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**FILED**

**WASHBURN COUNTY CIRCUIT COURT**  
**10<sup>th</sup> JUDICIAL DISTRICT LOCAL COURT RULES**  
Effective January 1, 2025

DEC 12 2024  
SHANNON ANDERSON  
CLERK OF COURT  
WASHBURN COUNTY

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**Part 1 – Publication and Revision of Court Rules**

## 101 District Rule adoption and promulgation

101.01 Pursuant to §753.35(2), the Tenth Judicial District Court Rules are incorporated herein by reference.

## 102 Proposed rules shall be posted for public review in the County Courthouse by the Clerk of Circuit Court and copies shall be forwarded to the Secretary of the local Bar Association at least thirty days prior to formal adoption.

## 103 Notice of proposed rules as described in Sec. 101 shall constitute sufficient public notice.

## 104 Rules shall be adopted by written order of the Circuit Judge, subject to approval of the Chief Judge.

## 105 Orders adopting rules shall specify an effective date.

## 106 Once adopted, court rules shall be filed with the Clerk of Circuit Court and the Clerk of Circuit Court shall provide copies to the Secretary of the local Bar Association and the Chief Judge.

**Part 2 – Court Practice**

## 201 Calendars for attorneys

Attorneys are required to have their calendars with them in court or at all video or teleconference hearings so that firm court dates can be set. In the event that an attorney does not have his or her calendar in court, a date will be set in accordance with the judge's calendar, and the attorney will have the responsibility to adjust his or her professional or personal calendar accordingly.

## 202 Closure of Proceedings

## 202.01 Media Coverage

Unless good cause has been shown to the Judge, a party moving that any judicial proceedings required by law to be public be closed to the news

media must notify the court and the media coordinator in writing at least 72 hours prior to the time set to hear the motion. The purpose of this rule is to permit legal counsel to appear on behalf of the media and be heard. The burden shall be upon the moving party to show cause why the proceedings should not be public as required by the statute.

### 203 Confidential Records

All court ordered or statutorily required reports are confidential in all actions and proceedings. The original copy of the report shall be provided to the court. Copies of the report shall be provided to the district attorney or corporation counsel, the county department, counsel for the parties and guardian ad litem, as applicable.

Counsel for any party shall not provide his or her client or any other party with a copy of a report unless approved to do so by the court. A client or other party denied a copy of a report may read the counsel's copy of the report or the preparer's copy at the preparer's office.

A copy of the Dispositional Court Report in CHiPS, JiPS and delinquency matters, and the custody study or stepparent adoption study in family court matters will be provided to the parent(s) or guardian of the juvenile by the Department of Human Services. The parent or guardian shall not release the copy to any third party. See Washburn County Juvenile Court Records Policies concerning other Juvenile records.

### 204 Continuances

All stipulated requests for continuance of trial date shall require the consent of the named parties in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown. All requests for continuance are subject to the approval of the court. Any party seeking a continuance must make an effort to consult with opposing counsel or party before contacting the judge's office.

### 205 Court Commissioner – no rules promulgated

### 206 Entry of order/judgements (Five-day Rule) – no rules promulgated

### 207 Facsimile/Electronic Transmission of Documents to the Court

Facsimile transmission of documents to the court will be accepted pursuant to Wis. Stat §801.16(2).

207.01 Email communication with the court. No party or lawyer shall communicate directly or indirectly with a judge by e-mail regarding any pending or closed case. "Party" includes, but is not limited to, social workers, probation agents, corrections/police officers or pro se

individuals. “Lawyer” includes legal assistant, secretary or other office staff of the lawyer.

No substantive issue on any pending or closed case may be communicated to the judicial assistant by e-mail. All substantive issues must be communicated by letter or motion and e-filed. Pro se parties may submit written correspondence which will be scanned and filed by the clerk. All lawyers are required to opt-in to any criminal or civil case, whether pending or closed, and e-file a communication must be mailed to a pro-se party at the time of filing.

A party or lawyer may communicate directly with a judicial assistant by e-mail for scheduling, case assignments, requests for telephone appearance or jury trial notifications (i.e. trial status and order of trials pursuant to policy), provided that the other party or lawyer is copied on the e-mail communication.

- 208 Filing Fees – no rules promulgated
- 209 Filing a name change – no rules promulgated
- 210 Holding of court in location other than the county seat – no rules promulgated
- 211 Issuing of Writs – no rules promulgated
- 212 Judicial Assignments – no rules promulgated
  - 212.01 Intake – no rules promulgated
  - 212.02 Civil Matters – no rules promulgated
  - 212.03 Criminal Matters – no rules promulgated
  - 212.04 Juvenile Matters – no rules promulgated
  - 212.05 Other Matters – no rules promulgated
- 213 Jury Fees – no rules promulgated
- 214 Rules of decorum
  - 214.01 Court shall be formally opened each day in which court business is transacted either by the Court Security Officer, Bailiff or the Clerk of Court.

- 214.02 As the Judge enters the courtroom, the Court Security Officer, Bailiff, or Clerk of Court shall require all present to rise and stand. When the Judge has reached the bench, he/she shall then instruct all to be seated and the business of the court shall proceed.
- 214.03 Supreme Court Rule 62.02 shall be strictly enforced. Any part and any attorney appearing in court shall refrain from making comments regarding the personal or professional competence of another party or attorney.
- 214.04 When trial is to a jury, the jurors shall take their place in the jury box when the Judge so directs.
- 214.05 All parties and lawyers must respect the difficulty faced by the court reporter when more than one person is talking at a time. Except for objections of counsel, only one person may speak at a time while court is in session.
- 214.06 The flag of the United States and the State of Wisconsin shall be displayed in the courtroom at all times while court is in session.
- 214.07 Lawyers or parties shall never lean upon the bench or appear to engage the court in a manner which would lessen the dignity of the proceedings in the eyes of the jury and public.
- 214.08 Witnesses shall be examined from a position at the counsel table, except when handling exhibits, unless a lectern is provided by the court, in which case the examination shall be either from the position at the counsel table or the lectern. Persons examining witnesses may either stand while examining a witness from the counsel table or remain seated. Upon approval of the court, counsel may approach the witness during examination.
- 214.09 When a lawyer or party is addressing the jury, he or she shall not crowd the jury box.
- 214.10 During examination of jurors on voir dire, the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition, and seek only material information on juror qualification. The court reserves the right to suspend voir dire in the interest of justice and efficiency.
- 214.11 During trial, no lawyer or party shall exhibit familiarity with witnesses, jurors or opposing counsel and generally the use of first names shall be avoided. In arguments to the jury, no juror shall be addressed individually or by name.

- 214.12 Lawyers and court officers shall, while in attendance upon the court, be attired in such a manner as not to lessen the dignity of the court or of its proceedings in the eyes of the jury and public.
- 214.13 Lawyers shall advise their clients and witnesses of the formalities of the court and seek their full cooperation therewith. It is expected that lawyers will guide clients and witness as to appropriate attire.
- 214.14 Witnesses shall be examined with courtesy and respect.
- 214.15 The swearing of witnesses shall be by oath or affirmation.
- 214.16 In jury cases which are disposed of without a jury verdict, the judge in dismissing the jury should briefly explain the procedure and why a verdict was unnecessary.
- 214.17 The judge shall wear a robe while presiding on the bench, provided that judicial discretion may be exercised otherwise in appropriate situations.
- 214.18 A court security officer or bailiff shall provide courtroom security when ever court is in session and such bailiff or officer shall be in the courtroom in full uniform, unless directed otherwise by the presiding judge. Special security rules may be adopted by the court in individual cases. Everyone in attendance at court shall obey the lawful commands of the court security officer or bailiff. Security and metal detection will be handled by security officers. Only law enforcement personnel shall carry a firearm in the courtroom, unless otherwise allowed by the presiding judge.
- 214.19 All attorneys must become familiar with the Digital Audio Recording System, and understand that all proceedings are being digitally recorded and appropriate use of micro phones will be required.
- 215 Substitutions and Recusals – no rules promulgated
- 216 Telephonic hearings/motions – no rules promulgated
- 217 Use of Videoconferencing/Remote Appearances:
- 217.01 All video proceedings are to be indicated on the court record.
- 217.02 Any proceeding or appearance allowable by statute, case law or at the discretion of the court, may be conducted by video either by request of a party or at the discretion of the presiding court official. Parties requesting use of video must obtain prior court approval. The court

may allow remote appearances, if requested in writing, utilizing Form GF-306 and GF-307.

- 217.03 Any party requesting the use of video for an upcoming hearing should attempt to do so within a reasonable amount of time prior to the hearing and physical transport of any prisoner, patient, detainee, or witness. Any request to appear remotely for a hearing must be made in writing by noon the Friday preceding the hearing. The court may allow remote appearances, if requested in writing, utilizing Form GF-306 and GF-307.
- 217.04 If any party objects to conducting a hearing via video, they must (1) notify all counsel and parties not represented by counsel, orally on the record or in writing, of such objection within a reasonable amount of time prior to the hearing, and (2) notify the court, orally on the record or in writing, of such objection within a reasonable amount time prior to the hearing, and (2) notify the court, orally on the record or in writing, of the reason why they object to the use of video. The court will be guided by Wis. Stat §885.50 – 885.64 in determining whether to permit the use of video in a particular case.
- 217.05 If a defendant who is in custody has a physical disability that will make communication via video difficult for the defendant, judge, or both, the defendant shall be brought personally before the judge, unless an interpreter is made available and both the defendant and the interpreter can be heard and seen via video during the proceedings.
- 217.06 During a video proceeding, the court shall maintain full control of the remote camera and courtroom camera.
- 217.07 Video conference is encouraged to be utilized whenever practically reasonable. Parties seeking to appear or have witnesses appear by video conference shall obtain prior court approval. The court may allow remote appearances, if requested in writing, utilizing Form GF-306 and GF-307.
- 218 Case processing time guidelines
- 218.01 The benchmarks enumerated below are goals for processing trial court caseload. These goals are meant to apply to all cases, except for individual cases in which the court determines exceptional circumstances exist.
- a. Civil actions, not including family actions or small claims actions, should be disposed of within 360 days from the filing of the summons and complaint, except that actions involving

personal injury, property damage, or other intentional tort should be disposed of within 540 days from the filing of the summons and complaint. All other civil actions should be disposed of within 180 days from the filing of the summons and complaint.

- b. Family actions under chapter 767 should be disposed of within 360 days from the filing of the petition.
- c. Contested small claims should be disposed of within 180 days from the filing of the summons and complaint.
- d. Felony actions should be adjudicated within 180 days of the date of the first appearance of the defendant and in no event longer than 90 days after demand for speedy trial. See Wis. Stat §971.10(2).
- e. Misdemeanor and criminal traffic actions should be adjudicated within 180 days of the date of first appearance of the defendant unless the defendant is in custody, in which case trial should commence within 60 days from the date of the defendant's initial appearance in court. See Wis. Stat §971.10(1).
- f. Ordinance and forfeiture actions should be adjudicated within 180 days of the first appearance of the defendant or entry of initial plea, whichever occurs first.
- g. Estate actions should be disposed of within Twelve (12) months from the date of the filing of the petition for administration and within Six (6) months for ancillary probate for real estate only with a foreign personal representative.
- h. Juvenile actions, both delinquency and CHIPS actions, should be disposed of within 90 days from filing of the petition.

## 219 Proposed Order, Findings or Similar Document Submission

Proposed orders, findings, or similar documents must be filed in Word format with a three inch top margin on the first page to allow for the Court's signature block. A party filing a proposed order, findings or similar document must serve all parties with the document and advise the Court in writing whether the other parties approve the document or that it is filed under the 11-day rule contained herein. If there is no agreement on the form of the proposed submission, within eleven (11) calendar days

from the date the proposed submission is filed any party objecting to it must file an alternative proposed version, along with a cover letter identifying the basis for the objection. Absent good cause, objections filed after expiration of eleven (11) calendar days are forfeited.

### **Part 3 – Civil Practice**

#### 301 Service and Answer

All civil cases will be reviewed no later than 120 days from filing. If no service has been obtained or there has been no joinder of issues, the court may enter an order of dismissal or initiate default proceedings.

#### 302 Scheduling

The circuit judge requests trial counsel to pursue settlement at the earliest possible time. Recognizing the great inconvenience and expense that can be caused to the parties, jurors, witnesses, and the county, early settlements will be promoted by attorneys who have had timely consultations with their clients and who are prepared to discuss all aspects of their case.

302.01 Orders such as orders to show cause and temporary restraining orders shall not be issued on unsigned pleadings, motions or affidavits.

#### 303 Pretrial

In all pretrial matters, attorneys must have the authority to negotiate in the absence of their clients or, if the authority is not granted, immediate telephonic access to the clients shall be required.

#### 304 Discovery – no rules promulgated

#### 305 Other Motions

In civil proceedings, all post judgment motions to reopen or vacate default judgments shall require a filing fee of \$50.00 to be paid to the Washburn County Clerk of Circuit Court. If the court finds error on the part of the court, which, in part, caused the default, the filing fee shall be refunded.

#### 306 Judgments

##### 306.01 Default Judgment

No notice to defendant is required prior to the entry of a default judgment in large claim civil actions where personal service was originally obtained

upon the defendant. The court does require a formal motions for default judgment. A hearing is not required unless otherwise stated.

Hearing requests shall be heard by the court as soon as practicable. Upon the expiration of the time to request a hearing, plaintiff may apply to the court for default judgment, accompanied by an affidavit of the foresaid notice to defendant. In actions where damages are not liquidated, a hearing shall be conducted to determine the amount of the judgment. The court may order a hearing to determine the amount of judgment in any case.

Any judge may in an individual case require further notice of proof regarding service, damages or costs, if appropriate.

#### **Part 4 – Criminal Practice**

##### 401 Defendant’s Presence required; Authorization to Appear; Remote Appearance

In criminal cases, a defendant shall appear personally in all matters, unless otherwise excused. In misdemeanor cases, authorization may be signed by the defendant for his or her attorney to appear on their behalf. However, all authorization in which cases where defendant resides outside the State of Wisconsin or more than 150 miles from the Washburn County Courthouse. The court may allow remote appearances, if requested in writing, utilizing Form GF-306 and GF-307.

##### 402 Warrants & Warrantless Arrests – no rules promulgated

##### 403 Bonds – no rules promulgated

403.01 Cash Bonds – no rules promulgated

403.02 No Contact Domestic Violence Bonds – no rules promulgated

##### 404 Initial Appearances/Arraignments

When a not guilty plea is entered by a defendant in a criminal proceeding, status conferences will be scheduled before the matter will be set for trial. At a status conference, the court will set the matter for jury trial, unless the defendant enters a guilty or no contest plea to the charge, a reduced charge or pursuant to a plea agreement, or unless a new status conference is required. The defendant shall appear in person unless counsel has filed a written authorization to appear and sought permission of the court to appear remotely or by authorization. Prior to entry of a plea of guilty or no contest, the defendant shall complete and sign a written Plea Questionnaire/Waiver of Rights form and file it with the court. The form must be completed in full. Personal appearance is required by a defendant in all felony proceedings.

##### 405 Preliminary Hearings – no rules promulgated

406 Commitment Orders – no rules promulgated

407 Discovery – no rules promulgated

408 Jury & Bench Trials

When any civil, criminal, juvenile (14 or older), or other jury trial demand is withdrawn after 3:30 p.m. on the preceding business day before trial, a jury fee of not less than \$500.00, but not more than the actual jury costs to the county for a twelve person jury (\$250.00, but not more than the actual jury cost to the county for a six person jury), will be assessed pursuant to Wis. Stat. \*814.51.

408.01 Pretrial order and order setting case for trial

The circuit court judge requests trial counsel to pursue settlement at the earliest possible time. Recognizing the great inconvenience and expense that can be caused to the parties, jurors, witnesses, and the county, early settlements will be promoted by attorneys who have had timely consultations with their clients and who are prepared to discuss all aspects of their case. The court shall set timelines and other requirements in a pre-trial scheduling order.

409 Motion Practice

All stipulated requests for continuance of a trial date shall require the consent of all parties in writing or on the record and must be for good cause shown. All non-stipulated requests for continuance must be by written motion and hearing and for good cause shown. Any continuance is subject to approval of the court.

410 Pre-Sentence Investigation – no rules promulgated

411 Probation – no rules promulgated

### **Part 5 – Family Law Practice**

501 Advance payments on custody and psychological evaluations

The court may direct one or both parties to prepay the fees for mediation sessions provided by family court counseling services beyond the first session. The court may also direct one or both parties to prepay the fees for a legal custody and physical placement study.

The fees for mediation and custody studies are payable directly to Washburn County's Clerk of Circuit Court. The family court counseling services shall adopt a sliding fee schedule to be approved by the circuit judge.

The court may reduce the fees in accordance with the party's ability to pay or provide the services without payment of the fees if both parties are unable to pay. If parties are unable to pay, the court shall grant a separate judgment for the amount of the fees in favor of the county and against the party or parties responsible for the fees.

502 Child Support Warrants – no rules promulgated

503 Guardian ad Litem

Prior to appointment of a guardian ad litem in any action affecting the family, each party, if ordered by the court, deposit and advance on fee of \$250.00 with the Clerk of Courts. The court may waive this requirement based upon the inability of a party to pay. The court may direct that the fees of the guardian ad litem be paid by Washburn County, and may direct that the fees be reimbursed to Washburn County by either or both parties. The court shall grant a judgment for the amount of the reimbursement, in favor of Washburn County and any party responsible for reimbursement.

503.01 It is the policy of the court to expect each guardian ad litem to obtain a copy of and be familiar with the contents of *GAL Practice Guidelines* provided by the Family Law Section of the State Bar of Wisconsin.

504 Pre-trial – no rules promulgated

504.01 Order procedure for contested divorces

- a. The court will set every action for divorce and legal separation for a stipulated final hearing/status conference upon the expiration of 120 days after service of the summons and petition upon the respondent or the expiration of 120 days after the filing of the joint petition.
- b. Parties seeking discovery in actions affecting the family may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim of the party seeking discovery or to the claim of any other party. Parties shall avoid needless discovery or to the claim of any other party. Parties shall avoid needless discovery that is unduly burdensome or expensive taking into account the amount in controversy. Discovery requests shall not be made for items that are reasonable accessible to the requesting party.

504.02 In any action affecting the family in which a minor child is involved, the following shall apply:

- a. Both parties shall attend and complete an educational program addressing the effects of divorce on children. A brochure containing a

schedule of the dates, times, places and providers of the program shall be provided to each party by the Clerk of Court. The Educational Program shall be completed prior to the date of the final hearing herein, unless for good cause shown, a party is relieved of this obligation by the court.

- b. Each party shall be responsible for a payment of any fee payable at the time of the session. Each parent shall be responsible for providing proof of completion of the program to the Washburn County Clerk of Court.
- c. A party may attend an alternative educational program not listed in the brochure with the approval of the Family Court Commissioner. Any party wishing to attend an alternative program must first contact the Washburn County Clerk of Court. Any party attending an approved, alternative Educational Program shall be responsible for all costs thereof, and shall provide proof of attendance to the Washburn County Clerk of Court.
- d. Failure by either party to comply with this order shall be cause for imposing sanctions which may include dismissal, default judgment, contempt, monetary penalties, orders limiting or barring the presentation of testimony or induction of evidences at trial, or any combination thereof, or such other or further sanctions as the court may deem appropriate under the circumstances. The court may refuse to enter final judgment until such time as the provisions herewith have been completed.

504.03 The provisions of every judgment of divorce, annulment or legal separation regarding child support and provision and provision of health insurance for the parties' minor children shall be submitted to the Washburn County Child Support Agency for review prior to submission to the court for signature.

## **Part 6 – Foreclosure Practice**

601 Service – no rules promulgated

## **Part 7 – Juvenile Practice**

700 Effective date: July 1, 2019

701 This local court rule establishes the revised policies and procedures of the juvenile and children's Court of Washburn County. It shall supersede all previous statements of the policies and procedures of the Washburn County Circuit Court concerning proceedings under chapter 48 and chapter 938 in whatever form or format promulgated.

## 702 Definitions.

## Child

Refers to a person under the age of 18 involved in a chapter 48 CHIPS proceeding.

## CHIPS

Child In need of Protection or Services; a Ch. 48 proceeding concerning a child who is within the jurisdictional requirements of §48.13, Wisconsin Statutes, generally involving orphaned, abandoned, abused, neglected, special treatment children, and children with alcohol or other drug abuse impairments.

## Court:

When used without further qualification, means the court assigned to exercise jurisdiction under chapters 48 or 938, Wisconsin Statutes.

## Court Intake:

The process of submitting to the juvenile intake worker written referrals from agencies or departments authorized in chapters 48 or 938 to refer a child/juvenile to the court.

## Custody Intake:

The process by which a person is taken into custody under and §938.19, Wisconsin Statutes, and delivered to the juvenile intake worker for a custody determination.

## JIPS: Juvenile (Youth) In need of Protection or Services

A chapter 938 proceeding concerning a juvenile who is within the jurisdictional requirements of §938.13, Wisconsin Statutes, generally involving uncontrollable juveniles, habitual truants, school dropouts, under 10 who commits a delinquent act, not responsible because of mental disease or defect, or not competent to proceed.

## Juvenile/Youth

Refers to a person under the age of 17 involved in a delinquency proceeding or a person under the age of 18 involved in a JIPS proceeding.

## 703 General policies.

1. It is the express policy of the court to implement the legislative purposes expressed in §§48.01 and 938.01, Wisconsin Statutes. Statutorily-mandated procedures are the law and do not constitute policies. Statutory mandates are to be explicitly followed in the performance of all matters involving chapters 48 and 938. This rule is intended to set forth the philosophical role of the circuit court in matters concerning chapters 48 and 938 and to establish procedures that are discretionary with the court.

2. The court will not routinely waive time limits.

704 "Custody Intake" and Disposition

1. The juvenile intake worker shall be under the direction and an employee of the Circuit Judge for Washburn County. The disposition/supervision function shall be in the office of the Washburn County Health and Human Services. The responsibility to receive and investigate reports of child abuse and neglect (CAN) allegations shall be vested with Washburn County Department of Human Services, consistent with the provisions of Sec. 48.981 of the Wisconsin Statutes.
2. Child Abuse and Neglect Investigations (CAN) or Initial Assessments (IA) shall be performed by Washburn County Department of Human Services, consistent with the provisions of Sec. 48.981, Wis. Stats. It is the expectation of the Court that investigations will be performed by a professionally-trained CAN investigator.
  - a. The investigation shall determine if the allegations of abuse or neglect is substantiated or unsubstantiated. Upon completion of the investigation, a report complete with the facts found, the determination made, and reasons for such a determination shall be forward to the HHSD supervisor, with or without formal or informal recommendations.
3. Custody intake shall be performed by professionally-trained intake workers.
4. Back-up custody intake shall be on-call workers.
5. Backup custody intake workers shall be trained at county expense.
6. Referrals for Chapter 938 custody intake shall be made to the Juvenile Intake Office, if this occurs during normal business hours, the referral shall be directed to the Juvenile Intake Office directly; if the intake worker is not available, the back-up intake worker shall be contacted.
7. Referrals for custodial intake, temporary physical custody, or initial appearance shall be to the Judge, a visiting Judge if available or a court commissioner if necessary.

705 Custody intake "decision guidelines"

1. All juvenile court intake custody intake referrals shall be made through law enforcement or human services personnel.

2. Intake shall be contacted when the referring agency has made a reasonable, articulable decision to recommend that a person should be held. The referral agency shall be required to complete the custody intake referral form before intake is notified.
3. Intake shall first determine whether the court has jurisdiction over the person.
  - a. In delinquency matters, the referring agency shall attempt to establish if the person is subject to original adult court jurisdiction or the juvenile court. If the person is subject to original adult court jurisdiction, the procedures specified in section 1306 of this rule and Chapters 967 to 979, Wisconsin Statutes, shall apply.
  - b. In the event an immediate determination cannot be made whether the juvenile is subject to original adult court or juvenile court jurisdiction, any person age 16 or under shall be presumed to be subject to juvenile court jurisdiction until juvenile intake or the court is satisfied otherwise. The juvenile intake worker shall decline to make a custody determination in a case if the intake worker knows of his or her own knowledge that the person is not subject to juvenile court jurisdiction.
  - c. If the person is not subject to original adult court jurisdiction, intake shall determine what jurisdictional basis exists for the requested hold under Chapters 48 or 938.
4. If there is jurisdiction, intake shall then consider whether and where the person should be held in custody.
  - a. Chapter 48 presumptions:
    1. A child shall be removed from the home if the best interests of that child so dictate.
    2. If the best interests of the child require removal, least restrictive placement options must always be considered before considering a restrictive or secure detention. Intake shall consider placement in the following ascending order of restriction (only if statutory criteria are met):
      - a. Home placement with conditions;

- b. Home placement under home detention rules;
  - c. Placement in the home of a relative;
  - d. Placement in the home of a person not a relative;
  - e. A licensed foster home;
  - f. Shelter care, as the county may contract.
- b. Chapter 938 delinquency/JIPS presumptions:
1. A juvenile shall be removed from the home and placed in custody if doing so is necessary to protect citizens from juvenile crime.
  2. If removal from the home is not necessary to protect citizens from juvenile crime, intake shall consider whether any of the following conditions on home placement are warranted:
    - a. Home placement with conditions;
    - b. Home placement under home detention rules.
  3. If protection of the public requires removal, least restrictive placement options must always be considered before considering a restrictive or secure detention, except in the case of those crimes statutorily presumptive of secure detention. Intake shall consider placement in the following ascending order of restriction (only if statutory criteria are met) :
    - a. Placement in the home of a relative;
    - b. Placement in the home of a person not a relative;
    - c. A licensed foster home,
    - d. Shelter care, as the County may contract.
    - e. In delinquency matters, secure detention in:
    - f. Secure detention facility
    - g. The juvenile portion of an adult jail meeting the requirement of DOC 346.
  4. If the juvenile is charged with or there is probable cause to believe that youth committed an offense listed in statute 938.2080 the intake worker shall make the determination of secure detention after considering all the facts but giving due weight to protecting the youth and the public.
  5. If the intake worker believes secure custody is not necessary in a secure custody situation, the intake worker

shall consider less restrictive placements consistent with statute.

6. The referral agencies recommendation concerning either the necessity of a hold or the proper placement is not binding on the intake decision and should be considered only with caution.
7. Intake staff shall consider the following criteria when appropriate in making a custody decision and the appropriate level of placement:
  - a. In delinquency situations whether the present offense is a presumptive secure custodial placement crime listed in §938.208(1) (a) (b), or (c), Wisconsin Statutes.
  - b. In delinquency matters which are not presumptive secure custodial placement crimes, the severity of present alleged offense:
    - i. Whether the present offense involves bodily injury or property damage;
    - ii. The degree of injury to the victim;
    - iii. Any special vulnerability of victim (elderly, very young, handicapped, etc.);
    - iv. Whether a weapon was used and type of weapon;
    - v. Extent of premeditation on the part of juvenile;
    - vi. Whether act represents "random, senseless act of violence" ,
    - vii. The number of co-actors involved;
    - viii. The attitude of the juvenile toward offense;
    - ix. Whether offense included any "gang" involvement; and,
    - x. Other circumstances relevant to the offense.
  - c. In delinquency matters, the prior CHIPS, JIPS, and/or delinquency record of juvenile:
    - i. Number, nature and consequences of prior court adjudications;
    - ii. Age of initial law enforcement/court involvement compared to present age;
    - iii. Whether the activity indicates an escalation in severity or dangerousness;

- iv. Whether the activity indicates an increasing lack of respect for or inclination to adhere to rules
      - v. Other factors concerning the prior record of the juvenile
    - d. Risk of Flight:
      - i. Is the person presently a runaway from a court-ordered placement;
      - ii. Has this person previously run away from a court ordered placement;
      - iii. Attitude of the person toward remaining in custody;
      - iv. Record of obeying home curfews and rules;
      - v. Ability of caregiver to control the person;
      - vi. School attendance record;
      - vii. Likelihood of the person to be successful at running from placement based on:
        - viii. Age
        - ix. Apparent maturity
        - x. Availability of other associates that would assist running away
        - xi. "Gang" relationships that would foster runaway status
        - xii. Level of consequences child/juvenile now faces for immediate behavior; and,
        - xiii. Other facts that appear relevant to level of risk of flight.
    - e. Current legal status:
      - i. Is person currently subject to a dispositional order;
      - ii. Are other court actions involving the person currently pending;
      - iii. What is person's present level of custody;
      - iv. Are there prior adjudications of a similar nature; • Have other dispositional alternatives been tried in past; and,
      - v. Other factors relating to the person's present legal status.
    - f. Protection needs:
      - i. Is person subject to abuse or neglect in home;

- ii. Have there been verbal threats against this person;
  - iii. Has this person exhibited potential harm to self by recent behavior or threats;
  - iv. Is the present caregiver able to adequately protect this person;
  - v. Is this person vulnerable to revenge acts by others, including co-actors, victims, or others; and,
  - vi. Other factors relating to the need to protect the person.
8. Deadline for petitions if no custody hearing is requested:
- a. If a child/juvenile has been taken into custody and placed in a secure or non-secure placement outside the home, but no request for a hearing on the custody has been requested, the custody order shall automatically terminate and the person released from the custody order unless a referral to intake pursuant to §48.24 or §938.24, Wisconsin Statutes, has been filed within 72 hours of the date of the custody order. If the child/juvenile is under a current court order, the court and all attorneys shall be notified of the custody request and dismissal.
  - b. This rule does not apply to defendants age 14 or under charged with an original adult court jurisdiction matter who are being held in secure custody.

706 Original adult court criminal defendants—secure custody.

1. Youth age 15 or over:

A youth involved in an adult court jurisdiction matter who is age 15 or over at the time a custody decision is being made shall be held in the county jail.

2. Youth age 14 or under:

- a. Initial arrest: If law enforcement places a youth age 14 or under in custody for an adult court jurisdiction matter and law enforcement intends to hold the defendant in custody pending a bail/bond hearing, the youth must be held in a juvenile secure detention facility.

- i. Juvenile intake shall be contacted to determine the secure custody placement location and complete the temporary physical custody request order. Juvenile intake shall not have the authority to overrule the law enforcement decision to hold the defendant in secure custody.
  - ii. A youth arrested without a warrant and held under this rule is entitled to a probable-cause determination within 48 hours of the arrest. A youth arrested and held under this rule is entitled to a bail/bond hearing under Ch. 969.
  - iii. A youth arrested and held under this rule is not entitled to a juvenile court custody hearing under §938.20.
3. In the event an immediate determination cannot be made whether the juvenile is subject to original adult court or juvenile court jurisdiction, any person age 16 or under shall be presumed to be subject to juvenile court jurisdiction until juvenile intake or the court is satisfied otherwise. The juvenile intake worker shall decline to make a custody determination in a case if the intake worker knows of his or her own knowledge that the person is not subject to juvenile court jurisdiction.

#### 707 Custody hearings and petitions.

1. Custody hearings in §938.21, shall be conducted within 24 hours after the end of the day that the decision to hold was made, excluding weekends and holidays.
2. Custody hearings shall have a priority for scheduling. The clerk shall give priority to scheduling temporary physical custody hearings.
3. If a petition under either Ch. 48 or Ch. 938 has not been filed by the time of the custody hearing and the statutory grounds exist for an extension of time to file a petition, a petition must be filed within:
  - a Ch. 938 matters:  
48 hours from the time of the hearing.
  - b Ch. 48 matters:  
  
72 hours from the time of the hearing, excluding Saturdays, Sundays and legal holidays.
4. No custody hearing under Chapter 48 or 938 is to be held for a youth age 14 or under involved in an original adult court jurisdiction matter who is being held in secure custody.

## 708 Court Intake

1. All intake referrals under §938.24(1), Wisconsin Statutes, are to be submitted in writing on the appropriate forms, either the Court Referral--Juvenile, Law Enforcement form or the Court Referral-Juvenile, Non-law enforcement form.
2. All intake referrals under §938.24(1), Wisconsin Statutes, shall be conducted by the intake workers.
3. All parties making a referral may make a recommendation for disposition, but that recommendation is not binding on the court.
4. Intake referrals under §938.24(1), Wisconsin Statutes, are not required if all of the following have occurred:
  - a. A custody intake decision was made pursuant to §938.19, Wisconsin Statutes;
  - b. A hearing on the custody has been held pursuant to §938.21, Wisconsin Statutes; C.
  - c. The person has been continued in custody (secure or non-secure); and,
  - d. A petition was filed with the court at or prior to the custody hearing or the court has authorized an extension of time to file a petition.
5. Intake referrals under §938.24(1), are not required if the juvenile has been transferred to juvenile court by an adult court pursuant to a "reverse waiver" under §970.032(2) or §971.31(3).
6. Except as set forth elsewhere in this rule, the intake worker shall always consider the possibility of a deferred prosecution agreement under Ch. 938 when doing so would not unduly depreciate the seriousness of the matter referred in the eyes of the juvenile, parents, victims, and the public.
7. The intake worker shall consider the following factors in screening intake referrals:
  - a. Seriousness of the allegations;
  - b. Intent;
  - c. Severity of personal injury;
  - d. Severity of property damage;
  - e. Prior allegations of similar activity;
  - f. Attitude of the public;
  - g. Attitude of the victim;
  - h. Previous contacts with law enforcement, social services, or juvenile intake
  - i. Age and maturity;
  - j. Attitude of the person and/or parents;

- k. Degree of apparent incorrigibility/uncontrollability;
        - l. School attendance and behavior patterns;
        - m. Involvement in gang-related activity;
        - n. Other social factors;
        - o. Resources available to the family and community to provide adequate care;
        - p. Criteria in §938.18(5), Wisconsin Statutes, concerning waiver to adult court; and,
        - q. Any other facts or circumstances available to the intake worker that impact on the referral decision consistent with the welfare and safety of the person and the protection of the public, including those factors provided in Rule 1305, concerning custody decision-making.
  8. The intake worker shall not enter into a deferred prosecution agreement in a serious Ch. 938 allegations without first consulting with the District Attorney.
  9. The juvenile intake worker may consider recommending an informal disposition agreement or deferred prosecution agreement in the following circumstances:
    - a. When an informal disposition would not violate rule 7 above.
    - b. In delinquency/JIPS matters when:
      1. The juvenile admits the allegations.
      2. The juvenile exhibits remorse for the acts.
      3. The juvenile's parents appear cooperative.
      4. The juvenile has not previously been formally adjudicated delinquent in the last two (2) years.
  10. The intake worker may dispense with holding an intake conference in those cases in which the intake worker is satisfied that the best interests of the child or the interests of society require an immediate decision. In such cases the intake worker may notify the child and parents of their rights under Chapters 48 and 938 in writing.
  11. When a matter has been presented to the intake worker by the Juvenile Court Clerk the intake worker may:
    - a. Refer the matter to the appropriate agency for investigation and review. That agency shall then make a determination whether an intake referral should be made; or,
    - b. Conduct an intake inquiry based on the petition presented to the juvenile court clerk for filing.
- 1309 Notice to victims of youth's acts.

1. POLICY. Pursuant to §938.346(5), the following rules are to be in effect, as of

December 1, 1998 related to the required attempts to notify victims of juvenile's acts:

- a. Within a reasonable time of a decision by the District Attorney to file a petition, the victim witness office or District Attorney will attempt to notify, by mail, any victim of a juvenile's act and inform them of their rights included in §938.346(1)(e), (f), (fm) and (g) and as relevant in §938.346(1)(d) and (em). . Victims may confer with the District Attorney regarding amendment of petitions, consent decrees, and disposition recommendations.
- b. Within a reasonable time of a decision by the District Attorney not to file a petition (for reasons other than insufficiency of the allegation(s): (1) the Victim Witness Coordinator or District Attorney will attempt to notify, by mail, any victim of a juvenile's act of their rights as may be relevant in §938.346(1)(a), (b), (c), (d), (em), and (h); and, (2) the District Attorney will attempt to notify, by mail, the victim of the decision not to file a petition (reference §938.346(3)). Victims may confer with the assigned Social Worker concerning dispositional report or consent decree recommendations, or may confer with the Juvenile Intake Worker related to Deferred Prosecution Agreements.
- c. If, after the filing of a petition under §938.12 or §938.13(12), a proceeding is dismissed or otherwise does not result in a consent decree or dispositional order, the District Attorney or Victim Witness Coordinator will attempt to notify, by mail within a reasonable time, each known victim of the juvenile's act of the fact that the petition was dismissed or did not result in a consent decree or disposition.
- d. If, after receipt of a referral, an inquiry is closed by the Juvenile Intake Worker or otherwise does not result in a deferred prosecution agreement, the Juvenile Intake Worker will attempt to notify, by mail within a reasonable time, the victim(s) and inform them of the outcome of the inquiry.
- e. Notification of victims of court and physical custody hearings shall be accomplished by the Court and District Attorney and/or corporation counsel as outlined in the procedures below.
- f. The court shall inquire of the District Attorney and/or Social Worker in all hearings as to whether the attempts to inform/notify victims of their rights have been made and if so whether or not the victim has requested the opportunity to exercise relevant rights related to the outcome of the case.
- g. In cases in which victims are present in the hearing, prior to entering a consent decree or disposition the court shall inquire of the victim as to whether or not they wish to make an oral statement and/or submit any additional written information to the court for consideration.
- h. In cases where a criminal act is committed by a juvenile under 10 years of age which is prosecuted under Chapter 938 as a JIPS action by corporation

counsel, corporation counsel shall comply with sec. 938.346, Stats., required notice to victims of juvenile acts as set forth herein.

i. Continuances or rescheduling requests.

- (1) Pursuant to sec. §950.04, Stats., victim and witness rights require the court under sec. §938.315(2), and sec. §938.299(1), Stats., to consider their interests in rescheduling or granting continuances in cases. Therefore, no matter scheduled in a chapter 938 case subject to the provisions of sec. §950.04, Stats. , shall be continued or rescheduled unless any victim or witness of the juvenile's crime have been notified by the District Attorney or Corporation Counsel of the requested continuance or rescheduling, their interest considered, and the District Attorney, Corporation Counsel, or Victim Witness Coordinator's office can so indicate to the court considering the continuation or rescheduling request.
- (2) No court calendaring clerk shall reschedule any scheduled chapter 938 matter upon the oral or written request of a party or counsel in the proceeding, but shall refer any such rescheduling request to the Circuit Court Judge assigned to the case. The assigned judge shall not grant any rescheduling request if affected victims or witnesses have not been noticed as required by sec. 950.04, Stats.
- (3) Stipulated requests for continuances of hearing dates or calendared matters shall be in writing or on the record and are to be based on a showing of good cause and proper notification of victims and witnesses as required by sec. 950.04, Stats.
- (4) Non-stipulated requests for continuances or rescheduling must be made to the court by motion for a hearing on the request, Notice of such request shall be sent by the victim-witness coordinator to persons entitled to such notice under sec. 950.04, Stats.

## 2. PROCEDURES RELATED TO HEARINGS

a. Notification of Court Hearings

Actual implementation of this process will be the responsibility of the District Attorney's office where appropriate as follows:

- (1) The District Attorney's Office will provide notification to victims of their rights under these provisions and solicit information as to whether or not the victim wishes to attend the permitted hearings.

b. Notification of Physical Custody Hearings.

- (1) The District Attorney's Office where appropriate will attempt to notify victims of initial physical custody hearings and will inform the Juvenile Clerk of any victims who wish to be notified of subsequent physical custody review hearings. If a victim has requested such notification, the Juvenile Clerk will attempt to notify the victim of any review hearings.

C. Confirmation of Compliance.

- (1) The Court Minutes recorded by the Clerk will reflect that the court has made the necessary inquiries related to victim notification and consultation.

1310 Notices of rights, obligations, and possible disclosures to child/juvenile and parent(s).

1. If a custody hearing is held:

- a. Prior to the commencement of the custody hearing, the child/juvenile and parent(s) shall be advised of their rights, obligations and possible disclosures in writing. The court may do so by providing the child/juvenile and parent(s) who attend with the printed form JD-1716. Notice is considered properly given whether or not the recipients sign the signature block on the form.
- b. If a parent does not attend the custody hearing, the juvenile court clerk shall send a copy of the written form JD-1716 to the non-attending parent if the address is known immediately at the conclusion of the hearing.
- C. If signed, the signed copy of JD-1716 shall be filed in the court file. If the child/juvenile or parent(s) did not sign, the juvenile court clerk shall file a copy of the form with a notation as to the person(s) and date(s) on which the notice was provided.

2. At an intake inquiry:

- a. At the intake inquiry, the juvenile intake worker shall advise the child/juvenile and parents of their rights, obligations and possible disclosures. The juvenile intake worker may do so by providing the child/juvenile and parent(s) who attend the printed form JD-1716. Notice is considered properly given whether or not the recipients sign the signature block on the form.
- b. If signed, the signed copy of JD- 1716 shall be filed in juvenile intake worker's file. If the child/juvenile or parent(s) did not sign, the juvenile intake worker shall file a copy of the form with a notation as to the person(s) and date(s) on which the notice was provided.

1311 Dispositional activities.

1. Court reports that have been ordered by the court shall be completed and filed with the court not less than 48 hours before the scheduled dispositional hearing. The juvenile clerk shall provide copies of the report to the attorneys involved in the matter.
2. Court dispositional services shall be provided by dispositional staff within Washburn County Health and Human Services, and is specifically designated under 938.069 and shall have primary responsibility for implementing court dispositional orders involving supervision.
3. Dispositions involving persons who are not residents of Washburn County shall be coordinated through the Department.
4. If a matter has been transferred from another county to this county for a dispositional hearing, the dispositional hearing shall be set within 30 days of the receipt of the transfer documents from the other county.

1312 Duties of the Juvenile Court Clerk in handling CHIPS petitions filed by the counsel or guardian ad litem for a parent, relative, guardian, or child, or directly by such a person acting without an attorney.

1. The Juvenile Court Clerk shall not accept for filing any petition under §§48.13, §48.14, or §938.13, Wisconsin Statutes, presented by the counsel or guardian ad litem for a parent, relative, guardian or child, or directly by such a person acting without an attorney, unless that petition has been first referred to juvenile intake for an intake inquiry under §48.24, Wisconsin Statutes.
2. Upon receipt of any such petition the Juvenile Court Clerk shall refer the matter to the juvenile intake worker for an intake inquiry.
3. Any petition filed contrary to this rule may be dismissed without prejudice pending the intake inquiry.

## Part 8 – Probate Practice

### 801 Jurisdiction of the Probate Court

- 801.01 Probate actions under Wis. Stats. Chapter 851 through 879.
- 801.02 Guardianship and protective placements under Chapter 54 and 55.
- 801.03 Trust actions under Chapter 701.
- 801.04 Civil commitments under Chapter 51.

## 802 Responsibility within the Probate Court

802.01 Nothing contained in these rules will be construed to either limit or restrict the assigned judge in exercise of his or her discretion nor restrict the Chief Judge in the exercise of his or her duties.

802.02 Responsibility of the Probate Judge: all contested matters falling under the jurisdiction of the probate court are handled by the probate judge.

### 802.03 Responsibility of the Register in Probate/Probate Registrar

802.03.1 The Register in Probate's office is responsible for the opening, reviewing, filing, maintenance and closing of all files and papers dealing with civil commitments, probate, trust, protective placement, adult adoption, guardianship (both adult and minor), as well as administrative matters dealing with probate court.

802.03.2 The Probate Registrar handles uncontested informal probate hearings.

### 802.04 Responsibility of Court Commissioners

802.04.1 The Probate Court Commissioner, if appointed, handles uncontested on formal probates and trust matters.

802.04.2 The Circuit Court Commissioner may handle civil commitment probable cause hearings, emergency protective placement hearings, summary hearings on *Watts* and temporary guardianship hearings.

## 803 Filing of Documents

803.01 Filings of documents: all documents relating to Probate Court subject matter are to be filed at the Register in Probate's office unless filed with the court at the time of the hearing.

### 803.02 Facsimile Transmission of Documents to the Court

803.02.1 Documents requiring original signatures may be faxed only for the purpose of showing the court the documents are complete; the original must be kept with the court.

803.02.2 The judge or Register in Probate may authorize in advance the filing of a particular document that does not conform to

these rules if good cause is shown and they are in conformance with the statutes.

803.02.3 The party transmitting the document is solely responsible for ensuring its timely and complete receipt.

803.02.4 Copies of documents from court files will not be transmitted by facsimile or email without the appropriate costs being received in advance. The facsimile machine or email system is not to be utilized in an effort to avoid payment of statutory copy fees.

804 Scheduling

804.01 The Register in Probate's office or Judicial Assistant schedules probate cases on the intake judge's probate calendar.

804.02 Uncontested probate matters are scheduled with the Register in Probate.

805 Estates

805.01 Wills

Only original wills shall be accepted for filing with the court.

805.01.1 Wills of a decedent which will not be subject to probate proceedings shall be filed and shall be accompanied by an affidavit.

805.01.2 Wills of living persons filed for safekeeping shall be accompanied by the statutory filing fee and other information as the Register in Probate may require.

805.02 Summary Settlement and Summary Assignment

Proof of Heirship must be filed with all opening papers for Summary Settlement and Summary Assignment petitions.

805.03 Bond of Personal Representative

805.03.1 The requirement of a bond and the amount of the bond is solely within the discretion of the court, except if otherwise provided by law.

805.03.2 Generally, only Wisconsin residents may be appointed as Personal Representative of an estate. A Wisconsin resident

- appointed as Personal Representative is not required to post bond.
- 805.03.3 At its discretion, the court may appoint a non-resident as Personal Representative of an estate if the non-resident (1) has a Wisconsin resident appointed as co-Personal Representative, with or without bond, and (2) has retained a Wisconsin attorney.
- 805.03.4 A request in a will that the Personal Representative serve without bond is not binding on the court. However, the court will generally honor such a request.
- 805.03.5 A Personal Representative who is (1) the sole heir and (2) a Wisconsin resident is not required to post bond.
- 805.03.6 If two or more persons are appointed Personal Representatives, the judge may (1) require no bond, (2) take a bond from each, (3) take a joint bond from all, or (4) take bond from some but not all.
- 805.03.7 Selection of Personal Representative. Only Wisconsin residents may be appointed as Personal Representative of an estate, unless, at the discretion of the court, the nominate non-resident is then required to have a resident agent and post a bond with the probate court in an amount determined by the Probate Court.
- 805.04 Hearing or Waiver of Hearing. A hearing is not required when waivers are filed by interested parties. Hearings will be held if notice is required or upon request of the attorney for the estate, the personal representative, or the Probate Court.
- 805.05 Objection to Will. An objection to a will filed must be in writing and filed with the Probate Court together with the statutory filing fee. When objection is filed, the Probate Court shall set a hearing date.
- 805.06 Objection to Claims Filed. An objection to a claim must be in writing and filed with the Probate Court. When the objection to a claim is filed, the Probate Court shall set a hearing date. The personal representative or attorney for the estate shall send notice of the objection and notice of the hearing to all interested parties.
- 805.07 Tax Clearances. A Wisconsin closing certificate for fiduciaries shall be filed and a federal estate tax closing letter (if the estate met the standard to

file a federal estate tax return) shall be filed with the court prior to the closing of any estate.

805.08 Closing Estates. Signed receipts from heirs or beneficiaries and documentation that the residual beneficiaries or heirs have been advised as to the amount of the personal representative and attorney fees must be filed with the court.

805.09 Extensions of Time to Close Estates. When an estate cannot be closed within the required time limits, a petition setting forth the reasons for the request of an extension of time to close the estate must be filed with the court. A proposed order shall also be submitted. The court will review each request individually.

805.10 Timelines to Close Estates. Estate actions shall be disposed of within Twelve (12) months from the date of filing of the petition or application to open an estate.

## 806 Trusts

806.01 Inventory. The trust inventory shall be filed before the estate will be closed. If the inventory is not timely filed, the Register in Probate shall notify the trustee that the trust inventory is past due.

### 806.02 Closing

806.02.1 At the time of the termination of the trust, all annual accountings for prior years and the final account must be on file with the court.

806.02.2 The trustee shall petition the court to terminate the trust.

806.02.3 The trust beneficiary (or beneficiaries) shall file a Trust Receipt for assets received from the Trustee.

806.02.4 A Wisconsin closing certificate for fiduciaries must be filed with the court before a trust may be closed and the trustee discharge.

## 807 Guardianships

### 807.01 Temporary Guardianship

807.01.1 A hearing shall be held on all temporary guardianship petitions.

- 807.01.2 A Petition to Extend Temporary Guardianship and Order on Petition to Extend Temporary Guardianship shall be filed if an extension of the temporary guardianship is requested.
- 807.01.3 A Guardian ad Litem shall be appointed for the proposed ward in all temporary guardianship matters.
- 807.02 Guardianships
- 807.02.1 Guardian ad litem. The court shall appoint a Guardian ad Litem for the proposed ward; the Guardian ad Litem shall file a report with the court prior to the hearing.
- 807.02.2 The guardianship inventory together with the statutory filing fee shall be filed within sixty (60) days of the appointment of a guardian of the estate.
- 807.02.3 Unless previously ordered by the court, the guardian must petition the court for reimbursements of expenses and/or guardian fees prior to making payments to self.
- 807.03 Conservatorships
- 807.03.1 The conservatorship inventory along with the statutory filing fee shall be filed within sixty (60) days of the appointment of a conservator of the estate.
- 807.03.2 A hearing is required to terminate a conservatorship.
- 807.04 Protective Placement
- 807.04.1 A petition for protective placement may be filed with or any time after the guardianship is filed.
- 807.03.2 A competency evaluation must be completed and filed with the court on all protective placement petitions.
- 807.05 Protective Placement Reviews - *Watts*
- 807.03.1 Summary hearings on *Watts* reviews will be held in front of the judge.

- 807.03.2 If an objection to the protective placement is received, the matter will be scheduled with the judge for further proceedings.
- 807.06 Termination of Guardianships
- 807.06.1 Guardianship of a person – deceased ward. Upon notification to the Probate Court that the ward has died, the court will issue an Order of Discharge of the guardian of the person.
- 807.06.2 Guardianship of an estate – deceased ward. Upon notification to the Probate Court that the ward has died and filing of: (1) the final accounts as approved by the court; and (2) a proper receipt from the person/entity receiving the remaining assets in the ward's estate; the court will issue an Order of Discharge of the guardian of the estate.
- 807.06.3 Guardianship of the estate for a minor. Upon filing proof of the ward reaching the age of eighteen (18) and filing the final account and receipt signed by the ward, the court will issue an Order of Discharge of the guardian of the estate.
- 808 Civil Commitments
- 808.01 Commencement. All civil commitment matters under Chapter 51 originate with the county corporation counsel office.
- 808.02 Scheduling and appointment of examiners/counsel. The court will schedule all hearings regarding civil commitments.
- 809 District probate timelines – effective September 1, 2024.
- |                                |           |
|--------------------------------|-----------|
| Estates                        | 360 days  |
| Informal Probates              | 360 days  |
| Juvenile Delinquency           | 90 days*  |
| Juvenile CHIPS                 | 90 days*  |
| Juvenile Ordinance             | 30 days   |
| Termination of Parental Rights | 120 days* |

\*Certain juvenile case have shorter statutory time limits due to custodial or other situations. In these circumstances the statutory time period must be followed.

## Part 9 – Small Claims Practice

### 901 Service

- a. Service of summons in small claims actions, except eviction actions, may be by mail in lieu of personal or substitute service. Service by mail to obtain a personal judgment shall be limited to Washburn County.
- b. Service may be made by mail by leaving the original and necessary copies of the summons with the clerk of court, together with the fee prescribed in Wis. Stats. §814.62(4).
- c. The clerk shall mail a copy to each defendant at the last known address specified in the summons. Service of the summons is considered completed when it is mailed, unless the envelope enclosing the summons has been returned unopened to the clerk prior to the return date. All mailing of summons shall be done in envelopes in which the clerks return address appears, with a request to return to that address.

### 902 Appearance

- a. A defendant may join issue in any of the actions specified in Wis. Stats. §799.01 without appearing at the return date, by answering in writing and the court receiving the answer prior to the return date
- b. A proper answer by the defendant under this rule shall be deemed an appearance by the defendant on the return date.
- c. Any summons under Wis. Stat §799.05 (6) or (7) or §799.12(6)(c) and any notice under Wis. Stat. §799.16(4) shall notify the defendant of the option to answer without appearing in court on the return date and the methods of answering permitted by this rule.
- d. Plaintiff does not have to appear or have an authorized representative appear on their behalf at the return date. However, if an answer is filed or if a defendant otherwise joins issues, the court will scheduled further proceedings and the parties will be expected to conform their schedule accordingly.
- e. All post judgment motions to open or vacate default judgments shall require a filing fee of \$50.00 to be paid to the Washburn County Clerk of Circuit Court. If the court finds error on the part of the court which, in part, caused the default, the filing fee shall be refunded.

### 903 Mediation Requirement

903.01 Cases arising in small claims court may lend themselves to settlement mediation. If both parties appear at the return date they may be referred to mediation upon review of the court. Mediation is a conflict resolution process in which an impartial third-party, the mediator, facilitates communication between the parties to promote reconciliation, settlement or and understanding among them. Decision-making authority for any agreement or settlement resets with the parties themselves. A mediator is responsible for directing and protecting the mediation process. The role of the mediator includes, but not limited to: (1) assisting the parties in facilitating communication; (2) clarifying issues; (3) reducing obstacles; (4) evaluating options; and (5) encouraging a voluntary agreement. Parties must engage in mediation in good faith and treat the mediator with the upmost respect. Failure to do so may be considered contempt of court and cause for a default judgment or dismissal. If the mediation is successful, the mediator will draft a settlement agreement which is signed by the mediator and all parties. If the mediation is unsuccessful the matter will be scheduled for trial with the court thereafter. The court may waive these requirements for good cause.

904 Party Identification

904.01 Parties not Properly Identified – no rules promulgated

904.02 Change of Address. Parties must notify the Clerk of Court in writing of any change of address. Once the issue has been joined, the court is not responsible for any errors or omissions caused by an incorrect address.

904.03 Use of Work Address. The Plaintiff may not serve the Summons and Complaint on the Defendant by first class mail or certified mail at his or her workplace. This exception does not apply to personal service on a party at his or her work place.

905 Return Date. Small claim return dates will be scheduled generally on Tuesdays at 8:30 a.m.

906 Settlements. If a case settles prior to trial, the Clerk of Court should be contacted immediately in writing by the plaintiff.

907 Garnishment

- 907.01 Commencement of Earnings Garnishment. To commence a garnishment action, a creditor must file an “Earnings Garnishment Notice” and pay the required fee.
- 907.02 Upon the filing of the notice and payment of the filing fee, the Clerk of Court will provide the creditor with a garnishment packet that includes the following standardized forms: (1) two earning garnishment form blanks, with court seal, (2) exemption notice-earnings garnishment; (3) earnings garnishment-debtor’s answer; (4) garnishment exemption worksheet; and (5) poverty guidelines for earnings; and (6) garnishment answer to creditor.
- 907.03 The creditor must complete the earnings garnishment form and within sixty (60) days after filing notice, the creditor shall serve one of the two (2) earnings garnishment forms upon the debtor and one upon the garnishee defendant.
- 907.04 Service on the Garnishee. The methods of service on the garnishee defendant include: (1) first class mail; (2) certified mail, return receipt requested; (3) any means permissible for the service of a summons in a civil action, other than by publication; and (4) other means if the garnishee defendant signs an admission of service.
- 907.05 Service on the Debtor. Service on the debtor shall be made within seven (7) business days after the date of service on the garnishee and at least three (3) business days before the payday of the first pay period affected by garnishment. Methods of service on the debtor include: (1) first class mail; (2) certified mail, return receipt requested; (3) any means permissible for the service of a summons in a civil action, other than by publication. Along with the earnings garnishment form, the debtor must also be served with an exemption notice, an answer form, and exemption worksheet, and poverty guidelines.
- 907.06 Debtor’s Answer. The debtor must complete the form and deliver or mail it to the garnishee. It is the garnishee’s duty to send a copy of the answer to the creditor. The answer can be sent to the garnishee or amended at any time during the effective period of earnings garnishment.
- 907.07 Demand for Hearing. A creditor who objects to the answer provided by the debtor may seek a court hearing to review the appropriateness of the debtor’s claim. An earnings garnishment objection will reinstate the court process. Within five (5) days business days after such a motion or petition is filed, the court

shall schedule the matter for a hearing to be held as promptly as practicable. Notice of the hearing shall be given to the creditor, debtor and garnishee defendant.

#### **Part 10 – Traffic & Forfeiture Practice**

- 1001 When a not guilty plea is entered by a defendant, in a civil forfeiture proceeding, the court will set the matter for trial to the court or a status conference. If the defendant demands a jury trial, jury fees must be received by the Clerk of Court within ten (10) days of the return date.
- 1002 All stipulated requests for continuance of a trial date shall require the consent of all parties in writing or on the record and must be for good cause shown. All non-stipulated requests for continuance must be by written motion and hearing and for good cause shown. Any continuance is subject to approval of the court.
- 1003 In civil forfeiture actions, all post judgment motions to reopen or vacate default judgments shall require a filing fee of \$50.00 to be paid to the Washburn County Clerk of Circuit Court. If the court finds error on the part of the court which, in part, caused the default, the filing fee shall be refunded.

#### **Part 11 – Late Settlement Assessments**

- 1101 The circuit judge requests trial counsel to pursue settlement at the earliest possible time. Recognizing the great inconvenience and expense that can be caused to the parties, jurors, witnesses, and the county, early settlements will be promoted by attorneys who have had timely consultations with their clients and who are prepared to discuss all aspects of their case.
- 1102 When any civil, criminal, juvenile (14 years or old), or other jury trial demand is withdrawn after 3:30 p.m. on the proceeding business day before trial, a jury fee of not less than \$500.00, but not more than the actual jury cost to the county for a twelve person jury (\$250.00, but not more than the actual jury cost to the county for a six person jury), will be assessed pursuant to §814.51 Wis. Stats.

#### **Part 12 – Non-member Lawyers**

- 1201 Supreme Court Rule§103.03(4) shall be strictly enforced.
- 1202 A non-member lawyer who wishes to appear in an action must petition the court in writing. The petition shall state the name of the active member of the State Bar who will participate with the non-member lawyer.
- 1203 If the court grants the petition:

- a. The active member of the State Bar shall appear in person at all proceedings held on the record, including those held out of court, such as depositions.
- b. The active member of the State Bar shall review all pleadings, motions and other papers to be filed with the court. Both the non-member lawyer and the active member of the State Bar shall sign all pleadings and motions.

1204 The non-member lawyer is subject to the disciplinary authority of this state for conduct that occurs in connection with the action. SCR 20:8.5(2).

**Part 13 – Policy and procedures regarding threats against the judiciary and security incidents in the court**

1300 No person, including attorneys and prosecutors, except law enforcement, may carry a weapon into any courtroom located in Washburn County Courthouse without approval of the Washburn County presiding judge.

1301 Threats are defined as written or oral declarations of an intention to inflict injury or pain upon individuals employed by or involved in the court system. Any threat shall be treated as serious.

1302 Security incidents are episodes of conduct in the courts in which the physical health or safety of participants or the physical property of the courts are put at risk.

1303 All threats and security incidents are to be immediately reported personally or by telephone to the sheriff's office.

1304 Court Security Officer

The sheriff is directed to designate an officer to serve as a court security officer. The court security officer shall be responsible for:

1. Referral and investigation of all threats and security incidents.
2. Assistance in training of court personnel in handling threats and safety incidents.
3. Making recommendation to maximizing court security in the future.

1305 Training

Upon hiring, every employee (including elected officials) shall be trained in the policies and procedures of handling threats and security incidents, including the use and completion of the report form. Refresher training shall be scheduled for all court employees on a yearly basis. All training shall be coordinated by the

circuit judge, clerk of court, and court security officer. To the extent possible, such initial and refresher training should include the following:

1. The court's policies and procedures concerning threats and security incidents.
2. The physical layout of the courts and escape routes from courtroom and court offices.
3. Recognizing when a threat is being made.
4. Responding to a bomb threat.
5. Responding to a hostage situation.
6. Techniques in remaining calm and avoiding panic during a stressful or potentially dangerous incident.
7. Techniques in responding to threats and security incidents in such a manner as to defuse the danger of the situation without placing the individual at physical risk.
8. Techniques in enhancing a person's personal safety either in the courts or elsewhere.
9. Telephone protocol when a threat is being made over the phone.
10. Handling irate or abusive individuals in person or over the telephone.
11. Knowing when to contact law enforcement because of immediate concerns with a "panic button" rather than by telephone.
12. Handling threats that are made away from the courthouse.
13. Gathering evidence for potential prosecutions.
14. Using the threat/security incident report form.
15. Role playing activities in order to familiarize the employee with the process or recording and reporting threats.

1306 Wisconsin Court Security Threat & Incident Report Form (CS-265)

A record shall be made of all threats and security incidents on the Wisconsin Court Security Threat and Incident Form. Such record shall be made contemporaneously with the event being recorded or as soon after as possible. The original of such report shall be transmitted to the Court Security Officer. If deemed appropriate, a copy may be maintained in the court offices affected.

1307 "Panic Button"

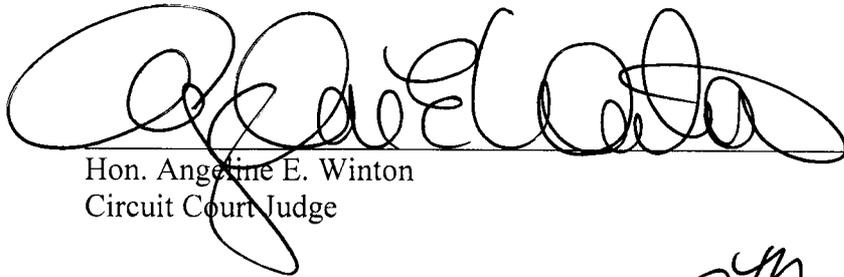
The panic button shall be used only in the cases where there is immediate dangerous or life-threatening activity that needs the presence of law enforcement officers. The Sheriff shall instruct officers acting under the sheriff to treat a panic button call as dangerous or life-threatening activity in process.

1308 Telephone threats.

- a. All court employees shall keep a copy of the Wisconsin Court Security Threat and Incident Report form immediately at hand beside all telephones on which calls from outside the courts can be received.
- b. To the extent possible, while the person making the threat is still on the telephone, the report form should be completed. If not possible, the form should be completed as soon as practical while all information is still fresh in the mind.
- c. The telephone on which a telephone threat was received should not be disconnected or hung up until such time as law enforcement indicate that disconnecting is appropriate.

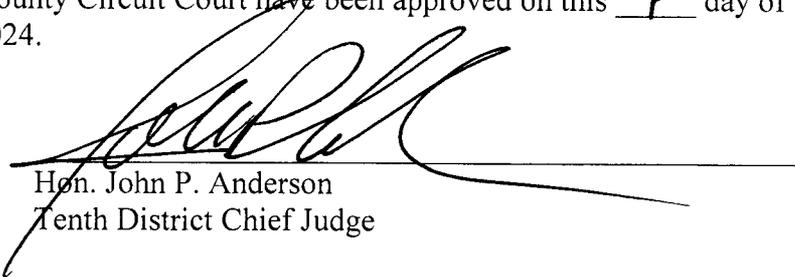
Recorded this 4<sup>th</sup> day of December, 2024

BY THE COURT:



Hon. Angelina E. Winton  
Circuit Court Judge

The Rules for Washburn County Circuit Court have been approved on this 9<sup>th</sup> day of December, 2024.



Hon. John P. Anderson  
Tenth District Chief Judge