CASE CLOSURE ORDERS: APPLYING FAMILY LAW PROCEDURES IN JUVENILE COURT

Webinar

June 25, 2024

CONTINUING EDUCATION

- Judicial Officers: .41 credits
  - List will be sent to Office of Judicial Education
  - Must attend entire webinar for credit
- Social Workers: 1.25 hours
  - Continuing education hours may be claimed by the individual participant by entering them as an external training in PDS Online
- Attorneys: 1.5 credits
  - Applied for CLE (GAL minor & GAL family) credits
  - Search under "Live Webcast" for location

INTRODUCTIONS

Christina Tenuta

Children's Court Improvement Program

christina.tenuta@wicourts.gov

Commissioner Anton Jamieson

Dane County Circuit Court

anton.jamieson@wicourts.gov

CASE CLOSURE ORDERS

Juvenile court judge may modify or enter a family court order for a child or juvenile subject to a CHIPS, JIPS or delinquency dispositional order

- Child is (or will be) safe in a parental placement
- Pending or existing family court order involving the child

BACKGROUND

NEED FOR LEGISLATION

- Conflicting family court orders were delaying permanency for children placed with a safe and appropriate parent
- CHIPS, JIPS, or delinquency case could not be closed until parent went to family court to modify order
  - Follow through and process were taking a long time

CASE CLOSURE ORDER LEGISLATION

- 2015 Wisconsin Act 373
  - Created §§ 48.355(4g) & 938.355(4g)
  - Effective October 1, 2016
- Wisconsin Judicial Committee on Child Welfare (WJCCW) took lead drafting
- Modeled after California's "Exit Orders"

PURPOSE

- Allows for a quicker time to permanency where:
  - Juvenile court and agency involvement are no longer needed
  - BUT a family court order is pending, inconsistent with or does not address current family needs
- Increased efficiency allows court and child welfare agency to focus time and resources on other cases

RATIONALE

- Juvenile court jurisdiction is paramount in cases
  - See §§ 48.15 & 938.15
- Juvenile court judge is usually in the best position to determine placement and custody
- Familiar with current family situation, reports, evaluations, etc.

OUTCOMES

- SAVES COURT TIME
- SAVES COUNTY RESOURCES AND MONEY
- REDUCES BURDEN ON FAMILIES
- INCREASES PERMANENCY

KEEP IN MIND

Juvenile Court has discretion to use!

- Case closure orders are not mandatory, it is a tool for parties, agency, and juvenile court

Orders should be well tailored to address what is best for the child

- Not all aspects of the family case need be addressed
- Issues can be reserved for motion in the court of origin

Juvenile court judge may want to contact judge/court commissioner in the family case

ISSUES IN IMPLEMENTATION

- Attorneys and stakeholders in juvenile court not familiar with family law (different group of attorneys)
  - Particularly drafting periods of physical placement and communication
  - Judges need to take lead role in crafting an effective order
- Remembering to give TPR warnings if denying placement
- Trying to incorporate conditions of CHIPS case into family court order
- Situations where there is not an existing family court order

CASE CLOSURE ORDER PROCEDURES

WHEN AVAILABLE?

Juvenile court may modify family court order and terminate CHIPS, JIPS or delinquency order when:

1. Child is (or will be) in a safe parental placement
2. Disposition has been entered in CHIPS, JIPS or Delinquency (Did not want to have families circumvent family court, so adjudication required.)
3. Pending or existing family court order involving the child

FAMILY COURT ORDERS IN ANOTHER COUNTY

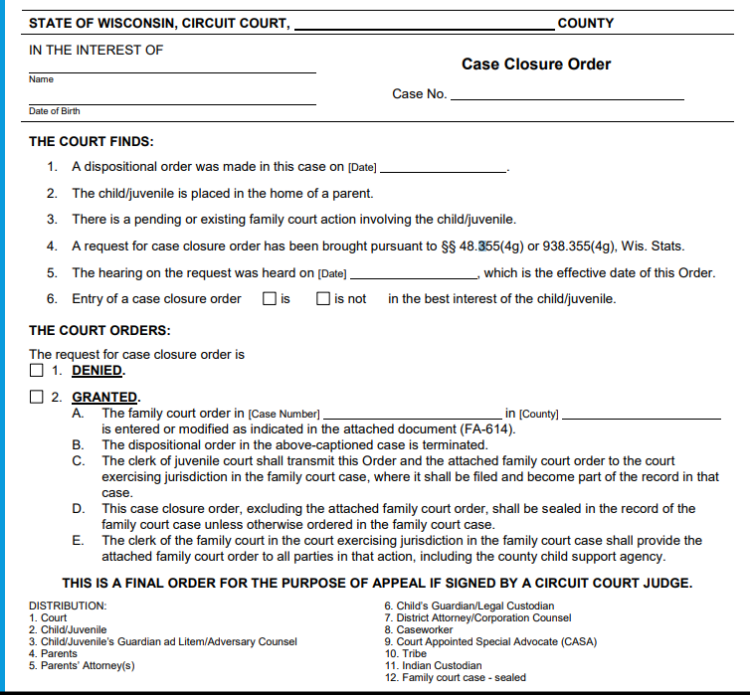
- Applies to family court cases originating in any county within the state
  - "An order under par. (a) may modify a preexisting order of a court exercising jurisdiction in an action affecting the family and shall remain in effect until modified or terminated by a court exercising that jurisdiction." §§ 48.355(4g)(e) & 938.355(4g)(e)
- Is available for family court orders in other counties
  - *In the Interest of N.A.*, 2023AP1237. (unpublished)

WHO MAY REQUEST

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

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)
   - Filed in both cases, but sealed in family court case
4. Enter Order Relating to Paternity/Legal Custody/Physical Placement/Visitation/Child Support/Health Care Expenses (FA-614)
   - Must be provided to family court clerk, who will enter it in the case
5. Terminate CHIPS, JIPS or delinquency dispositional order



STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN THE INTEREST OF

_____
Name

_____
Date of Birth

Case Closure Order

Case No. _____

THE COURT FINDS:

1. A dispositional order was made in this case on [Date] _____.
2. The child/juvenile is placed in the home of a parent.
3. There is a pending or existing family court action involving the child/juvenile.
4. A request for case closure order has been brought pursuant to §§ 48.355(4g) or 938.355(4g), Wis. Stats.
5. The hearing on the request was heard on [Date] _____, which is the effective date of this Order.
6. Entry of a case closure order ☐ is ☐ is not in the best interest of the child/juvenile.

THE COURT ORDERS:

The request for case closure order is

☐ 1. **DENIED.**

☐ 2. **GRANTED.**

A. The family court order in [Case Number] _____ in [County] _____ is entered or modified as indicated in the attached document (FA-614).
B. The dispositional order in the above-captioned case is terminated.
C. The clerk of juvenile court shall transmit this Order and the attached family court order to the court exercising jurisdiction in the family court case, where it shall be filed and become part of the record in that case.
D. This case closure order, excluding the attached family court order, shall be sealed in the record of the family court case unless otherwise ordered in the family court case.
E. The clerk of the family court in the court exercising jurisdiction in the family court case shall provide the attached family court order to all parties in that action, including the county child support agency.

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.

DISTRIBUTION:
1. Court
2. Child/Juvenile
3. Child/Juvenile's Guardian ad Litem/Adversary Counsel
4. Parents
5. Parents' Attorney(s)
6. Child's Guardian/Legal Custodian
7. District Attorney/Corporation Counsel
8. Caseworker
9. Court Appointed Special Advocate (CASA)
10. Tribe
11. Indian Custodian
12. Family court case - sealed

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

APPLYING FAMILY COURT PROCEDURES

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)

PATERNITY

- "Legal Parentage"
- Methods for Establishing Paternity:
  - Marital presumption (See Wis. Stat. § 891.41)
  - Voluntary Paternity Acknowledgment
  - Paternity action
- Legal parentage must be established in order to address legal custody and placement
- See Wis. Stats. §§ 767.80, 767.803, 767.804, 767.805, 767.89

LEGAL CUSTODY

- Right and responsibility to make "**major decisions**" concerning the child as defined in § 767.001(2m)
  - "Major decisions" include, but are not limited to decisions regarding consent to marry, consent to enter the military service, consent to obtain a motor vehicle license, authorization for non-emergency health care, and choice of school and religion
- *Joint legal custody*: Both parents make major decisions regarding the child together; neither parent's custody rights are superior
- *Sole legal custody*: One parent has the right and responsibility to make all major decisions regarding the child without having to consult with the other parent

PHYSICAL PLACEMENT

- "Periods of physical placement" are the times which a parent has the right to have the child physically placed with that parent, and during the placement, the right and responsibility to make routine daily decisions regarding the child. Wis. Stat. § 767.001(5)
- *Primary Placement*: A schedule where the child resides with one parent more than 75% of the time
- *Shared Placement*: Any schedule where both parents have at least 25% of the time (or 92 overnights in a year)

CHILD SUPPORT

- Financial obligation created by conception, adoption or adjudication to support a child, which continues until a child reaches age 18, or 19 if working towards a high school diploma or equivalent
- DCF 150 percentage standard determines amount both parents expected to contribute (https://dcf.wisconsin.gov/cs/order/tools)
- *Basic Support*: Food, shelter, clothing, transportation, personal care, and incidental recreational costs. DCF 150.02(3)
- *Variable Cost*: The reasonable costs above "basic support costs" incurred by or on behalf of a child including, but not limited to the cost of childcare, tuition, a child's special needs, and other activities that involve substantial costs. DCF 150.02(29)

STEP 1- REVIEW EXISTING FAMILY COURT CASE

- Wis. Stats. § 48.355(4g)(d) and § 938.355(4g)(d) requires the Juvenile Court to follow Chapter 767 procedure when analyzing all case closure requests
- Different burdens of proof apply depending upon whether prior orders have been entered and, if so, when those orders were entered
- Determine what issues require initial orders and what issues need to be considered for modification

INITIAL ORDER
LEGAL CUSTODY

Law starts with presumption that joint legal custody in BIOC - § 767.41(2)(am)

- Exception: If Court finds one party engaged in pattern or serious incident of domestic abuse, then presumption that it is contrary to BIOC to award custody to that party, UNLESS
  - That party successfully completes batterer's treatment and is not abusing alcohol/drugs AND
  - BIOC that party be awarded joint or sole legal custody based on the other statutory factors.
- If both parties engaged in pattern or serious incident of domestic abuse, then presumption is against the primary aggressor.
- If no primary aggressor, standard presumption for JLC applies. See Wis. Stat. § 767.41(2)(d)

INITIAL ORDER
LEGAL CUSTODY

- If DV exception does not apply, Court may order sole legal custody only if in the BIOC and:
  - Parties agree to SLC; or
  - Parties do not agree to SLC but one party requests it and Court finds any of the following:
    - One party not capable of performing parental duties OR does not wish to have an active role in raising child, OR
    - One or more conditions exist that would substantially interfere with JLC, OR
    - Parties will not be able to cooperate in future decision-making required for JLC. Wis. Stat. § 767.41(2)(b).
- Court may not give SLC to a parent who unreasonably refuses to cooperate with the other parent. Wis. Stat. § 767.41(2)(c)

INITIAL ORDER
PHYSICAL PLACEMENT

- No statutory presumption as to specific amounts of time
- Placement schedule must allow child to have **regularly occurring, meaningful periods** of placement with each parent that **maximize** time the child spends with each parent, taking into account geographic separation and accommodations for different households - Wis. Stat. § 767.41(4)(a)
- Court must allocate placement time in best interest of child considering all factors under § 767.41(5)(am)

DOMESTIC VIOLENCE CONSIDERATIONS
PHYSICAL PLACEMENT

- If the Court finds a party has engaged in a pattern or serious incident of domestic violence, the Court shall provide for the safety and well-being of the child and the safety of the parent victim in any placement order. Wis. Stat. § 767.41(6)(g)
- Must impose one or more of the following:
  - Exchange in protected area
  - Supervised placement
  - Completion of certified batterer's treatment
  - Denial of overnight placement
  - Require offender to post bond for the return and safety of child
  - Any other condition the Court deems necessary for the child's safety and well-being, including sobriety during periods of placement

BEST INTEREST FACTORS
Wis. Stat. § 767.41(5)(am)

- Wishes of the Parents
- Wishes of the Child
- **Interaction and interrelationships of child with parents, siblings, other significant person**
- **Amount and quality time each parent spent with child in past, any necessary changes to parents' custodial roles, and any reasonable lifestyle changes parent proposes to make to be able to spend time with the child**
- Child's adjustment to home, school, religion and community
- Age of child and child's developmental and educational needs
- **Whether the mental or physical health of party, minor child, or others living in household negatively affect child's intellectual, physical, or emotional well-being**

BEST INTEREST FACTORS
Wis. Stat. § 767.41(5)(am)

- Cooperation and communication between parties and whether either party unreasonably refuses to cooperate with other
- Whether each party can support other's relationship with child, or whether one party is likely to unreasonably interfere with child's continuing relationship with other party
- Whether there is evidence of child abuse
- **Whether a person with whom a parent of child has a dating relationship or resides with has a criminal record and if there is evidence they have engaged in abuse or neglect of a child**

BEST INTEREST FACTORS
Wis. Stat. § 767.41(5)(am)

- Whether there is evidence of interspousal battery or domestic abuse
- Whether either party has or had a significant problem with alcohol or drug abuse
- Reports of appropriate professionals if admitted into evidence
- Such other factors as the court may in each individual case determine to be relevant

GUARDIAN AD LITEM

- Court must appoint a GAL if custody and/or placement is contested - § 767.407
- Ensure GAL appointed with sufficient time to complete investigation necessary to make recommendation addressing factors

MODIFICATION OF CUSTODY & PLACEMENT

Substantial Modifications within 2 years of initial final order:

- Burden: Must show by substantial evidence modification is necessary because current legal custody or physical placement arrangement is physically or emotionally harmful to the child. Wis. Stat. § 767.451(1)(a)

Substantial Modifications after 2 years has passed since initial order:

- Burden: Must show there has been a substantial change in circumstances since the last order affecting custody/placement AND modification is in the BIOC
  - Rebuttable presumption that continuing current legal custody and physical placement arrangement is in BIOC. Wis. Stat. § 767.451(1)(b)

MODIFICATION OF CUSTODY & PLACEMENT

Non-Substantial Modification:

- If modification will not substantially alter the amount of time parent may spend with child, Court may modify if in BIOC. Wis. Stat. § 767.451(3)

Modification Due to Impracticality:

- If the parties have substantially equal periods of placement, the Court may change that arrangement if it finds that circumstances make it impractical for the parties to continue to have substantially equal placement and the change is BIOC. Wis. Stat. § 767.451(2)

Modification Due to Failure to Exercise Placement:

- The Court may change placement at any time if it finds a parent has unreasonably and repeatedly failed to exercise periods of physical placement granted under an order allocating specific times for placement. Wis. Stat. § 767.451(2m)

DENIAL OF PLACEMENT

- Child entitled to periods of physical placement with both parents,
  - UNLESS, after a hearing, Court finds physical placement with a parent would endanger child's physical, mental, or emotional health. Wis. Stat. § 767.41(4)(b)
- If placement is denied, Court must give TPR warnings
- Parent denied physical placement may be denied access to child's school and healthcare records. Wis. Stat. § 767.41(7)

THIRD PARTY VISITATION

- If parent contests third-party visitation, carefully review statute and applicable case law. Wis. Stat. § 767.43
  - Complex issue due to constitutional implications
- A third-party seeking visitation must overcome the presumption in favor of a fit parent's visitation decision with clear and convincing evidence that the decision is not in the child's best interest. A circuit court should not substitute its judgment for the judgment of a fit parent even if the court disagrees with the parent's decision. See *Michels v. Lyons*, 2019 WI 57, 387 Wis. 2d. 1.

CHILD SUPPORT
INITIAL ORDER

- DCF 150 percentage standard based on # of children and placement schedule applied to gross income (or earning capacity)
- Court may deviate from the percentage standard if it finds the percentage standard is unfair to the child or to any of the parties based on certain statutory factors
  - Must calculate based on guidelines and outline basis for deviation in order
- Wis. Stat. § 767.511

CHILD SUPPORT
MODIFICATION

- Must show a substantial change in circumstances since the entry of the last order to modify (i.e., change in payer's earning capacity, change in needs of child, etc.)
- Except in limited circumstances, support cannot be changed prior to the date on which the other party is served with a request to modify
- Wis. Stat. § 767.59



CASE CLOSURE ORDERS ARE FINAL ORDERS

Avoid treating these orders as stopgaps or temporary solutions.

Chapter 767 statutory burdens will apply to any future requests for modification of the Court's order.

Consider the future implications of your order.

GOALS

An effective Case Closure Order should reduce conflict between the parties by promoting an understanding of the order's requirements and reducing the need for further litigation.

1) Draft with clarity and specificity
2) Tie up loose ends - "One Stop Shop"
3) Ensure enforceability of the terms of the order

LEGAL CUSTODY ORDERS

- Decisions that constitute "major decisions" for the child - Wis. Stat. § 767.41(6)(am)
  - Participation in extracurricular activities, change in child's health care providers, educational curriculum, etc.
- Sole v. Joint Custody
- Joint legal custody with "impasse-breaking authority"
  - Court may give one party sole power to make specified decisions despite JLC (Wis. Stat. § 767.41(6)(b))
    - Ex: JLC except that Father has "impasse-breaking authority" as to choice of school

PHYSICAL PLACEMENT ORDERS

- Outline the regular schedule
  - Practical considerations- parents' availability, child's activities, distance
  - Set days/times rather than "reasonable times upon reasonable notice"
    - **ENFORCEABLE PARAMETERS!** (See Wis. Stat. § 767.41(6)(e))
- Parental Communication

  Consider addressing barriers to communication between parents by using co-parenting tool (Our Family Wizard, Talking Parents, 2houses)

STIPULATION FOR MODIFICATION

- Contingent Orders (2021 WI Act 20)
  - Effective March 2021, Court may approve a stipulation for modifications to legal custody and physical placement upon the occurrence of a specified future event that is reasonably certain to occur within 2 years of date of the stipulation
    - "Future event" defined as life event of party or child or change in developmental or educational needs of child
    - Cannot be based on anticipated behavior modification of party (i.e. AODA, batterer's treatment, etc.)
  - See Wis. Stat. § 767.451(3r)

SUPPORT ORDERS

- If CSA is a party to the family case, notice them of your case closure hearing
- Child Support Calculators: https://dcf.wisconsin.gov/index.php/cs/order/tools
- Actual Income v. Earning Capacity
  - Court may order either or both parents to seek employment or participate in an employment or training program. Wis. Stat. § 767.55(1)
- Must allocate the dependency exemption if the parents have not decided between themselves which parent should take the exemption
  - Must take into account whether medical insurance plan of either parent requires the parent with medical coverage be awarded the exemption
  - Options: Alternate years, split the kids, require compliance with child support as condition

HEALTH CARE EXPENSES

- Court must specifically assign responsibility for and manner of payment for child's health care expenses. Wis. Stat. § 767.513, DCF 150.05
- Court may order either or both parents to enroll the child in a private healthcare plan that is accessible to the child and available at a "reasonable cost," unless parent's income is below 150% of federal poverty level
  - "Reasonable cost" = costs less than 10% of insuring parent's GMI and covers hospitalization and other medical costs without large deductible or copayments
- Court may order non-insuring parent to contribute to the cost of the child's insurance premium unless parent's income is below 150% FPL; usually seen as a deviation in child support
- Court must establish an order for responsibility for medical expenses not covered by insurance; typically 50/50

RESOURCES

- Case Closure E-Learning Activity
  - www.wicccptraining.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
- GAL Handbook (State Bar of Wisconsin)
  - Useful for non-lawyers

QUESTIONS OR COMMENTS?

Please complete the survey. Thank you!!

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN THE INTEREST OF

_____
Name

_____
Date of Birth

Request for Case Closure Order

Case No. _____

I STATE ON INFORMATION AND BELIEF:

1. A dispositional order was made in the above-captioned case.

2. The child/juvenile is/will be placed in the home of a parent.

3. ☐ This proposal for case closure has been made by the court; OR
   ☐ This request for case closure is being brought by the
   - ☐ child/juvenile.
   - ☐ child's/juvenile's counsel.
   - ☐ guardian ad litem.
   - ☐ parent.
   - ☐ guardian/custodian.
   - ☐ prosecutor.
   - ☐ agency responsible for implementing the dispositional order.

4. There is a pending or existing family court action involving the child/juvenile. I request the family court order in [Case Number] _____ in [County] _____ be entered or modified with respect to the following: (Select all that apply)
   - ☐ Paternity
   - ☐ Legal custody
   - ☐ Periods of physical placement
   - ☐ Visitation
   - ☐ Child support
   - ☐ Health care expenses

   Specify, in detail, the order being requested: _____

   ☐ **See attached**

I request a hearing be held on the matter.

DISTRIBUTION:
1. Court
2. Child/Juvenile
3. Child/Juvenile's Guardian ad Litem/Adversary Counsel
4. Parents
5. Parents' Attorney(s)
6. Child's Guardian/Legal Custodian
7. District Attorney/Corporation Counsel
8. Caseworker
9. Court Appointed Special Advocate (CASA)
10. Tribe
11. Indian Custodian

▶ _____
Requestor

_____
Name Printed or Typed

_____
Address

_____
Email Address Telephone Number

_____
Date State Bar No. (if any)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN THE INTEREST OF

_____
Name

_____
Date of Birth

Case Closure Order

Case No. _____

THE COURT FINDS:

1. A dispositional order was made in this case on [Date] _____.
2. The child/juvenile is placed in the home of a parent.
3. There is a pending or existing family court action involving the child/juvenile.
4. A request for case closure order has been brought pursuant to §§ 48.355(4g) or 938.355(4g), Wis. Stats.
5. The hearing on the request was heard on [Date] _____, which is the effective date of this Order.
6. Entry of a case closure order ☐ is ☐ is not in the best interest of the child/juvenile.

THE COURT ORDERS:

The request for case closure order is

☐ 1. **DENIED.**

☐ 2. **GRANTED.**

A. The family court order in [Case Number] _____ in [County] _____ is entered or modified as indicated in the attached document (FA-614).

B. The dispositional order in the above-captioned case is terminated.

C. The clerk of juvenile court shall transmit this Order and the attached family court order to the court exercising jurisdiction in the family court case, where it shall be filed and become part of the record in that case.

D. This case closure order, excluding the attached family court order, shall be sealed in the record of the family court case unless otherwise ordered in the family court case.

E. The clerk of the family court in the court exercising jurisdiction in the family court case shall provide the attached family court order to all parties in that action, including the county child support agency.

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.

DISTRIBUTION:
1. Court
2. Child/Juvenile
3. Child/Juvenile's Guardian ad Litem/Adversary Counsel
4. Parents
5. Parents' Attorney(s)
6. Child's Guardian/Legal Custodian
7. District Attorney/Corporation Counsel
8. Caseworker
9. Court Appointed Special Advocate (CASA)
10. Tribe
11. Indian Custodian
12. Family court case - sealed

Petitioner/Joint Petitioner A: _____
Respondent/Joint Petitioner B: _____

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN RE: THE ☐ MARRIAGE ☐ PATERNITY OF _____

Petitioner/Joint Petitioner A

_____

and

Respondent/Joint Petitioner B

_____

The State of Wisconsin (Child Support Agency)
☐ **is**
☐ **is not** a party to this action.

Order Relating to:

☐ Paternity
☐ Legal Custody
☐ Physical Placement
☐ Visitation
☐ Child Support
☐ Health Care Expenses

Case No. _____

THE COURT FINDS:

1. The parties are subject to
   ☐ A. a pending action for
      ☐ Divorce ☐ Annulment ☐ Legal Separation ☐ Paternity
      ☐ Independent action to determine legal custody of the child or visitation rights.
      OR
   ☐ B. an Order that has been granted in an action affecting the family determining: (Check all that apply)
      ☐ Legal Custody ☐ Periods of Physical Placement ☐ Visitation Rights
      ☐ Child Support ☐ Coverage of Health Care Expenses
2. A hearing was conducted in this matter on [Date] _____.

THE COURT ORDERS:

1. The Order be ☐ entered ☐ modified with respect to
   ☐ A. Paternity. ☐ **See attached**
      Specifically: _____
   ☐ B. Legal Custody for the following children: _____
      ☐ 1) Joint legal custody with both parents.
      ☐ 2) Sole legal custody with [Name of Parent] _____
      ☐ 3) Other: _____
      ☐ **See attached**
   ☐ C. Physical Placement for the following children: _____
      ☐ 1) Primary physical placement with [Name of Parent] _____.
      ☐ 2) Shared placement.
      ☐ 3) The new placement schedule for the changes above is as follows: _____
      ☐ **See attached**
      ☐ 4) Placement with [Name of Parent] _____
      is required to be ☐ supervised. ☐ unsupervised.
      ☐ 5) Other: _____

☐ D. Visitation Rights of Certain Persons under §§ 767.43 or 767.44, Wis. Stats. ☐ **See attached**
Specifically: _____.

☐ E. Child Support.

☐ 1) Based on the below standard calculation, child support shall be paid by _____ to _____ per _____ in the amount of $_____.
Child Support based on gross income and the child support percentage of income standards.
The standard calculation that applies to this case is

☐ 17% for one child.	☐ split-placement formula.
☐ 25% for two children.	☐ shared-placement formula.
☐ 29% for three children.	☐ serial-family parent formula.
☐ 31% for four children.	☐ low-income payer formula.
☐ 34% for five or more children.	☐ high-income payer formula.

☐ 2) Child Support Order and basis for a Deviation.
a. Based on the above standard calculation, the parties understand that child support would be paid by _____ to _____ per _____ in the amount of $_____.
b. The court orders a deviation from that amount of child support.
1. A cash contribution from F.2. or F.3.b. below ☐ increases ☐ decreases this child support amount by _____ (If no deviation, enter "0" or "None") $_____.
2. A deviation is based on: [Explain the reasons for any other deviation here]
_____
and this ☐ increases ☐ decreases this child support amount by _____
(If no deviation, enter "0" or "None") $_____.
3. The net amount of the child support payment shall begin _____, 20____ in the amount of $____ (If no child support is to be paid, enter "0" or "Held Open") $_____.

☐ 3) Issue of child support is reserved and a referral shall be made to the child support agency.

☐ F. Health Care Expenses.
Parents are required to provide private health insurance for their minor child(ren) if service providers are located within 30 miles or 30 minutes from the child's residence and if the cost is reasonable. Reasonable cost is defined as the total amount paid for insurance coverage where the cost does not exceed 10% of the insuring parent's monthly income available for child support. The insuring parent may receive a contribution toward the cost of the insurance from the other parent, either as a credit against the child support obligation or an increase in the non-insuring parent's child support obligation as long as the contribution does not exceed 10% of the non-insuring parent's gross monthly income. The parties agree that such medical insurance coverage for the minor child(ren) including medical, dental, orthodontic, hospital, psychiatric, counseling, drug and other health expenses which is currently offered shall be provided and paid by

☐ 1) both parties shall provide private health insurance and neither parent is required to make a cash contribution to the other.

2) _____ shall provide private health insurance. The out of pocket cost (difference between single and family coverage) to cover the child(ren) under such insurance is $_____. The other parent shall contribute $_____ toward that cost (as a reasonable cash contribution) and that amount, if any, is included as a deviation in the child support calculation in 4.B. of Child Support and Financial Expenses below.

☐ 3) a comprehensive private health insurance policy is not available to either parent at a reasonable cost.
☐ Petitioner/Joint Petitioner A ☐ Respondent/Joint Petitioner B
☐ has enrolled in ☐ shall promptly apply for Public Health Insurance.
☐ a. There is no out of pocket expense for the above Public Health Insurance.
☐ b. Out of pocket cost for such insurance is $_____. The other parent shall contribute $_____ toward that cost (as a reasonable cash contribution) and that amount, if any, is included as a deviation in the child support calculation in 4.B. of Child Support

and Financial Expenses below. If accessible private health insurance becomes available at a reasonable cost to either parent, that parent shall enroll the child(ren) as covered dependents under his/her health insurance.

4) ☐ Petitioner/Joint Petitioner A ☐ Respondent/Joint Petitioner B does not have free health insurance available and has income below 150% of the federal poverty level and is therefore unable to make a cash contribution toward the cost of the child(ren)'s healthcare. The appropriate cash medical support obligation is $0. If accessible private health insurance becomes available at a reasonable cost to either parent, that parent shall enroll the child(ren) as covered dependents under his/her health insurance.

The insuring parent shall provide the other parent and the child support agency with copies of policy information and insurance cards. The insuring parent shall inform the child support agency about any change in his/her employment and the availability of insurance.

☐ G. Other: _____

☐ **See attached**

2. All provisions of any previous judgment or order not amended by this order remain in full effect.

3. Whenever private, accessible and reasonably-priced health insurance becomes available to either parent at a reasonable cost, that parent shall enroll the child(ren) as covered dependents under his/her health insurance, unless he child(ren) are already enrolled under another private health insurance plan or unless the parent's income is below 150% of the federal poverty level.

4. Change of Residence of Children. If this order established or modified custody or placement in any way, you are informed of the following:
   - Each parent must notify the other parent, the child support agency, and the clerk of court of the address at which they may be served within 10 business days of moving to that address. The address may be a street or post office address.
   - The address provided to the court is the address on which the other parties may rely for service of any motion relating to modification of legal custody or physical placement or to relocating the child's residence.
     - A parent granted periods of physical placement with the child must obtain a court order before relocating with the child 100 miles or more from the other parent if the other parent also has court-ordered periods of physical placement with the child.

5. Parties are notified of the provisions of § 948.31, Wis. Stats. as follows:
   §948.31 Interference with custody by parent or others.
   (1) (a) In this subsection, "legal custodian of a child" means:
      1. A parent or other person having legal custody of the child under an order or judgment in an action for divorce, legal separation, annulment, child custody, paternity, guardianship or habeas corpus.
      2. The department of children and families or the department of corrections or any person, county department under s. 46.215, 46.22 or 46.23 or licensed child welfare agency, if custody or supervision of the child has been transferred under ch. 48 or 938 to that department, person or agency.

   (b) Except as provided under chs. 48 and 938, whoever intentionally causes a child to leave, takes a child away or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period from a legal custodian with intent to deprive the custodian of his or her custody rights without the consent of the custodian is guilty of a Class F felony. This paragraph is not applicable if the Court has entered an order authorizing the person to so take or withhold the child. The fact that joint legal custody has been awarded to both parents by a court does not preclude a court from finding that one parent has committed a violation of this paragraph.

   (2) Whoever causes a child to leave, takes a child away or withholds a child for more than 12 hours from the child's parents or, in the case of a nonmarital child whose parents do not subsequently intermarry under s. 767.803, from the child's mother or, if he has been granted legal custody, the child's father, without the consent of the parents, the mother or the father with legal custody, is guilty of a Class I felony. This

subsection is not applicable if the legal custody has been granted by court order to the person taking or withholding the child.

(3) Any parent, or any person acting pursuant to directions from the parent, who does any of the following is guilty of a Class F felony:
(a) Intentionally conceals a child from the child's other parent.
(b) After being served with process in an action affecting the family but prior to the issuance of a temporary or final order determining child custody rights, takes the child or causes the child to leave with intent to deprive the other parent of physical custody as defined in s. 822.02(9).
(c) After issuance of a temporary or final order specifying joint legal custody rights and periods of physical placement, takes a child from or causes a child to leave the other parent in violation of the order or withholds a child for more than 12 hours beyond the court-approved period of physical placement or visitation period.

(4) (a) It is an affirmative defense to prosecution for violation of this section if the action:
1. Is taken by a parent or by a person authorized by a parent to protect his or her child in a situation in which the parent or authorized person reasonably believes that there is a threat of physical harm or sexual assault to the child;
2. Is taken by a parent fleeing in a situation in which the parent reasonably believes that there is a threat of physical harm or sexual assault to himself or herself;
3. Is consented to by the other parent or any other person or agency having legal custody of the child; or
4. Is otherwise authorized by law.

(b) A defendant who raises an affirmative defense has the burden of proving the defense by a preponderance of the evidence.

(5) The venue of an action under this section is prescribed in s. 971.19(18)., which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.

(6) In addition to any other penalties provided for violation of this section, a court may order a violator to pay restitution, regardless of whether the violator is placed on probation under s.973.09, to provide reimbursement for any reasonable expenses incurred by any person or any governmental entity locating and returning the child. Any such amounts paid by the violator shall be paid to the person or governmental entity which incurred the expense on a prorated basis. Upon the application of any interested party, the court shall hold an evidentiary hearing to determine the amount of reasonable expenses.

6. **Child Support**

a. Pursuant to §767.75, Wis. Stats., this judgment constitutes an immediate assignment of all commissions, earnings, salaries, wages, pension benefits, benefits under Chapter 102 or 108, and other money due or to be due in the future, to the WI SCTF. The assignment shall be for an amount sufficient to ensure payment under this judgment, so long as the addition of the amount toward arrears does not leave the party at an income below the poverty line established under 42 USC 9902(2).

b. Pursuant to §767.57(1)(a), Wis. Stats., all payments for child support ordered shall note the case number and the names of the parties on the face of the check, should be made payable to WI SCTF, and sent to:

Wisconsin Support Collections Trust Fund
Box 74200
Milwaukee, WI 53274-0200.

The WI SCTF will transmit the payments to the proper persons entitled to them.

Failure of an employer to pay the proper amount shall not be a defense for failure to pay the proper amount. If an employer fails to take out the correct amount for child support, the party paying is responsible for paying the full and correct amount directly to WI SCTF.

Pursuant to §767.57(1e), Wis. Stats., the party making payment for child support is responsible for payment of the annual receiving and disbursing fee to WI SCTF.

Pursuant to §767.57(1e)(c), Wis. Stats., an annual fee will be deducted by WI SCTF from payments to recipients of child support or family support.

c. Both parties shall notify, in writing, the other party and the Clerk of Court and the Child Support Agency of the county in which this action is filed, within 10 business days, of any change of employer and employer's address, and of any substantial change in the amount of his/her income, including receipt of

bonus compensation, such that his/her ability to pay support is affected. Notification of any substantial change in the amount of the payer's income will not result in a change in the order unless a revision or adjustment of the order is sought.

If the child support order includes more than one child, child support does not automatically adjust when a child reaches the age of majority and is no longer eligible for child support.

d. A party ordered to pay child support or family support shall pay simple interest rate according to statutory rate on any amount in arrears that is equal to or greater than the amount of support due in 1 month. If there is no current order, interest shall accrue on the balances due.

e. Pursuant to §767.75, Wis. Stats., a withholding assignment or order under this section has priority over any other assignment, garnishment, or similar legal process under Wisconsin law. The employer shall not withhold more of the employee's disposable income than allowed pursuant to the Federal Consumer Credit Protection Act unless the employee agrees to have the full amount withheld. No employer may use an assignment under this section to deny employment, or to discharge or take disciplinary action against an employee.

f. If the court orders child support or maintenance, the parties shall annually exchange financial information no later than May 1 or ☐ Other: [Date] _____ of each year including all of the following:
   - A complete copy of the party's federal and state income tax return for the prior calendar year, including all W-2 forms and 1099 forms.
   - A year-end paycheck stub from all sources of employment for the prior calendar year.
   - The party's most recent paycheck stub from all sources of employment showing year-to-date gross and net income.
   - Any other documentation of the party's income from all sources for the 12-month period preceding the exchange of information.

A party who fails to furnish the information as required by the court under this subsection may be proceeded against for contempt of court under ch. 785, Wis. Stats. If the court finds that a party has failed to furnish the information required under this subsection, the court may award to the party bringing the action costs and, notwithstanding §814.04(1), Wis. Stats., reasonable attorney fees. Failure by a party to timely file a complete disclosure statement as required hereunder shall authorize the court to accept as accurate any information provided in the statement of the other party or obtained under §49.22(2m), Wis. Stats., by WI SCTF or the county child support agency under §59.53(5), Wis. Stats.

7. **Entry of Order**
The clerk of the family court shall file a copy of this order and provide a copy to all parties in the action.

FAILURE TO OBEY THIS ORDER IS PUNISHABLE AS CONTEMPT OF COURT AND MAY RESULT IN A JAIL SENTENCE.

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.

DISTRIBUTION:
1. Court File
2. Guardian ad Litem
3. Parents/Attorney
4. Child Support Agency
5. Other: _____