSD**)



## Sanctions

- Delinquency and JIPS-Habitual Truancy sanctions include:
  - Secure Detention (up to 10 days per violation)
  - Suspension or Limitation of Driving, Hunting, or Fishing License (up to 3 years)
  - In-home Detention
  - Community Service (up to 25 hours)
  - Youth Reporting Center
- All other JIPS sanctions include the above, *except* use of secure detention



## Sanctions

- If the juvenile violates condition(s), the supervising agency or district attorney may request imposition of any of the available sanctions by filing Motion for Sanctions (JD-1773)
  - Use Affidavit and Motion for Sanction (**AMS**) court record event for motion
  - If sanction(s) ordered, use Order for Sanctions (**OFS**) court record event for order



## Judgment for Victim Witness Surcharge

- Following circuit court forms and codes were modified to include surcharges (e.g., victim witness surcharge):
  - Notice of Intent to Enter Civil Judgment for Restitution, Forfeiture, or Surcharge (JD-1758)
    - New code will be created
  - Petition for Judgment Against Juvenile/Parent for Unpaid Forfeiture/Surcharge (JD-1760)
    - Event code: **PJFOR** - Pet for judgment against parent/juv unpaid forfeit
  - Judgment for Unpaid Restitution/Forfeiture (JD-1761)
    - Event code: **JFFO** - Judgment for Unpaid Restitution/Forfeiture
- See § 895.035(2m)(b)



## Waiver into Adult Court



## Waiver Petition

- A petition to waive a juvenile into adult court jurisdiction may occur:
  - On or after the juvenile's 14<sup>th</sup> birthday, if a felony in benefit of a criminal gang or for specified offenses under § 938.18(1)
  - On or after the juvenile's 15<sup>th</sup> birthday for ANY criminal offense
- Petition for Waiver of Jurisdiction (JD-1722) may be filed by the District Attorney or the juvenile
  - Judge may also initiate, if petition alleges offense in § 938.18(1)
  - Use the Petition for Determ of Status–Delinquency (**DELQ**) or Petition to Waive Jurisdiction (**PWJ**) court record event
- Petition must be filed prior to the delinquency plea hearing, except if the juvenile enters a denial and turns 17 prior to adjudication

## Waiver Hearing

- The juvenile must be represented by counsel at a Waiver Hearing (§ 938.18(3)(a))
- Any hearing on waiver must be heard by a judge—cannot be heard by a court commissioner, even if uncontested
- If the Petition for Waiver of Jurisdiction is uncontested, the court must conduct a hearing to:
  - Perform a colloquy with the juvenile to determine whether their decision is knowing, intelligent, and voluntary
  - Consider the petition and all available evidence (testimony not required) in applying the criteria for waiver (see: § 938.18(5))
  - Decide whether to waive juvenile court jurisdiction (not automatic due to juvenile not contesting)



## Waiver Hearing

- Following the court's decision:
  - Order Waiving Juvenile Court Jurisdiction (JD-1723) is prepared either granting or denying the waiver
  - Enter based upon approval/denial using: Order Waiving Juvenile Court Jurisdiction (**OWJCJ**), Waiver to Adult Court (**WADC**), Waiver (**WAIVE**), and/or Waiver and Consent (**WAC**)



## Holding a Waived Juvenile in Adult Custody

- Juveniles under 15 years of age may **only** be held in secure juvenile detention
- For juveniles 15 years of age or older, federal statute requires additional findings be made by the **criminal** court in order to hold in an adult jail facility
  - Findings must be made no later than six hours after the waiver decision
  - Findings must also be reviewed by the court every 30 days
  - Additional good cause finding or waiver to hold for more than 180 days
  - New circuit court form: Findings on Confinement of Juvenile Defendant Waived into Adult Court (CR-219)
  - Violation of the federal requirements does not result in loss of jurisdiction or ability to continue adult jail placement
    - Loss of federal funds as consequence



## Qualified Residential Treatment Programs (QRTP)



## Qualified Residential Treatment Program (QRTP)

- As of Sept. 2021, additional requirements when child/juvenile placed in shelter home, group home, or residential treatment center certified as QRTP
- Children/juveniles placed in a QRTP setting prior to effective date are exempt from the findings requirement, including for any subsequent case activity, as long as the placement continues
  - Any change in placement to a QRTP, including to prior QRTP setting, then triggers the findings
- Applies to CHIPS, JIPS, delinquency, and post-TPR placements



## QRTP Purpose and Intent

- Created by federal Family First Prevention Services Act to encourage placement in most home-like setting based on specific child or juvenile needs
  - Presumption that the placement will be providing some level of treatment for an identified need (ex.–mental health, AODA)
- State can only receive federal Title IV-E funding for placement in a non-relative, non-foster home setting (a/k/a “congregate care”) if the placement is certified as a QRTP by DCF and specific court findings are made
  - That funding, along with other revenue streams, is then passed onto counties by DCF via complex equation



## QRTP Purpose and Intent

- DCF rules do not require licensed congregate care settings to become certified as QRTP
- No statutory or rules prohibition on placement in non-certified setting or requirement that QRTP findings must be made in order to place in a congregate care setting
  - Court-ordered placement options remain the same (e.g., group home, residential treatment)
  - QRTP findings necessary **only** to claim federal funding for the placement episode



## QRTP Requirements - Agency

- Assessment by “qualified individual” must be provided at time of request/notice -OR- no later than 30 days from date of entry into the QRTP setting (10 days for Notice of Change in Placement, unless good cause granted)
  - Generally provided via the Permanency Plan Addendum for Placement in a Setting Certified as a Qualified Residential Treatment Program (QRTP) – DCF Form (but not required)
    - Includes Child and Adolescent Needs and Strengths (CANS) Assessment score, recommendation on placement, and information on required planning and activities by the agency regarding case planning and supports
    - Court may request full CANS Assessment be provided



## QRTP Requirements - Court

- At time of ordering placement -OR- no later than 60 days from date of entry into the QRTP setting (depending on when the assessment and recommendation are received):
  - Consider the assessment and recommendation of the placing agency
  - Determine whether:
    - Needs of child can be met through placement in a foster home;
    - QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment; and
    - QRTP placement is consistent with permanency plan goals
  - Approve or disapprove QRTP placement
    - May still continue placement even when QRTP findings are not made or QRTP not approved



## QRTP Requirements - Court

- QRTP findings may be authorized by either a judge or court commissioner
- No statutory requirement for a hearing to make QRTP findings and no right to objection by parties
  - Court may conduct a hearing on its own motion and/or depending on circumstances
    - No change to placement procedures and requirements, generally (e.g., change in placement, notice)
- Findings are incorporated into forms that may place a child/juvenile out-of-home
  - TPC Order, Consent Decree (Out-of-Home), Dispositional Order, Order for Change in Placement



## Assessment/Recommendation Not Available at Time of Placement

- If the standardized assessment and recommendation are not available at the time of the hearing or notice of change in placement:
  - Agency must submit the assessment and recommendation (using the Permanency Plan Addendum and/or CANS Assessment within the prescribed timeframes along with the Request for Qualified Residential Treatment Program Placement Findings (JD-1826)
    - Use respective court record event(s) for Request (**RQRTP**), Permanency Plan Addendum (**PPA**) and/or CANS Assessment (**CANS**)
    - Schedule a review (**REV**) date in CCAP prior to the date indicated on the request (no later than 60 days from the date the child entered the certified QRTP placement)



## Assessment/Recommendation Not Available at Time of Placement

- Court then issues the findings and order using the Findings and Order for Qualified Residential Treatment Program Placement (JD-1827)
  - As with at the time of hearing/notice, no hearing is required when using this procedure
  - If a hearing is scheduled, use QRTP Placement Hearing (**QRTPH**) event code
  - Enter findings using the Findings and Order for QRTP Placement (**QRTPO**) event code



## QRTP Resources

List of certified QRTP placements:

- <https://dcf.wisconsin.gov/family-first/qntp>

QRTP E-Learning Activity:

- <https://wicciptraining.com/ELearningActivities>

QRTP Resource Guide (under Judicial Resources):

- <https://wicciptraining.com/Resources>



## Wrap-up

- Questions or comments
- Topics for next Juvenile Clerk Meet-up



# Thank you!

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