

BUZZ SESSION

July 28, 2023

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SLIDO INSTRUCTIONS

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HOUSEKEEPING

- Please note this information is not meant to be construed as legal advice.
- Any guidance provided should not override the judge's decision and authority.
- Some of the questions were answered during a different session.
- If you submitted question that is not addressed, please email bridget.mauerman@wicourts.gov

TIME DOCUMENT FILED

Is there a way to tell what time a specific document was filed?

- Yes, using the Circuit Court Transaction Report Application (cctranreport.wicourts.gov).



The screenshot shows the 'Circuit Court Transaction Report Application' interface. At the top, there is a navigation bar with 'Reports', 'Transaction Search', and 'Help' tabs. Below the navigation bar, the title 'Circuit Court Transaction Report Application' and 'Reports' are displayed. The main content area is titled 'Required Fields' and contains the following input fields:

- Report: A dropdown menu with 'All' selected.
- County: A dropdown menu with 'Winnebago' selected.
- Date: Radio buttons for 'Today', 'This week', and 'Last week'.
- Date Range: Radio buttons for 'This month', 'Last month', and 'None'.
- Date Range: Two text input fields for 'From' and 'Through' with a date format '(MM-DD-YYYY)' below them.
- Optional Fields: A text input field for 'User ID'.

At the bottom of the form, there are 'Submit' and 'Clear' buttons.

TIME DOCUMENT FILED

1. Using the Reports option, select a report of "Document History". Enter your search criteria and select Submit.
2. From the returned results, select the Date/Time link for the document you're interested in.
3. Page through the results, or select All to expand so you can find and select the record for "RungCorrelation".
 - The entries for "whenInserted" and "whenReceived" represent the eFiler submitting the document and it being received into our system.

*See detailed instructions in the online materials.

ALLEGED FATHERS

Do alleged fathers have the right to enter a plea and request substitution of judge on a CHIPS case?

- No.
- See s. 48.30 and s. 48.02(13), which references "parent".
- Enter an alleged father as a Notice Recipient, not a Party until paternity is established.

LEGAL STATUS DEFINITIONS - PARENT

- Birth – Parent who physically delivered the child.
- Adoptive – Parent who adopted the child by court order.
- Adjudicated - Parent based on a court order establishing paternity or parentage or who is the administratively adjudicated parent due to the filing of a paternity acknowledgement form with the Office of Vital Records.
 - Paternity can also be established by genetic testing for purposes of CHIPS case under s. 48.299(6).
- Marital (Presumptive) – Parent who is presumed to be the biological parent because the child was conceived or born during marriage, or is presumed to be the biological parent because the marriage occurred after the child’s birth but the parties had a relationship at the time of conception.
 - If the mother is married at the time of conception or birth, the father is a martial father.

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In your county, how does the court typically handle situations where there is an alleged father involved in a CHIPS case?

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ALLEGED FATHERS

Should the CHIPS case be stayed until paternity is established OR can you enter a Dispositional Order with conditions for the mother only and come back after paternity is established for the father?

- Maybe.
- § 48.299(6)(d): The case may be stayed if the court determines the paternity proceedings will not unduly delay the CHIPS case and the paternity determination is necessary to the court's disposition or if the paternity proceedings may result in a finding that the child is an Indian child.
- Make good cause finding for the delay - § 48.315.

CONDITIONS FOR PARENTS IN JIPS & DELINQUENCY CASES

Can the court order parents to comply with conditions in JIPS and delinquency cases?

- Yes.
- § 938.45(1m)(a): Court may “order the juvenile's parent, guardian, or legal custodian to comply with any conditions determined by the court to be necessary for the juvenile's welfare.”

CONDITIONS FOR PARENTS IN JIPS & DELINQUENCY CASES

Is there a process for imposing sanctions or contempt on a parent who is not complying with their conditions?

- There is no procedure for parental sanctions in Ch. 938.
- Two types of contempt
 - Summary contempt: actions occurring in presence of judge.
 - Non-summary contempt: may be used for this purpose.

NON-SUMMARY CONTEMPT

- Person aggrieved by the contempt or the DA can initiate action - § 785.03(1)
- Must request remedial sanctions first:
 - Imprisonment if meets criteria in §§ 785.01(b), (bm), (c), or (d).
 - Forfeiture up to \$2,000 for each day contempt continues.
 - Order designed to ensure compliance.
 - Other sanction if options provided above would be ineffectual.
- If contempt continues after imposing remedial sanctions, DA can pursue non-summary punitive contempt - § 785.04(2)(a).
- No circuit court forms available to use for this purpose.
- History Event Codes:
 - CONTH - Contempt hearing
 - COR - Contempt order

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Have you ever seen a contempt action for a parent in a JIPS or delinquency case?

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WITHDRAWING PARTIES

Does an attorney for a withdrawn party continue to have access to the case?

- No.
- The attorney can file billing statement or other documents as a non-party eFiler or via paper.
- Exception: When an attorney withdraws from a case, they have access to view any order docketed to one of the following events for 30 days: MOWC (Motion and order for withdrawal of counsel), SODP (Stipulation or order to dismiss party), PDIS (Party Dismissed), WD (Withdrawn), and WP (Withdrawn Party).

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Do you withdraw the parents/their attorney as a party in the case after TPR is granted?

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PARTIES POST-TPR

Should the parents and attorney be withdrawn once the TPR is granted? What if an appeal is pending?

- Yes. Unless directed otherwise, may want to wait 30 days to allow time for the attorney to eFile the Notice of Intent, get copies of the TPR order, submit billing (if applicable), etc.
- Even if case is being appealed, the parent is no longer entitled to notice or access to the court records relating to subsequent proceedings in the case (e.g., change in placement, permanency planning).
 - So, may need to withdraw parent earlier than 30 days or mark documents confidential.

POST-TPR: WITHDRAWING PARENTS

What is the procedure for withdrawing a parent in a TPR case after termination is granted?

- Unless local procedure or judge directs otherwise, recommend withdrawing them after 30 days (schedule reminder).
 - Allows for time to get orders distributed and any Notice of Intent or bills filed.
 - Tip: Change parent's address to "TPR" in the event notice of hearing accidentally generated.
- Parents should not have access to any post-TPR activities, like permanency planning and changes in placement.
 - So, may need to withdraw parent earlier than 30 days or mark documents confidential.

*See detailed instructions in the online materials.

POST-TPR: APPELLATE ATTORNEY'S ACCESS

How do I allow the parent's appellate attorney to have access to the TPR file?

- The attorney does have access to the TPR documents in the Court of Appeals file until the record is transmitted.
- In the interim, you can enter the attorney as "Other" party.
 - May want to instruct the attorney to select #6-Other.
 - Recommend limiting this to specific period of time.
 - If post-TPR activities occur while attorney opted-in, mark documents confidential.

POST-TPR: APPELLATE ATTORNEY'S ACCESS

Can I also mark the minutes (in the court record event) confidential or seal them so the parent's attorney does not have access?

- You can seal the court record event, but not possible to mark it confidential. If seal court record, it is restricted for all parties.
- Before sealing the court record event, discuss it with your judge.
 - CCAP now requires an order to seal already in the court record:
http://help.wicourts.gov/cc/case_ccap3/documents/docs/restrictorunrestricteddocument.pdf
- Possible workaround: take hand-written minutes or save typed minutes in Word/PDF document and mark document as confidential.

DELINQUENCY COMPETENCY

What is the proper procedure when a juvenile is found not competent in a delinquency case and a JIPS case is opened? Is the delinquency case suspended?

- Yes, the delinquency case is suspended regardless of whether the juvenile is likely to be come competent or not.
- Enter DNC (DE not competent to stand trial, case suspended), which will put the case in "suspended" maintenance and stop the case from aging.
- If juvenile becomes competent, take the case out of "suspended" maintenance by entering the event code of DCSL (DE competent to stand trial, suspension lifted).
 - *In the Interest of A.L.*, 2017 WI App 72, suggests delinquency case remains suspended indefinitely unless competency is regained.

DELINQUENCY COMPETENCY

Until the juvenile becomes competent, should all reviews and activities be recorded in the JIPS case or both cases?

- At a minimum, file in delinquency case (that's where order for re-examination was issued).
- It may also be filed in the associated JIPS case, depending on local procedure.

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In your county, which case(s) do you record the reviews and reexamination activities in?

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DELINQUENCY COMPETENCY

Should there be something specific in the JIPS dispositional order regarding periodic review of competency?

- The Order Concerning Competency or Mental Responsibility Determination (JD-1733) in the delinquency file directs the agency to obtain the reexaminations.
- It is the judge's discretion, but may want to order the juvenile to cooperate with the reexaminations if the judge feels it would be appropriate/helpful.

§ 48.977 GUARDIANSHIP – SUCCESSOR GUARDIAN

What is the process for revising a CHIPS § 48.977 guardianship when the current guardian resigns and a new guardian is appointed?

- Answer is depends on whether it is a subsidized or unsubsidized § 48.977 guardianship

SUBSIDIZED § 48.977 GUARDIANSHIP – SUCCESSOR GUARDIAN

- Statute allows a successor guardian to be named for a subsidized guardianship prior to the guardian's death.
- § 48.977(5m) indicates that the procedures for appointing the successor guardian would be the same as appointing an original guardian.
- When Petition for Appointment of Guardian (JG-1605) is filed, petitioner shall include a statement that the person was named as a successor guardian and that the conditions specified in § 48.623(6)(bm) have been met.

UNSUBSIDIZED § 48.977 GUARDIANSHIP – SUCCESSOR GUARDIAN

- Statute does not provide a procedure to name or appoint a successor guardian in an unsubsidized § 48.977 guardianship
- Defer to judge on his/her interpretation of the statute.
- Has been handled differently around the state:
 - Some believe no authority to name successor, so need to pursue new guardianship (§ 48.977 if CHIPS case still open or § 48.9795).
 - Some use Revision procedures to appoint new guardian. See § 48.977(6), JG-1628, and JG-1632.

§ 48.977 GUARDIANSHIP – PERMANENCY PLANNING

Are Permanency Reviews and Hearings required in a § 48.977 guardianship case?

- No. Permanency planning is not required in the guardianship case. The requirement is attached to any CHIPS, JIPS, or delinquency case, as long as it stays open.
- If subsidized, the agency must "review a placement of a child for which the county department or department makes payments under sub. (1) not less than every 12 months after the county department or department begins making those payments to determine whether the child and the guardian remain eligible for those payments." See § 48.623(4). However, this information would not be filed with the court.

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What type of guardianship cases are you seeing filed to achieve permanency for CHIPS cases?

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Typically, when is the underlying CHIPS case terminated after an unsubsidized guardianship (48.977 or 48.9795) is ordered for a child?

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§ 48.977 GUARDIANSHIP – ANNUAL REPORT

Are annual reports required for a § 48.977 guardianship case?

- No, there is no requirement for the guardian to file annual reports in this type of guardianship.
- Reminder: Annual reports only required in § 48.9795-Full guardianships. Court may require for § 48.9795-Limited guardianships.

MINOR GUARDIANSHIP OF THE PERSON – GAL FEES

Who is responsible for reimbursing the county for the GAL fees in a § 48.977 or § 48.9795 guardianship case? Can the petitioner be ordered to pay?

- § 48.235(8) would apply to both types of guardianship: “the court may order either or both of the parents of a child for whom a guardian ad litem is appointed under this chapter [Ch. 48] to pay all or part of the compensation” of the GAL.
- Only other statute in Ch. 48: court may order the guardian to pay attorney fees in a s. 48.9795 guardianship case if there is a motion to review the conduct of the guardian and guardian's conduct is found to be egregious. See § 48.9795(10)(d)5.
- Case law holds that the court is only permitted to order GAL reimbursement as provided in statute and, consequently, does not appear the court can require a non-parent petitioner to pay a deposit or pay for the GAL fees in a § 48.977 or § 48.9795 guardianship case. See *Romasko v. Milwaukee*, 108 Wis. 2d 32 (1982) & § 757.48(2).

MINOR GUARDIANSHIP OF THE PERSON – WICWA FINDINGS

Are WICWA findings and Qualified Expert Witness (QEW) testimony required in minor guardianship cases?

- § 48.977: Only Placement Preferences (if other findings and QEW testimony provided in underlying CHIPS case).
- § 48.9795 – Emergency: Only finding that it is necessary to prevent imminent physical damage or harm.
- § 48.9795 – Full, Limited, and Temporary
 - Active Efforts
 - Serious emotional/physical damage, including QEW testimony
 - Placement Preferences

EXHIBITS

How do I manage exhibits?

Information on how to manage exhibits can be found on CourtNet under Model record keeping>Resources>Best practices for exhibits management and retention. The exhibits best practices guide was recently updated in July. You can direct any exhibits related questions to Meg Sternitzky in Court Operations (meg.sternitzky@wicourts.gov).

FOREIGN ADOPTIONS

What needs to be done/filed in Wisconsin for an adoption that occurred in another country?

- Option 1: Register Foreign Adoption
- Option 2: "Re-Adopt" the Child

REGISTERING FOREIGN ADOPTION

- Use circuit court forms JC-1650 (Petition) and JC-1651 (Order)
- Available when child admitted to U.S. with IR-3 or IH-3 visa and other requirements met. See § 48.97(2).
- Petition must be filed within 365 days of child being admitted into U.S.
 - Unclear whether waiting over 365 days would preclude an Order Registering a Foreign Adoption Order. Ultimately up to the judge to decide.

RE-ADOPT CHILD

- If criteria of § 48.97(2) are not met, adoptive parent will need to “re-adopt” in Wisconsin. See § 48.97(2)(b).
- Procedures for adoption of foreign children provided in § 48.839.
- Standard petition (JC-1645) and order (JC-1647) for minor adoption would be used.
- Venue would be county where the adoptive parent or child resides.

JUVENILE CORRECTIONAL PLACEMENT

When and how can a juvenile be placed in a Type 1 correctional facility (Lincoln Hills/Copper Lake)?

- At disposition for juveniles in the Serious Juvenile Offender Program).
- Through a change in placement for all other juveniles.
 - Notice of change in placement hearing and documentation in support of change must be provided to DOC, with opportunity to object.
 - Change of placement may occur immediately following Dispositional Hearing if separate notice has been provided.

JUVENILE CORRECTIONAL PLACEMENT - STATUS

- Secure Residential Care Centers for Children and Youth (SRCCCYs)
 - Racine County: construction will start this year.
 - Milwaukee County: planning stages to convert MCAP program to SRCCY.
- Type 1 Correctional Facilities
 - New facility in Milwaukee planned for 2026 (males only).
 - New facility (maybe Dane County) for 2029.
 - Possible new facility (northeast part of state) in future.
 - No date yet for closing Lincoln Hills & Copper Lake.
 - As of 7/11/23, 45 boys and 5 girls.

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Have you ever had a CHIPS, JIPS, or delinquency case where there was an order to transfer venue to another county and that county rejected the case (not situation where sent in error)?

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Have you ever had a CHIPS, JIPS, or delinquency case where venue was transferred to another county and, then later on in the case, venue was transferred back to your county?

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CHANGE OF VENUE

When a juvenile case is transferred to another county and then later transferred back to the original county, is there a way to add the court record events and documents from the other county into the original case?

- No, CCAP is not currently programmed to allow this to occur with the electronic transfer of venue.
- A new JC or JV case will need to be opened.
- The court record event notes will include the case numbers from both counties. Also, cross-reference the two cases in the original county.

FINGERPRINTS

(FOLLOW-UP FROM WEDNESDAY'S PRESENTATION)

- Fingerprinting is now completely automated. Law enforcement agencies now store fingerprints electronically and they are sent to DOJ directly from the law enforcement agency.
 - Clerks do not have to worry about sending fingerprints to DOJ since that is now a law enforcement responsibility.
- Arrest Tracking Numbers (ATNs) now come to the clerk's office electronically through PROTECT and case dispositional information is sent from the court to DOJ through the interface with CCAP.
- Accordingly, clerks should not be receiving fingerprint cards from DA's Office. If clerks have old cases that still contain cards, the guidance has been to offer them back to the DA and, if the DA does not want them, to shred the cards and not scan them into the court file as a way to prevent identity theft.

CONFIDENTIAL DOCUMENTS (FOLLOW-UP FROM CCAP PRESENTATION)

- Statutes prohibit providing court documents containing “sensitive personal information” (court reports, permanency plans, evaluations, and other documents) of child/juvenile and their family:
 - Requests to access court records for serious offender and repeat offenders. §§ 938.396(2g)(k) & 938.396(2g)(L)
 - Electronic court records under §§ 48.396(3)(b)2. & 938.396(2m)(b)2.
 - Includes an attorney (prosecutor, GAL, adversary counsel) requesting electronic records on a related case as permitted in §§ 48.396 & 938.396. For example, attorney for parent in TPR accessing CHIPS court records.
 - For example, attorney on TPR opting in to view CHIPS file. Enter as “Other” party so confidential documents are not visible to attorney.
 - This may also include attorneys appointed post-disposition (statutes not clear, depends on whether relying on plain language).

CONFIDENTIAL DOCUMENTS

- See Court Operations memo:
www.wicourts.gov/services/attorney/docs/guideredactioncircuitcourts.pdf
- CCAP software automatically marks these documents as confidential when filed through eFiling. Filers need to select the correct document type.
- The DA should mark these documents as confidential when filed through PROTECT.
- Clerks should mark these documents as confidential when they are filed in paper & give access to appropriate parties.

ADDITIONAL
QUESTIONS OR COMMENTS?