

Jackson County Circuit Court Rules

(Seventh Judicial District)

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General Rules

1. Court shall be formally opened each day upon which court business is transacted, either by the Bailiff or the Clerk of Court.
2. As the Judge enters the courtroom, the Bailiff or Clerk of Court shall require all present to rise and stand.
3. When trial is to a jury, the jurors shall take their places in the jury box before the Judge enters the courtroom.
4. Lawyers may never lean upon the bench or appear to engage the Court in a manner that would lessen the dignity of the proceedings.
5. Lawyers shall examine witnesses 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 said position at the counsel table or from the lectern. Lawyers may either stand while examining a witness from the counsel table or remain seated there. In no case shall a lawyer crowd the witness stand in examining the witness.
6. Lawyers should not, in addressing the jury, crowd the jury box.
7. Lawyers, in examination of jurors on voir dire, should use collective questions, avoid repetition and seek only material information.
8. Lawyers, during trial, shall not exhibit familiarity with witnesses, jurors or opposing counsel, and generally the use of first names shall be avoided. In jury arguments, no jurors shall be addressed individually or by name.
9. 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 proceedings.
10. Lawyers shall advise their clients and witnesses of the formalities of the Court and seek their full cooperation therewith. It is expected that the lawyers will guide clients and witnesses as to appropriate attire.
11. Witnesses shall be examined with courtesy and respect.
12. The swearing of witnesses should be an impressive ceremony and not a mere formality.
13. In jury cases that are disposed of upon motion for directed verdict, the Judge, in dismissing the jury, should briefly explain the procedure and why a verdict was unnecessary.

14. TELEPHONE PROCEEDINGS

The Rules of Civil and Criminal Procedure authorized by Supreme Court Order dated October 29, 1987, which permit the use of telephone or electronic means in certain specified proceedings, are adopted in full. Counsel is encouraged to utilize the procedures in the manner specified by 807.13 and 967.08 Wis. Stats. The Court and all interested parties shall be informed of counsel's intent to utilize such procedures at least 48 hours

before the scheduled proceeding. Counsel using these procedures shall be responsible for assuring that all interested parties are available at the time of the scheduled proceeding and for all communication.

16. FAMILY COURT MATTERS: MEDIATION AND GUARDIAN AD LITEM APPOINTMENTS

In all divorce/paternity matters where the issue is child custody or physical placement, the parties will mediate and a guardian ad litem will be appointed. The guardian ad litem is not to begin work until the parties participate in mediation, or until further order of the court.

In any case where child custody or physical placement is raised for the first time, the parties shall each be required to deposit \$1,100 (for a total of \$2,200) with the Clerk of Court for Jackson County:

\$600 each within 30 days of the initial hearing.

\$500 each within 60 days of the initial hearing.

\$200 of said amount will to be paid for mediation services and the remaining \$2,000 will be used for guardian ad litem fees.

Where a party is seeking to revise a current custody/physical placement order, the petitioning party will be responsible for depositing all required fees, unless the Court determines extenuating circumstances exist.

The mediator shall report the results of the mediation to the Court.

If mediation fails and a letter of impasse is filed with the Court, the mediator and guardian ad litem shall hold a joint meeting with the parties once the guardian ad litem receives permission from legal representation of any party.

At any time, the Guardian ad litem may petition the Court for an Order requiring the parties to post additional money.

The Court may inquire if all monies ordered have been deposited with the Clerk of Court. If a party fails to deposit the monies ordered, the Court may implement a wage assignment or conduct contempt proceedings.

A guardian ad litem shall submit his/her recommendation, in writing, with copies to the parties. Once the report is filed, the parties shall request a final hearing (designating "stipulated" or "contested"). The guardian ad litem shall also submit an interim bill to the Court and parties when the report is submitted.

A final bill is due at the final hearing. The Court will determine who is responsible for payment. The final Order shall include the Court's order.

Following the final hearing, collection of any unpaid fees will be the responsibility of the guardian ad litem.

17. QUESTIONING MINORS IN CUSTODY PROCEEDINGS

On certain occasions the Court may deem it necessary to question minors in chambers. Counsel for all parties shall be in attendance during such examination unless waived on the record and waiver accepted by the Court.

18. MANDATORY APPEARANCE BY DISTRICT ATTORNEY'S OFFICE IN PROCEEDINGS INVOLVING THE STATE OR COUNTY

The District Attorney or Assistant District Attorney shall attend all proceedings involving the State of Wisconsin or County of Jackson unless previously excused by the Court or Corporation Counsel makes appearance.

19. COURT COMMISSIONERS

Court Commissioners, having been appointed by separate order, have the fullest extent of authority which statute authorizes for them. They may preside on the bench. Dignity and decorum, consistent with a courtroom, shall be present in proceedings before a commissioner. Clerk's minutes shall constitute sufficient record in bail hearings when a Court Reporter is not available. The District Attorney or Clerk of Court shall make all requests for hearings by a Court Commissioner.

20. FILING PLEADINGS AND PAPERS

All pleadings and papers, which must be filed in any action, shall bear in the caption the case number assigned by the Clerk of Court when the action is commenced.

21. FURNISHING TRIAL BRIEFS

Trial briefs furnished to the Court shall be provided to opposing counsel. When submitted, they shall be filed with the Court at least two business days prior to trial or on the date provided by the scheduling order, whichever is easier.

22. MOTION PRACTICE

Motions not requiring lengthy testimony may be placed on the calendar by arrangement with the scheduling Clerk. The presiding Judge will set other motion dates. Motions, affidavits, briefs and supporting papers shall be filed with the Clerk of Court prior to service on opposing parties. Rule 41 supercedes this rule in criminal practice. See Rule 41.

23. CONTINUANCES

Motions for continuance shall be made in accordance with 802.10 Wis. Stats. For adequate reason, the time limitations for hearing may be waived by the Court. To avoid scheduling conflicts as a reason for continuance, attorneys shall be prepared to immediately advise the Court of such conflicts when the Court sets dates from the bench or in conference.

24. JURY TRIAL – TRAFFIC/ORDINANCE VIOLATIONS

The Court will honor a demand for jury trial in traffic cases that are filed within ten (10) days after the initial pretrial date.

25. JURY INSTRUCTIONS

In civil actions, requested instructions shall be typed on 8 ½ x 11 bond paper and identified by its Wisconsin JI- Civil Number on the lower right-hand corner of each page.

All blanks shall be completed and alternate clauses shall be omitted or inserted as appropriate. Any special instructions requested shall be typed and identified. The legal authority for such an instruction being submitted to the Court shall be filed separately in the form of a cover letter or trial brief. In traffic or criminal cases, requested instructions shall be submitted at least ten (10) days prior to the trial. The legal authority relied upon by counsel for the requested instruction shall be submitted to the Court separately by cover letter or trial brief.

26. DEFAULT PROCEDURES

Default Foreclosures, Confirmations of Sale without deficiency and Replevins may be upon an evidentiary affidavit submitted to the Court in support of the motion for default judgment or order confirming sale. In the event the defendant or any interested party appears on the date of the scheduled motion hearing, the matter will be adjourned to permit plaintiff to appear and present whatever evidence as may be appropriate.

27. BAILIFFS

It shall be the duty of the Bailiff to maintain order at all times as litigants, witnesses, and the public assemble in the courtroom during the progress of the trial and during recesses of the Court. This includes the duty to admit persons to the courtroom and direct them to seats and to refuse admittance to the courtroom in such trials where the courtroom is occupied to its full seating capacity.

It shall be the duty of the Bailiff to take charge of and supervise the jury during the course of a trial, during court recesses, and during times of jury deliberation, to assure that no unauthorized persons come into contact with members of the jury. If such an attempt is made, the Bailiff shall notify the Judge at once. During sequestered trials, the Bailiff shall take the foregoing precautions on a 24-hour a day basis.

The Bailiff shall at no time discuss with the jurors any litigants, witnesses or attorneys, or any issue involved in the trial, nor make any effort to assist the jurors in their deliberation.

28. PHOTOGRAPHIC COVERAGE

All electronic media and photographic coverage of any judicial proceeding shall be in accordance with SCR Chapter 61.

29. COURTROOM SECURITY

Effective immediately, there shall be no prohibition of Wisconsin State Patrol, Jackson County officers or officers of any municipality in Jackson County having weapons or radios worn, carried, or otherwise brought into the Jackson County Circuit Courtroom. Any other law enforcement officer must have approval of the Court.

30. AT TIMES WHEN COURT IS IN SESSION, NO PERSON SHALL ENTER THE COURT AREA THAT IS WITHIN THE RAILING OF THE COURTROOM EXCEPT PERSONS FROM:

- a) The District Attorney's office
- b) Defense counsel in criminal cases in session
- c) Counsel in civil cases in session
- d) Parties to the action
- e) Witnesses called to testify
- f) Bailiffs
- g) Sheriff department personnel
- h) Court officers

31. RULES FOR TRANSMISSION AND FILING OF FACSIMILE DOCUMENTS TO JACKSON COUNTY CIRCUIT COURT

Facsimile documents may be transmitted directly to the Circuit Court for Jackson County for filing only if:

- a) The Circuit Court has a facsimile machine capable of reproducing documents that meet the Supreme Court Rule 72.01 concerning retention of filed documents. Only plain-paper facsimile machines currently comply with this requirement.
- b) The Circuit Court has a facsimile machine physically located within the offices of the Clerk of Circuit Court or the Register in Probate.
- c) The document does not exceed fifteen (15) pages in length, excluding cover sheet.
- d) No filing fee is required.
- e) No additional fee or charge must be paid to the Circuit Court for accepting or receiving the facsimile document.

Facsimile documents transmitted to a noncourt agency, party or company for reception and ultimate transmittal to the Court shall be accepted for filing only if:

- a) No filing fee is required.
- b) No additional fee or charge must be paid by the Circuit Court for accepting or receiving the facsimile document.

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

The Circuit Court, Judge or Clerk is not responsible for:

- a) Errors or failures in transmission that result in missing or illegible documents.

b) Periods when a Circuit Court facsimile machine is not operational for any reason.

A Judge assigned to a particular matter may authorize in advance the filing of particular documents in that case that do not conform to these rules if good cause is shown and they are in conformance with 801.16 Wis. Stats. Documents that are not to be filed but are to be used by the Court for reference or other purpose may be transmitted by facsimile transmission at the discretion of the Judge.

32. PROCEDURES ON MOTION FOR SUMMARY JUDGMENT

The Court has adopted certain procedures to be followed in filing and responding to Motions for Summary Judgment, which are intended to supplement the statutory guidelines of Section 802.08 Wis. Stats. and to facilitate the methodology imposed upon the trial court by the appellate courts in reviewing motions for summary judgments.

A copy of the procedure to be followed on Motions for Summary Judgment in the Circuit Court for Jackson County, Wisconsin, may be obtained from the Clerk of Court for Jackson County.

Failure to comply with this order shall be considered cause for imposing sanctions, which may include dismissal, contempt, costs, or such other, and further sanctions, as the Court may deem appropriate under the circumstances.

This rule may be waived upon request of a party and approval granted by the Court.
PROCEDURE TO BE FOLLOWED ON MOTIONS FOR SUMMARY JUDGMENT

I. A motion for summary judgment made pursuant to 802.08 Wis. Stats. shall be served and filed in the following form:

A. The motion itself together with such materials permitted by 802.08 Wis. Stats. as the movant's may elect to serve and file; and

B. Either (1) a stipulation of facts between or among all the parties to the action, or (2) a statement of the findings of fact proposed by movant, or (3) a combination of (1) and (2).

1. Whether a movant elects a stipulation or a statement of proposed findings, or both, it is the movant's obligation to present no more and no less than the set of factual propositions which the movant considers necessary to judgment in the movant's favor, and as to which the movant considers there is no genuine issue.¹

2. Such factual propositions shall be set forth in numbered paragraphs, the contents of each of which shall be limited as far as practicable to the statement of a single factual proposition.

3. At the close of each numbered paragraph shall be set forth one or more references to the PLEADINGS, DEPOSITION TRANSCRIPTS, ANSWERS TO INTERROGATORIES, ADMISSIONS on file or

AFFIDAVITS² supporting movant's contention there is no genuine issue as to that factual proposition.

4. References to the record shall include:

(a) In the case of a pleading, the numbered paragraph of that pleading;

¹ The factual propositions should include all of the "basic" facts necessary to a decision on the motion, including those going to jurisdiction, to the identity of the parties, and to the background of the dispute.

² Affidavits must be made on personal knowledge setting forth such facts as would be admissible in evidence, and showing affirmatively the affiant is competent to testify to the matters stated therein.

(b) In the case of a deposition transcript, the name of the witness and the page of the transcript;

(c) In the case of an answer to an interrogatory, the number of that interrogatory and the identity of the party to whom it was directed;

(d) In the case of an admission in response to, or resulting from a failure to respond to, a request for admission made pursuant to 804.11 Wis. Stats., the number of the requested admission and the identity of the party to whom it was directed;

(e) In the case of an admission on file which is not in response to, or resulting from a failure to respond to, a request for admission made pursuant to §804.11 Wis. Stats., the form such admissions takes and the page or paragraph of the document in which that admission is made. Admissions made solely for the purpose of the motion for summary judgment should be so designated.

C. A statement of the conclusions of law proposed by movant, in numbered paragraphs.

D. A motion for summary judgment in the form required by A., above, shall be served and filed together with a supporting brief.

II. When a motion and supporting brief have been served and filed in compliance with A., above, the court orders the following schedule for the procedures described in C. and D., below, unless the Court establishes a different briefing schedule at the parties request.

III. RESPONSE: Briefing Schedule:

A. Brief of a filing party within 15 days of the motion filing.

- B. Responsive brief and supportive materials by Respondent within 45 days of motion filing.
- C. Petitioner's reply within 20 days of receipt of Respondent's pleadings.

IV. Such materials permitted by 802.08 Wis. Stats., which said party may elect to serve and file in opposition to said motion.

A. A response to the movant's statement of proposed findings of fact.

(1) With respect to each numbered paragraph of the movant's proposed findings of fact, the said response shall state clearly whether there is a genuine issue as to the whole or a part of the said factual proposition. If it is contended that there is a genuine issue only as to a part of the said factual proposition, the response shall identify precisely the said part of the numbered paragraph.

(2) With respect to any paragraph or part of a paragraph of the movant's proposed findings of fact as to which it is contended that a genuine issue exists, the response shall refer to the PLEADINGS, DEPOSITION TRANSCRIPTS, ANSWERS TO INTERROGATORIES, ADMISSIONS on file or AFFIDAVITS complying with 802.08 Wis. Stats., which respondent believes give rise to said genuine issue.

(3) The said reference to the record shall be made with that specificity required by I.B.4., above.

(4) If an opposing party believes the motion for summary judgment must fail because of material facts not stated by the movant and as to which it is considered there is no genuine issue, the said opposing party may present such other factual propositions either by means of:

- a) A stipulation of facts between or among all of the parties to the action; or
- b) A statement of the findings of fact proposed by said opposing party; or
- c) A combination of "a" and "b".

(5). With respect to such presentation of factual propositions not stated by the movant, the said opposing party shall comply with the requirements set forth in I.B., above.

B. A response to the movant's statement of proposed conclusions of law.

(1) With respect to each such numbered proposed conclusions, the said response shall state clearly whether the said conclusion is agreed to or disputed in whole or in part. If the dispute is partial, the response shall state precisely which portion of the proposed conclusion is disputed.

(2) If an opposing party believes the motion for summary judgment must fail because of conclusions of law not stated by movant, that party may state such other conclusions of law.

C. The response in the form required by B, above, shall be served and filed together with a brief in opposition to the motion for summary judgment.

IV. REPLY: On or before the date specified in the schedule issued by the Court, the movant may, but is not required to, serve and file in rebuttal any or all of the following items.

A. Such materials permitted by 802.08 Wis. Stats., which movant may elect to serve and file in rebuttal.

B. A statement in rebuttal to the response or responses to any numbered paragraph of the movant's initially proposed findings of fact, and a statement in rebuttal to any numbered paragraphs of findings of fact initially proposed in the response or responses. To the extent that said statement in rebuttal requires record references not earlier made by movant, the said references shall be made with that specificity required by I.B.4., above.

C. A statement in rebuttal to the response or responses to any numbered conclusion of law initially proposed by the movant, and a statement in rebuttal to any numbered conclusion of law initially proposed in the response or responses.

D. A statement in rebuttal to the response or responses with respect to the form of judgment.

E. With the rebuttal described in IV, above, the movant may, but is not required to, serve and file a rebuttal brief.

F. NOTE PARTICULARY:

a. In deciding the motion for summary judgment:

i. The Court will conclude that there is no genuine issue as to any proposed finding of fact initially proposed by the movant, except to the extent an opposing party's response asserts that a genuine issue exists; and

ii. The Court will conclude there is no genuine issue as to any finding of fact initially proposed in a response, except to the extent that movant's rebuttal asserts a genuine issue exists.

iii. As to any finding of fact, whether initially proposed by the movant or in a response, as to which it is asserted a genuine issue exists, the Court will make a determination as to the existence or nonexistence of such genuine issue.

iv. The Court is not required to give any weight to a piece of evidence unless it is set forth in the manner described.

v. The Court does not consider it is under any obligation to search the record for factual matters that might support either the granting or the denial of the motion. It is the duty of the parties to bring to the Court's attention by specific reference to the record as outlined in paragraphs I.B., III.B., and IV.B., all factual and legal matters material to the resolution of the issues in dispute.

b. All motions for summary judgment shall be considered as submitted for ruling without oral argument, unless the Court otherwise directs.

33. PROCEDURES FOR NOTICE TO VICTIMS AND DISCLOSURE OF IDENTITY OF CHILDREN'S ACTS.

The procedures to be followed in providing notice to victims of children's acts under the provisions of 48.346 Wis. Stats. are as follows:

Petition and Order for Disclosure of Identity/Police Record Section 48.346 Notice to Victims of Children's Acts.

1. Each known victim of a child's act shall receive timely notice of the following information.

- a) The procedure for obtaining the identity of the child and the child's parents.
- b) The procedure under 48.396(5) for obtaining the child's police records.
- c) The potential liability of the child's parents under 895.035.
- d) Either:
 - i) General information regarding any informal agreement under 48.245, any consent decree under 48.34 to 48.345. The information shall not include specific details of the order except for details relating to restitution or repair to property; or
 - ii) The procedure the victim may follow for obtaining the information in Subd. 1.
 - iii) The notice under sub. (1) shall include an explanation of the restrictions on divulging information obtained under this chapter and the penalties for violation.
 - iv) If an inquiry or proceeding is closed, dismissed, or otherwise does not result in an informal agreement, consent decree or dispositional order, a reasonable attempt shall be made to inform each known victim of the child's alleged act that the inquiry or proceeding has been terminated.

v) If the victim is a child, the notice under this section shall be given to the child's parents, guardian or legal custodian.

vi) Chief Judges and Circuit Judge shall establish by policy and rule procedures for the implementation of this section. The policies and rules shall specify when, how and by whom the notice under this section shall be provided to victims.

2) The Jackson County District Attorney's office shall timely notify all victims of children's acts in writing of the information included in 48.346(1) as outlined by statute.

3) 48.396 RECORDS

i) 5(a) Any victim of a child's act may petition the Court to order the disclosure of the records governed by sub. (1). The petition shall be in writing and shall describe as specifically as possible all of the following:

b) The type of information sought.

c) The reason the information is being sought.

d) The basis for the petitioner's belief that the information is contained in the records.

e) The relevance of the information being sought to the petitioner's reason for seeking the information.

f) The petitioner's efforts to obtain the information from other sources.

g) The Court shall notify the child, the child's counsel, the child's parents and appropriate law enforcement agencies in writing of the petition. If any person notified objects to the disclosure, the Court may hold a hearing to take evidence relating to the petitioner's need for the disclosure.

h) The Court shall make an inspection, which may be in camera, of the child's records. If the Court determines that the information sought is for good cause and that it cannot be obtained with reasonable effort from other sources, it shall then determine whether the petitioner's need for the information outweighs society's interest in protecting its confidentiality. In making this determination, the Court shall balance the following private and societal interests: The petitioner's interest in recovering for the injury, damage or loss he or she has suffered against the child's interest in rehabilitation and in avoiding the stigma that might result from disclosure. The public's interest in the redress of private wrongs through private litigation against the public's interest in protecting the integrity of the juvenile justice system. (4) If the Court determines that disclosure is warranted, it shall order the disclosure of only as much information as is necessary to meet the petitioner's need for the information. (5) The Court shall record the reasons for its decision to disclose or not to disclose the child's records. All records related to a decision under this subsection are

confidential. (6) Notwithstanding sub. 3(h), a victim or a child's act or alleged act may, with the approval of the Court, obtain the names of the child and the child's parents.

RULES FOR IMPLEMENTATION OF DISCLOSURE OF JUVENILE RECORD INFORMATION

A petition filed on behalf of a victim of a child's act under 49.396(5)(a) for release of the child's name and/or the names of the parents of the child, shall be reviewed by the Jackson County Circuit Judge without notice of hearing under 48.396(6). The juvenile court worker shall be responsible for release of names when so ordered by the Court. A petition under this section requesting release of police records shall require notice to all interested parties. The juvenile clerk shall give said notice. The Court will conduct a hearing upon reasonable notice, if any person objects to disclosure, to determine the need for disclosure of the information.

7) Notwithstanding sub. (2), if a child is adjudged delinquent, the Court Clerk shall notify the school board of the school district in which the child is enrolled of the fact that the child has been adjudicated delinquent unless the child's parents request, in writing, that the information not be provided. No other information from the child's court records may be disclosed to the school board except by order of the Court. Any information provided to the school board under this subsection may be disclosed by the school board only to employees of the school district who have been determined by the school board to have legitimate educational interests in the information.

Attached to this court policy/rules you will find the appropriate forms utilized by this Court.

34 MOTIONS IN LIMINE

The procedure for filing a Motion in Limine are as follows:

- (a) The motion shall be in writing.
- (b) The motion shall be supported by an affidavit setting forth the facts upon which the moving party relies; and,
- (c) A memorandum of the law that applies to the issues raised by the motion.

The motion shall be filed not less than 48 hours prior to the trial and will be heard at 8:30 AM on the date of trial, unless otherwise scheduled by the Court. Motions not submitted in accordance with these rules will not be considered by the Court, without showing of good cause for failure to comply.

35. JUVENILE COURT RECORDS, POLICY AND PROCEDURE

I. RECORDS- Juvenile court records may not be disclosed, except by appropriate Court order, to persons other than (a) personnel of the court, including persons providing intake services to the court; (b) all attorneys appearing in the case; (c) the juvenile's parents; and (d) to such other persons who are permitted access to such records under Chapter 48 Wis. Stats..

II. CONFIDENTIALITY- Unless otherwise specifically authorized by statute or Court order, any person receiving a record or information shall be prohibited under penalty of contempt from disclosure of the record of information.

III. DISCLOSURE TO MEDIA- Reporters of news, after presenting proper identification, may inspect copies of any delinquency petition, together with notices of hearing and orders entered by the Court. They shall not be permitted to examine or inspect records relating to an examination under 48.33 or 48.29 of Wis. Stats., AODA assessments or any other psychology or social service reports. They shall not be permitted to photocopy or remove any records from the office of the Juvenile Clerk.

Unless otherwise ordered by the Court, reporters of news may disclose the contents of petitions or proceedings of the Court, but in no circumstances may they report the information in a manner that may reveal the identity of the child. Juveniles may be identified in media coverage by age, gender and municipal residence.

IV. CAMERAS AND OTHER EQUIPMENT- No cameras or other electronic equipment shall be permitted in the courtroom without notice to the 7th Judicial District Media Coordinator and consent of the presiding Juvenile Court Judge. Such equipment, when permitted, shall be located and operated in such a manner as to avoid photographing or identifying the juvenile. Media coverage shall comply with all of the provisions of SCR 61. Failure to comply with these rules or any other applicable rules or statutes may subject the reporter of news to expulsion from all further proceedings as well as prosecution for contempt under Chapter 785 of the Wis. Stats.

V. DISCLOSURE TO MILITARY RECRUITERS- A recruiter for the United States Armed Forces who makes a written request for information regarding a juvenile court record may be informed only that "a record does exist" or "no record exists." If a record does exist, the juvenile, his parents, or his attorney may petition the Court for release of the information requested. If the Court approves the release of information, the petition and order of the Court shall be placed in the juvenile's record.

VI. "Juvenile Court Record" means all records under control of the Clerk of Court or Juvenile Clerk, including all materials or documents related to a child under Juvenile Court Jurisdiction, examinations under 48.296, Consent Decrees under 48.32 and court reports under 48.33, and record of intake under 48.20(3) and 48.24.

36. INTERIM DISBURSEMENT ORDER

In all proceedings under Chapter 767, the attorney representing the recipient of child support, family support, maintenance or other payments to be disbursed by the Clerk of Court shall file with the Court immediately following the hearing establishing the amount of such payments, an "Interim Disbursement Order." (Form Number FA-607).

37. POLICY AND PROCEDURE MANUAL OF THE JUVENILE AND CHILDREN'S COURT OF JACKSON COUNTY

This local court rule establishes the policies and procedures of the Juvenile and Children's Court of Jackson County. It shall supercede all previous statements of the policies and procedures of the Jackson County Circuit Court concerning proceedings under Chapter 48 and Chapter 938 in whatever form or format promulgated.

Section 1: Definitions

1) Child: Refers to a person under the age of 18 involved in a

Chapter 48 CHIPS proceeding.

2) CHIPS: Child In need of protection or services; a Chapter 48 proceeding concerning a child who is within the jurisdictional requirements of 48.13, Wis. Stats., generally involving orphaned, abandoned, abused, neglected, special treatment children, and children with alcohol or other drug abuse impairments.

3) Court: When used without further qualification, means the Court assigned to exercise jurisdiction under Chapters 48 or 938, Wis. Stats.

4) Court Intake: The process of submitting to the juvenile intake worker written referrals from agencies or departments authorized in Chapter 48 or 938 to refer a child/juvenile to the Court.

5) Custody Intake: The process by which a person is taken into custody under 48.19 and 938.19 Wis. Stats., and delivered to the juvenile intake worker for a custody determination.

6) JIPS: Juvenile In need of protection or services; a Chapter 938 proceeding concerning a juvenile who is within the jurisdictional requirements of 938.13 Wis. Stats., 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.

7) Juvenile: 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.

Section 2: General policies

1) It is the express policy of the Court to implement the legislative purpose expressed in 48.01 and 938.01 Wis. Stats.. 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) Rationale. The statutes are the law. They must be followed. Policies and procedures are intended to fill the gaps in the law and set forth the philosophical and procedural requirements for handling matters involving Chapters 48 and 938.

3) The Court will not routinely waive time limits.

4) Rationale: It was the intent of the legislature to expedite court proceedings. This intent is based, in part, on the philosophy that delays:

a) In Delinquency and JIPS matters, remove the "cause and effect" relationship between juvenile behavior and court-ordered "consequences" in delinquency matters, and

b) In CHIPS matters, place the child and parents in a limbo status concerning the various needs, rights, and responsibilities of the parties.

Section 3: Custody Intake

1) The duties of intake and disposition/supervision must be separate. The intake function shall be in the office of the Circuit Judge for Jackson County. The disposition/supervision function shall be in the Jackson County Human Services agency.

Rationale: There exists a potential conflict of interest between the functions of intake and disposition, if the two are blurred, decisions as to one may adversely affect the decision-making process of the other.

2) Custody intake shall be done by professionally trained intake workers.

Rationale: The statutes mandate training for all intake workers.

3) The powers of the intake worker are similar to those of a judge.

Backup custody intake and holdover room attendants shall be on-call worker.

Rationale: It is fiscally impossible for a county the size of Jackson to have full-time backup workers or holdover room attendants. Utilizing a list of on-call backup workers or holdover room attendants is efficient and fiscally responsible.

4) Backup custody intake workers and holdover room attendants shall be trained at county expense.

Rationale: Intake workers and holdover room attendants are required to have a certain number of hours of training (currently 30 hours for intake workers, 12 hours for holdover room attendants). Requiring backup workers and holdover room attendants to obtain training at their own expense would effectively eliminate the county's ability to obtain such workers.

5) Referrals for custody intake shall first be made to the full-time intake worker. If the full-time intake worker is not available, referrals should be made to the backup workers in the order listed by the Court so that there is uniformity in intake decisions.

Rationale: Custody intake should first be conducted by the person who is most experienced and generally familiar with the statutes, juveniles, and court processes; the full-time intake worker. If that worker is not available, referrals

should be made to the backup workers in the order listed by the Court so that there is uniformity in intake decisions.

6) A Juvenile Court Commissioner shall not be used for custody intake purposes unless no other full-time or backup worker is available.

Rationale: A Juvenile Court Commissioner is the only court official (other than the Circuit Judge) that can conduct custody hearings under 48.21 or 938.21, Wis. Stats. If a Juvenile Court Commissioner makes the initial custody decision, only another Court Commissioner with the juvenile court powers or the Circuit Judge can conduct a custody hearing. If the Circuit Judge were not available, an out-of-county judge would be required.

7) The Circuit Judge shall be used for custody intake only if no other qualified individual is available.

Rationale: Jackson County is a single-judge county. If the judge is used for intake purposes, the statutes mandate that the judge cannot act further in that case. This would require out-of-county judges being required to handle all matters after intake. Given the time limitations on juvenile court proceedings, and the difficulty of calendaring out of county judges for "emergency" work in Jackson County, using the Circuit Judge for intake purposes on other than a "last-resort" basis would adversely affect the progress of juvenile court proceedings.

Section 4: Custody intake "decision guidelines"

A) All custody intake referrals shall be made through law enforcement or human services personnel.

Rationale: The decision to refer a person to custody intake is best made by professionals familiar with the law and resources available to the county.

B) Intake worker shall not be contacted until the referring agency has made a reasonable, articulable decision that a person should be held. The referral agency shall be required to complete the custody intake referral form before intake is notified.

Rationale: Intake should only be contacted after the referring agency has made a decision that the person should be held. The agency must be able to justify that decision in writing. Requiring the agency to complete the referral form before intake is called forces the referral person to justify the request for a hold.

1) Intake shall first determine whether the Court has jurisdiction over the person.

i) 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 5 of this rule and Chapters 967 to 979, Wis. Stats., shall apply.

ii) 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.

iii) If the person is not subject to original court jurisdiction, intake shall determine what jurisdiction basis exists for the requested hold under Chapters 48 or 938.

2) If there is jurisdiction, intake shall then consider whether and where the person should be held in custody.

a) Chapter 48 presumes:

1. A child shall be removed from the home if the best interests of that child so dictate.

Rationale: In construing Chapter 48, the paramount consideration is the "best interest of the child."

2. If the best interests of the child require removal, lower levels of restriction must always be considered and rejected before considering a higher level of restriction. 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. Holdover room

e. Placement in the home of a person not a relative

f. A licensed foster home

g. Shelter care, such as La Crosse or Eau Claire County Shelter Care

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.

Rationale: In construing Chapter 938, protecting citizens from crime is one of eight equal purposes of the juvenile code.

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:

- Home placement with conditions
- Home placement under home detention rules

3. If protection of the public requires removal, lower levels of restriction must always be considered and rejected before considering a higher level of restriction, 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):

- Placement in the home of a relative
- Holdover room
- Placement in the home of a person not a relative
- A licensed foster home
- Shelter care, such as La Crosse or Eau Claire County Shelter Care
- In delinquency matters, secure detention in
- Secure detention facility, such as Eau Claire or La Crosse secure detention
- The juvenile portion of an adult jail meeting the requirement of DOC 346

Rationale: Increasing levels of custody should be considered commensurate with the level of custody needed for the protection of the public. Secure custody should be imposed only when the secure setting is necessary and the statutory criteria have been met.

4. If the juvenile is charged with or it appears reasonable to believe the juvenile will be charged with a crime which establishes a presumption of secure custody under 938.208(1), that juvenile shall always be placed in secure custody unless the intake worker is satisfied that such custody is not necessary to protect the public. For illustrative purposes only, the presumptive secure custody crimes as of the date of promulgation of this rule are:

- a) 1st degree intentional homicide, 940.01
- b) 1st degree reckless homicide, 940.02
- c) Felony murder, 940.03
- d) 2nd degree intentional homicide, 940.05
- e) Mayhem, 940.31
- f) 1st degree sexual assault, 940.225(1)
- g) Kidnapping, 940.3

- h) Discharging firearm from automobile or in parking lot under certain conditions, 941.02 (1)
- i) Arson to building, 943.02(1)
- j) Carjacking while possessing a dangerous weapon, 943.23(1g)
- k) Carjacking while possessing a dangerous weapon and causing great bodily harm, 943.32(1m)
- l) Carjacking while possessing a dangerous weapon and causing death, 943.23(1r)
- m) Armed Robbery, 943.32(2)
- n) 2nd or subsequent offense of harassment with threat of death/great bodily harm, 947.013(1t)
- o) Harassment with threat of death/great bodily harm based on information obtained electronically, 947.013(1v)
- p) 2nd or subsequent offense of harassment based on information obtained electronically, 947.013(1x)
- q) 1st or 2nd degree sexual assault of a child, or repeated acts of sexual assault to same child, 948.01(1) or (2)
- r) Physical abuse of child, 948.03
- s) Use of handgun, short-barreled rifle/shotgun while committing a felony under Chapter 940
- t) Possession of a short-barreled rifle/shotgun 941.28
- u) Going armed with a handgun in violation of 948.60

Future legislative changes that either add to or subtract from this list shall be considered incorporated into this rule without further revision of this rule.

5. If the intake worker believes secure custody is not necessary in a presumptive secure custody situation, the intake worker shall consider less restrictive placements as listed in paragraph 3 of this section of this rule in a descending order of restriction, rather than an ascending order of restriction.

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.

Rationale: Intake must make a reasoned, independent decision on both the holding of a child and the proper placement. Referral agencies have different

constituencies and interests from intake. Intake's responsibility is to the Court, not the referral agency.

7. The "holdover room" is to be used as a temporary housing of the child only in the following circumstances:

- a. When the Court will be able to conduct a custody hearing within 24 hours; or,
- b. As a temporary placement pending the opening of a different placement, such as a foster home, shelter care facility, or other similar placement.

Rationale: When a person is taken into custody at a time when a court custody hearing will be held within 24 hours, it is illogical to transport that person to a holding facility only to be required to almost immediately pick up and return the person for a court hearing. The holdover room allows for a temporary and safe placement for such individuals on those occasions when a court custody hearing is only a few hours away.

8. The "holdover room" is a nonsecure placement. It shall be located in a nonsecure portion of the Jackson County Law Enforcement Center. All persons placed in the "holdover room" must be advised that:

- a. The holdover room is a nonsecure placement
- b. He or she is free to leave and where the available exits are located
- c. A juvenile who leaves the holdover room is considered a "runaway" from a nonsecure placement; and,
- d. As a runaway from a nonsecure placement, Wisconsin law allows the juvenile to be placed in a secure placement facility.

Rationale: Since the holdover room is considered to be a non-secure placement, the facility must be located outside the locked portion of the jail. The person is entitled to understand the nature of the placement and the consequences of leaving the placement.

9. All persons placed in the holdover room shall be monitored by a trained holdover room attendant. Holdover room attendants shall be paid on an hourly basis by the Jackson County Human Services agency. The Jackson County Sheriff's office, in cooperation with the Jackson County Circuit Court and the Jackson County Human Services agency, may establish guidelines and policies for the holdover room.

Rationale: Individuals who monitor people held in the holdover room are not required to be law enforcement officers or social workers. The holdover room attendant may be a layperson who has been given appropriate training in their role. The Jackson County Sheriff's office is primarily responsible for the operation of the holdover room.

10. 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 preemptive secure custodial placement crime listed in 938.208(1)(a) (b), or (c), Wis. Stats.

b) In delinquency matters that are not preemptive secure custodial placement crimes, the severity of present alleged offense:

- Whether the present offense involves bodily injury or property damage
- The degree of injury to the victim
- Any special vulnerability of victim (elderly, very young, handicapped, etc.)
- Whether a weapon was used and type of weapon
- Extent of premeditation on the part of the juvenile
- Whether act represents "random, senseless act of violence"
- The numbers of co-actors involved
- The attitude of the juvenile toward offense
- Whether offense included any "gang" involvement
- Other circumstances relevant to the offense

c) In delinquency matters, the prior CHIPS, JIPS and/or delinquency record of juvenile:

- Number, nature and consequences of prior court adjudications
- Age of initial law enforcement/court involvement compared to present age
- Whether the activity indicates an escalation in severity or dangerousness
- Whether the activity indicates an increasing lack of respect for or inclination to adhere to rules
- Other factors concerning the prior record of the juvenile

d) Risk of flight:

- Is the person presently a runaway from a court-ordered placement
- Has this person previously run away from a court-ordered placement
- Attitude of the person toward remaining in custody
- Record of obeying home curfews and rules
- Ability of caregiver to control the person
- School attendance record
- Likelihood of the person to be successful at running from placement based on
- Age
- Apparent maturity
- Availability of either associates that would assist running away
- "Gang" relationships that would foster runaway status
- Level of consequences child/juvenile now faces for immediate behavior
- Other facts that appears relevant to level of risk of flight

e) Current legal status:

- Is the person currently subject to a dispositional order
- Are other court actions involving the person currently pending
- What is the person's present level of custody
- Are there prior adjudications of a similar nature
- Have other dispositional alternatives been tried in the past
- Other factors relating to the person's present legal status

f) Protection needs:

- Is the person subject to abuse or neglect in home
- Have there been verbal threats against this person
- Has this person exhibited potential harm to self by recent behavior or threats
- Is the person vulnerable to revenge acts by others, including co-actors, victims, or others
- Other factors relating to the need to protect the person

11. Intake Warnings

That upon making any request of the Court recommending that the child/juvenile be placed outside the home, the intake worker shall have prepared for the court proceedings and the AFSA warnings shall be in writing and the intake worker shall be prepared to testify in court as to a factual basis for said warnings.

12. Deadline for potential if no custody hearing is requested

a) If a child/juvenile has been taken into custody and placed in a secure or nonsecure 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 written referral to intake pursuant 48.24 or 938.24, Wis. Stats., has been filed within a timely manner.

Rationale: Persons who are taken into custody must not be left in a "limbo" status. Intake inquiries must be promptly filed in order to initiate the formal court process. Five days is an appropriate maximum amount of time for the requesting agency to file the intake referral.

b. This rule does not apply to defendants age 14 or under charged with original adult court jurisdiction matters who are being held in secure custody.

Rationale: Defendants in an original adult court jurisdiction matter who are being held in secure custody are under the procedures of the adult court, not the juvenile court. There are no "referrals" to intake for such matters. The defendant is held until bail/bond conditions have been met.

Section 5: Original adult court criminal defendants—secure custody

1. Defendants age 15 or over:

A defendant 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.

Rationale: A defendant age 14 or under can only be held in secure custody in a juvenile secure detention facility. Since the legislature specifically limited such placements to defendants 14 or under, defendants 15 or over are subject to all adult court procedures, including custody in the county jail pending meeting bail/bond conditions or further court proceedings.

2. Defendants age 14 or under:

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

- 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.
- A defendant arrested without a warrant and held under this rule is entitled to a probable-cause determination within 48 hours of the arrest.
- A defendant arrested and held under this rule is entitled to a bail/bond hearing under Chapter 969.
- A defendant arrested and held under this rule is not entitled to a juvenile court custody hearing under 938.20.

Rationale: A defendant in an original adult court jurisdiction matter is subject to all of the procedures in Chapters 967 to 979 except that any secure custody placement must be in a juvenile detention facility. In all other adult court matters, law enforcement makes a decision to hold or release the defendant. The same should be true in the case of defendants who are involved in an original court proceeding. Juvenile intake serves only as the conduit for placing such a defendant in a secure detention facility and should not have the authority to overrule the law enforcement decision. Such defendants are also entitled to the adult court procedures of a Riverside/McLaughlin hearing, bail/bond hearing, etc., but since these dependents are not in juvenile court, they are not entitled to juvenile court 938.20 custody hearings.

b. Failure to post bond: If a defendant age 14 or under charged with an adult court jurisdiction matter appears for a bail/bond hearing before a judge or court commissioner and is unable to meet the conditions of bail/bond in order to be released, the defendant must be held in a juvenile secure detention facility. The juvenile shall be immediately released from such detention upon meeting the conditions of bail/bond.

Rationale: Although a defendant is held in secure custody in a juvenile facility, the Court only because the defendant has not met the conditions of bail/bond, establishes the hold. When the bond conditions have been met—such as payment of a cash bond—the defendant should be released the same as a defendant age 15 or over would be released.

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.

4. Any defendant who meets all of the following criteria shall immediately be transferred to the county jail upon his or her 15th birthday:

a) The person is subject to original adult court jurisdiction, and,

b) The person had been placed in juvenile secure custody because the person was age 14 or under at the time the custody decision was made.

No further court order is needed to effectuate such a transfer. Law enforcement shall be responsible for transporting the juvenile from the secure custodial placement to the county jail.

Section 6: Custody hearings and petitions

1. Custody hearings, whether under 48.21 or 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.

Rationale: Section 48.21 requires a custody hearing to be held within 48 hours of the time the decision to hold the child was made, excluding Saturdays, Sundays and legal holidays. Section 938.21 requires a custody hearing to be held within 24 hours after the end of the day that the decision to hold the juvenile was made, excluding Saturdays, Sundays and legal holidays. Although Chapters 48 and 938 have differing deadlines, it is appropriate for the Court to establish a common deadline so as to avoid confusion.

2. If court scheduling or congestion makes it impossible to conduct a custody hearing within the time period, the custody hearing shall be conducted as soon as is reasonably practical. No juvenile shall be automatically released from custody if a custody hearing is not held in a timely fashion if the reason for the inability to hold the custody hearing is because of court congestion or scheduling difficulties under 938.315(1)(dm) of Wis. Stats.

3. If a petition under either Chapters 48 or 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. Chapter 938 matters: 48 hours from the time of the hearing.

b. Chapter 48 matters: 72 hours from the time of the hearing, excluding Saturdays, Sundays and legal holidays.

4. No custody hearing under Chapters 48 or 938 is to be held for a defendant age 14 or under in an original adult court jurisdiction matter who is being held in secure custody.

Section 7: "Court Intake"

1. All intake referrals under 48.24(1) or 938.24(1), Wis. Stats., 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.

Rationale: All referrals must contain specific information. Using a state-wide approved form provides a consistent format for presenting and reviewing each referral.

2. All intake referrals under 48.24 or 938.24(1), Wis. Stats., shall be conducted by the full-time intake worker.

Rationale: Consistency in the handling of the referral process is necessary to assure that children are handled similarly. Coordinating all intake inquiries in the full-time limits for conducting an intake inquiry are sufficiently flexible, the full time intake worker can accommodate all intake referrals in spite of temporary absences, vacations, or other duties.

3. All parties making a referral may make a recommendation for disposition, but that recommendation is not binding on the intake worker.

Rationale: Often the party making the referral has special insight into the facts or needs of each case, which should be communicated to the intake worker who must make the ultimate recommendation. Recommendations, however, are merely recommendations.

4. Intake referrals under 48.24(1) or 938.24(1), Wis. Stats., are not required if all of the following have occurred:

- a. A custody intake decision was made pursuant to 48.19 or 938.19, Wis. Stats.;
- b. A hearing on the custody has been held pursuant to 48.21 or 938.21, Wis. Stats.;
- 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.

Rationale: The purpose of the intake referral is to allow the Juvenile Intake Worker to review the facts, meet with the child and parents, and make a decision whether the matter should be referred for a Petition to be filed, whether the matter should be resolved through an Informal Disposition or Deferred Prosecution Agreement, or whether the matter should be dismissed. Chapters 48 and 938 require that a petition be filed at or prior to a custody hearing or allows a 48-hour extension of time to file such a

petition. Because of the expedited nature of the process when a child is taken into custody, the purpose of an intake inquiry has been accomplished. It is impossible to reconcile the statutory guidelines for processing a petition. It was the apparent intent of the legislature to circumvent the intake inquiry procedure when the intrusive step of a child being taken into custody has occurred.

5. Intake referrals under 48.24(1) or 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(13).

Rationale: The juvenile has already been in adult court under an original adult court jurisdiction crime because of the serious nature of the crime committed or the juvenile's past record. The district attorney will already have prepared charging documents concerning the juvenile in adult court and is in the best position to make a determination of whether a delinquency petition should be filed and the charge(s) to be included in the petition.

6. Except as set forth elsewhere in this rule, the intake worker shall always consider the possibility of an informal disposition agreement under Chapter 48, or a deferred prosecution agreement under Chapter 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.

Rationale: Diversion of children from the formal court system is one of the goals of both Chapters 48 and 938. An Informal Disposition Agreement (IDA) or Deferred Prosecution Agreement (DPA) may allow the intake worker to structure a plan with the agreement of the child/juvenile and parents that will accomplish all of the goals of Chapters 48 and 938. However, an IDA or DPA can be counter-productive if its effect is to reduce the child's or parents' responsibility, or the IDA/DPA would depreciate the seriousness of the offense, or such an action would be viewed as doing so by other interested persons.

- 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), Wis. Stats., concerning waiver to adult court
- q) Any other factors 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 3705, concerning custody decision-making.

Rationale: The intake decision should not be hamstrung by artificial barriers to the free flow of information. Just as the Circuit Judge may consider all "relevant" factors in making a disposition, without regard to the rules of evidence, the intake worker should also be able to use all information available to make a decision on the future of that particular referral.

8. The intake worker shall not enter into a deferred prosecution agreement in a Chapter 938 matter in the following situations unless the District Attorney has referred the matter back to the intake worker with such recommendation.

Rationale: The legislature, on behalf of the society it represents, has categorized crimes in terms of seriousness by creating a classification system. It is the duty of the executive branch, acting through the elected District Attorney, to determine the extent to which these crimes should be prosecuted. For those crimes society considers most serious, the intake worker—a nonelected member of the judicial branch—should not make Informal disposition recommendations in those cases which would appear to unduly depreciated the seriousness of the allegations. Certain criminal activity is so serious that an informal disposition should only be considered when the District Attorney has made that choice as the proper prosecutorial decision. The intake to the District Attorney a juvenile court deferred prosecution agreement or an adult criminal court deferred prosecution agreement. If the District Attorney has reviewed the matter and concludes that a juvenile court deferred prosecution agreement is appropriate, the District Attorney will refer the matter back to intake for such a procedure. If the District Attorney believes an adult criminal court deferred prosecution agreement is appropriate, the District Attorney will prepare the paperwork in adult court.

- a) If the intake worker is satisfied there is probable cause to believe the juvenile committed a Class A or B felony

Rationale: Although intake will seldom see a juvenile who is charged with a Class A or B Felony (most of these are original adult court jurisdiction matters), there are occasions when it might occur. These matters are so serious that an IDA or DPA is never a practical consideration.

b) If the intake worker is satisfied there is probable cause to believe the child committed a felony and has been previously adjudicated delinquent.

Rationale: A prior adjudication for delinquency followed by a felony referral for delinquency is sufficiently serious to require that the initial decision on filing a formal petition should always be made by the District Attorney.

c) The juvenile and at least one of the parents does not appear at an intake conference.

Rationale: For a deferred prosecution agreement to work, the parties must reach an agreement. Juveniles or parents who do not attend the intake conference exhibit a noncooperative attitude that would make an informal disposition unworkable.

d) The juvenile or the family deny the allegations of the referral.

Rationale: The deferred prosecution agreement is not to be used as a bargaining tool or hammer to avoid litigation. For a DPA to work, the parties must show a willingness to admit that there is a problem and to work voluntarily to resolve it.

e) When the child has been the subject of an informal disposition agreement concerning delinquency under Chapter 48 or a deferred prosecution agreement under Chapter 938 entered into within the last two years.

Rationale: A juvenile who has been the recent subject of an informal disposition agreement is not appropriately considered for informal disposition again.

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 with the court.
4. The juvenile has not previously been formally adjudicated delinquent.

c) In CHIPS matters when:

1. The custodial parent(s) agree that the child is in need of protection and services.
2. The child has not previously been adjudicated CHIPS.
3. The child is not the victim of sexual or physical abuse resulting in actual injury inflicted by an adult person currently residing in the child's home.

Rationale: One of the statutory goals is to divert children out of the court system. An informal agreement should be the first consideration in all cases that are not automatically excluded from such disposition by these rules. Only when an informal disposition is considered inappropriate should the intake worker discard the possibility of an informal disposition.

10. Deferred prosecution agreement involving Youth Village Placements.

a) Any deferred prosecution agreement that includes placement in a Youth Village as described in 118.42, intake shall provide written notice of that agreement or extension of that agreement to the Circuit Judge or juvenile court commissioner along with a proposed order for the court official to sign requiring compliance with that agreement.

Rationale: Although deferred prosecution agreements take place outside the juvenile court process and generally prior to the juvenile court having any files or documentation concerning the juvenile, 938.245(3) requires the Court to be given written notice of DPA involving a youth village placement. The Court is also required to order the parties to comply with the agreement. The statutes do not give the Court the authority to reject the DPA.

b) Upon signing of the order, intake shall provide written copies of the agreement and order to:

- The juvenile;
- The parent, guardian, or legal custodian;
- The agency providing services under the agreement; and,
- The juvenile court clerk.

c) The juvenile court clerk shall file the court copy of the deferred prosecution agreement and order in a group file.

11. The intake worker may dispense with holding an intake conference in those cases in which the intake worker is satisfied that the best interest of the child of the interest of society require an immediate decision. In such cases, the intake worker may notify the child and parents of their legal rights under Chapters 48 and 938 in writing.

Rationale: In some cases a referral and recommendation are apparent on the basis of the referral documents. CHIPS cases involving danger or risk to the child, or delinquency matters involving serious crimes, may require a greater immediacy of action than the usual intake process would allow. The intake worker should be free to make the decision whether an intake conference would be beneficial to the intake decision or would merely be postponing necessary action.

12. When a matter has been presented to the intake worker by the juvenile court clerk under Section 3737 of this local court rule, the intake worker may:

- a) Refer the matter to the appropriate agency for investigation and review.
- b) Conduct an intake inquiry based on the petition presented to the juvenile Court Clerk for filing.

Rationale: 48.25(1), Wis. Stats., permits the filing of a petition under 48.13 or 48.14 by counsel or guardian ad litem for a parent, relative, guardian or child. Presumably a parent, relative, guardian or child could also file such a petition pro se. Section 3716 of these local court rules prohibits the Juvenile Court Clerk from accepting for filing such a petition unless an intake inquiry has been conducted. When the Juvenile Court Clerk makes such a referral to intake the intake worker must have the ability to refer the matter to law enforcement or human services for investigation and determination whether a petition should be filed. Alternatively, the intake worker may determine that an intake inquiry should be conducted based on the materials submitted by the petitioning party.

Section 8: Notice to victims of children's acts

1. The victim-witness coordinator in the District Attorney's office shall be responsible for notifying each known victim who sustained personal injury or property damage of:

- a) At the commencement of the custody hearing, the court shall advise the child/juvenile and parent(s) of their rights, obligations and possible disclosures. 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 nonattending 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 commencement of 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 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 signed, the signed copy of JD-1716 shall be filed in the 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.

Rationale: Chapters 48 and 938 require the child/juvenile and parents be given various notices at different stages of the court proceedings. The Wisconsin Records Management Committee has created a printed form (JD-1716) intended to accomplish the various notice requirements.

Section 9: Plea Negotiations

1. The Court will not accept any plea negotiations that are entered into after the date set by the court for motions in the case, or if no motions are filed, within five working days of the fact-finding hearing.

Rationale: Last minute resolutions of cases are extremely disruptive to the court calendar. Time on the court calendar will have been set aside for this case to the exclusion of other cases. Witnesses and jurors who have been subpoenaed may have made alternative arrangements for their personal affairs. In order to avoid this disruption, the parties to a case must make all necessary efforts to resolve the matter as much before the fact-finding hearing as possible.

2. After a plea negotiation deadline has passed, the only resolutions the Court will accept to pending delinquency, JIPS, or CHIPS matters is an admission to the petition by all parties, a dismissal of the entire petition by the petitioner, or a fact-finding trial on the original petition.

3. If a negotiation involves a Consent Decree, the Consent Decree must be reduced to writing, completely signed by all parties, and presented to the Court prior to the deadline for plea negotiations.

Rationale: Since fact-finding hearings are typically scheduled for a date close to the statutory deadline, waiting until the last minute to complete the consent decree is especially disruptive to the court calendar.

Section 10: Dispositional activities

1. Court reports that have been ordered by the Court shall be completed and filed with the Court not less than four working days before the scheduled dispositional hearing. The agency completing the court report shall transmit copies of the report to the attorneys involved in the matter. In the case of parents who are not represented by counsel, a copy of the report shall be transmitted directly to them by the agency.

Rationale: The court report may be the single most important document prepared on behalf of a child/juvenile and a family. In order for the child/juvenile attorney and family to have the opportunity to consider the report and any recommendations made in the report, it is imperative that they have access to the report before the dispositional hearing. Receiving and reviewing the report on the day or even at the time of the hearing does not allow a reasonable amount of time to consider the report.

2. Jackson County Human Services shall be the agency primarily responsible for implementing court dispositional orders involving supervision.

Rationale: In order to effect the separation between intake and adjudication (which are court functions) and dispositional supervision (which should not be a court function), it is appropriate that the local Human Services agency be the agency primarily responsible for implementing court orders.

3. Dispositions involving persons who are not residents of Jackson County shall be coordinated through the Jackson County Human Services agency.

Rationale: In order for the Court to ensure that its orders are enforced, the Court must have jurisdiction over the agency that is implementing the order. Requiring the local Human Services agency to coordinate the services provides the Court with the leverage needed to ensure compliance.

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 receipt of the transfer documents from the other county. If the agency preparing the court report has not had any prior experience with the juvenile, the agency may request an extension for preparation of the court report.

5. Upon making any dispositional report recommending that the child/juvenile be placed outside the home, the dispositional worker shall have prepared 48 hours prior to the hearing date the AFSA warnings as set forth by either State or Federal law. In addition, the worker shall be prepared to testify at the hearing providing the Court a factual basis for the warnings.

Section 11: Extensions of dispositional orders

1. The agency primarily responsible for implementation of a dispositional order shall notify the Court at least thirty days prior to the termination of an order as to whether the agency will seek to extend the dispositional order or to allow it to terminate. The agency shall ensure that copies of the communication to the Court (whether Petition or letter) shall be sent to all parties entitled to notice.

Rationale: Notwithstanding relaxation of some time limits in Chapter 938 matters, the court loses jurisdiction in either a Chapters 48 or 938 case if the extension hearing isn't held before the order terminates. At least thirty days notice of an intent to seek an extension is necessary in order to schedule and conduct a hearing. Requiring the agency to give notice at least thirty days in advance as to whether it will or will not seek an extension will insure that all cases are considered and eliminate the possibility of any one case slipping "through the cracks."

2. The agency may revise its decision after giving such notice if it determines that the original decision was incorrect based on reconsideration or new factors.

Rationale: Sometimes the agency may reconsider its decision based on new factors or merely a re-review of the situation. The agency must be given the opportunity to change its mind.

3. A request to extend a dispositional order received during the thirty-day period immediately prior to the termination of the order shall be accompanied by a request for a temporary thirty-day extension under 48.365(6) or 938.365(6), Wis. Stats., in order to schedule a hearing.

Rationale: It may be difficult for the Court to schedule an extension hearing prior to the original termination date depending on when the request for an extension is filed. Requiring all extension requests filed within the last thirty days of the dispositional order to be accompanied by a request for a thirty-day extension provides the Court with the flexibility of granting a temporary extension when needed to accommodate court scheduling.

4. The Court shall schedule an extension hearing in all cases where a request for an extension is filed. If the extension request is filed during the thirty-day period immediately prior to the termination of the order, the Court shall attempt to schedule the case before the termination date. If the Court cannot schedule the matter before the termination date, the Court will grant the request for a temporary thirty-day extension under 48.365(6) or 938.365(6), Wis. Stats.

Rationale: As part of the Court's philosophy that juvenile proceedings must be expedited, it is appropriate to attempt to schedule extension hearings within the original time period set for termination of an order. Only if the hearing cannot be set within that time period should the Court consider a temporary extension.

5. All extensions of a dispositional order shall take effect at the termination date of the dispositional order being extended regardless of the date of the hearing on the extension, except that in the case of a disposition that has been temporarily extended for up to thirty days under 48.365(6), Wis. Stats., any extension shall take effect at the termination of the extended date.

Rationale: It is appropriate that there be uniformity in determining when an extended disposition is to take effect. Since Chapters 48 and 983 do not specifically address this issue, dispositional orders in the past have sometimes used the hearing date as the date from which the extension is calculated rather than the date the dispositional order was to expire. Since an extension is merely a continuation of the old order, it is logical that the extended period is simply added to the existing order. It is illogical to consider the extension to be a new order which can overlap the old dispositional order.

Section 12: Requests by victims or the insurance companies of victims for disclosure of juvenile identity and police records

1. All requests by victims or the insurance companies of victims for disclosure of the juvenile's identity and police records shall be referred to the law enforcement agency responsible for the investigation.
2. The insurance company of a victim shall be entitled to know the amount of restitution a court has ordered paid on behalf of the victim if a request to the Juvenile Court Clerk is made pursuant to 938.396(2)(fm).

Section 13: Requests to review court files involving juveniles

1. All requests for review of court records involving a juvenile shall be in writing.
2. The Juvenile Court Clerk shall make available upon request the appropriate forms (such as JD-1738) for requesting such information.
3. If a request is made by a juvenile, parent, guardian or legal custodian under 938.396(2)(ag) or (am), before release of any information requested, the Juvenile Court Clerk shall review the file and make an initial determination whether release of that information might result in imminent danger to anyone. If the Juvenile Court Clerk believes such a result might occur, the juvenile court clerk shall either:
 - a) Refer the matter to the judge assigned to that case for a determination as to whether a hearing shall be held on the release; or,
 - b) Prepare a version of the information requested with the potentially dangerous information blocked out. The requester may bring a motion to the Court if the requester believes the information should not have been blocked.
4. Requests pursuant to 938.396(2m)(a): If a request is for access to juvenile court records made by any person under 938.396(2m)(a) for juvenile alleged to have committed an offense enumerated in 938.34(4h)(a) (Serious Juvenile Offender crimes), the Juvenile Court Clerk shall before releasing the file for inspection:
 - a) Determine if the juvenile is alleged to have committed a crime specified in 938.34(4h)(a); and, if so,
 - b) Remove from the file all reports under 938.295 (physical, mental, psychological, or developmental examination reports) or 938.33 (court dispositional reports) or other records that deal with sensitive personal information of the juvenile and the juvenile's family. If the juvenile court clerk has questions concerning the appropriateness of releasing any information, the matter shall be referred to the judge assigned to that case for a determination.
5. Requests pursuant to 938.396(2m)(b): If a request is for access to juvenile court records of a juvenile alleged to be delinquent for committing a felony after a prior delinquency adjudication, the juvenile clerk shall:
 - a) First make all of the following determinations:

- That the juvenile is currently charged with a felony
 - That the juvenile was adjudicated delinquent for any crime at any time before the commencement of the felony proceeding,
- b) Second, if all of the above have been found to exist, the juvenile clerk before releasing the file for inspection shall remove from the file all reports under §938.295 (physical, mental, psychological, or developmental examination reports) or §938.33 (court dispositional reports) or other records that deal with the sensitive personal information of the juvenile and the juvenile's family. If the Juvenile Court Clerk has questions concerning the appropriateness of releasing any information, the matter shall be referred to the judge assigned to that case for a determination.
6. No copies of any court records shall be made or provided to any person requesting access to the records of a juvenile.
7. All requests for access to court records shall be responded to, in writing, within 48 hours of the request.
8. Intake files retained by the juvenile intake worker are not considered court files for the purposes of this rule.

Section 14: Expunction of the record of a delinquency adjudication

1. All petitions for expunction of a juvenile adjudication shall be scheduled for a hearing.
2. If the Court grants the petition for expunction of the juvenile adjudication, the juvenile clerk shall:
 - a) Follow standard CCAP procedures for removal of the adjudication from the computerized record;
 - b) Seal inside the court file all documents referring to the adjudicating, including but not limited to:
 - the dispositional order
 - the dispositional court report
 - all motions and orders concerning extensions, revisions, or changes of placement
 - all petitions and orders for sanctions
 - all minute sheets referring to the adjudication or other post-adjudication proceedings
 - the petition and order for expunction

c) The exterior of the sealed material shall simply state "Sealed: not to be opened except upon express order of the Court." No reference shall be made that the contents are "expunged" materials.

3. If a proper request is made for information concerning the juvenile's adjudication, court personnel shall merely state that there is no record of a delinquency adjudication, although the remainder of the court file is open to inspection if it otherwise meets the criteria for opening records under 938.396.

Section 15: Delinquency proceedings commenced by a reverse waiver

1. All delinquency proceedings following a reverse waiver from an adult court with original jurisdiction shall be commenced by filing a Petition for determination of status—delinquency.

2. No intake inquiry is necessary for such proceedings.

3. Custody placements of juveniles who have been reverse waived shall be as follows:

- Any juvenile who was being held in an adult jail for failure to post bond shall be immediately transferred to a juvenile secure custody facility.

- Any juvenile (age 14 or under) who was being held in juvenile secure detention shall remain in that placement.

- Any juvenile who had been released on bond under conditions shall be deemed held in nonsecure placement under the same bond conditions until a custody hearing is held pursuant to 938.21.

4. The following may request a custody hearing under 938.21 to review or revise this custody:

- Any person otherwise authorized to request custody under Chapter 938

- The juvenile, juvenile's parent, legal guardian, or custodian

Section 16: Duties of the Juvenile Court Clerk in handling CHIPS petitions filed by the counsel or guardian ad litem for a parent, relative, guardian, 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 or 48.14, Wis. Stats., 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, Wis. Stats.

Rationale: 48.24, Wis. Stats., requires that information indicated that a child should be referred to the Court shall first be referred to the intake worker.

However, 48.25, Wis. Stats., authorizes the counsel or guardian ad litem for a parent, relative, guardian or child to file a petition. In most cases, such petitions will not have been referred first to juvenile intake for an inquiry whether the Court should be involved. It is important that intake be provided the opportunity

to make inquiry first to ensure that there is a proper basis for the filing of a petition.

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.

Rationale: Once a petition has been filed, the time limits for conducting a plea hearing and other proceedings take effect. Those time limits are inconsistent with the periods allowed juvenile intake to complete an intake inquiry. It is the Court's policy to require an intake inquiry for matters brought directly to the Court by counsel or guardian ad litem for a parent, relative, guardian, or child, or by such a person directly without an attorney. Therefore, to avoid the redundancy of having a court proceeding and an intake inquiry proceeding at the same time, with conflicting time limitations, the Court can only control such petitions by dismissing without prejudice those that don't go through intake.

Section 17: Reimbursement/payment for attorney fees, placement costs, and/or services

1. Attorneys appointed by the county or state to represent a child/juvenile

a) Unless the Court has directed otherwise, at the conclusion of any proceeding under Chapters 48 or 938 in which the juvenile was represented by an attorney appointed by the county or the state, the Juvenile Court Clerk shall complete JD-1762 and mail it to the parent(s).

b) The standard repayment schedule shall be:

- If there are two parent(s) residing together, not less than \$100 per month.
- If there is only a single parent or the two parents are residing separately, not less than \$50 per month from each.

2. Attorneys appointed by the Court for parents in CHIPS matters

a) If the Court has ordered an attorney be appointed at county expense on behalf of a parent of a child involved in a CHIPS proceeding, the Court shall order the parent(s) to reimburse the county for all or part of the cost of such attorney fees.

b) The Court may order reimbursement to begin as of the date of the appointment. The standard repayment schedule shall be:

- If there are two parent(s) residing together, not less than \$100 per month.
- If there is only a single parent or the two parents are residing separately, not less than \$50 per month from each.

c) Reimbursement under this section shall be paid to the Clerk of Court and are enforceable under Chapter 985, Wis. Stats., for contempt of court.

3. Cost of custody/placement.

a) If the child/juvenile is placed outside the home and the Court orders the parent(s) to reimburse the county or state for the costs of such placement, the Court shall either:

· Establish the amount of reimbursement on the record in court at the time the placement order is made; or,

· Refer the matter to Jackson County Human Services for a determination of the amount the parent(s) are able to pay. Jackson County Human Services shall establish a payment schedule for reimbursement.

b) All payments on reimbursement for costs of custody/placement shall be made to Jackson County Human Services.

4. Costs of services.

a) If the Court has ordered services to be provided on behalf of a child/juvenile and has ordered the parent(s) to reimburse the county or state for such services, the Court shall either:

· Establish the amount of reimbursement on the record in court at the time the placement order is made; or,

· Refer the matter to Jackson County Human Services for a determination of the amount the parent(s) are able to pay. Jackson County Human Services shall establish a payment schedule for reimbursement.

b) All payments on reimbursement for services shall be made to Jackson County Human Services.

5. When a parent(s) has been ordered to reimburse the county or state for custody/placement/or services, the Court may require the parent(s) to complete a financial disclosure of assets.

6. A parent may seek review of any of the orders for reimbursement by petitioning the Court for a review.

38. ORDER REGARDING ATTORNEYS FEES IN PROBATE

It being apparent to the Court that the parties involved in the probate of estates are entitled to itemize bills, and that such bills should be submitted to those parties who are interested in the assets of the estate and should be approved by the Personal Representative.

EFFECTIVE WITH THE DATE OF THIS ORDER, IT IS ORDERED:

1. An itemized attorney's bill will accompany the Final Account; the bill will show the amount of time involved with each transaction or work performed, the hourly rate of the person performing such work, and a statement of approval by the Petitioner/Personal Representative; or

2. In lieu of furnishing an itemized bill for services rendered, the final account may contain a statement of approval from the Petitioner/Personal Representatives as follows:

Petitioner/Personal Representative has examined the statement of

(Name of law firm)

for professional fees and disbursements for these probate proceedings and finds them fair and reasonable and requests their allowance. I hereby certify that the statement of fees and disbursements have been furnished to each person or entity entitled to a copy of the Final Account and no objection has been received by the petitioner/Personal Representative concerning that bill.

(Signature of Petitioner/Personal Representative.)

39.GUARDIAN AD LITEM APPOINTMENTS FOR MINORS

After June 30,1999, all orders appointing Guardian ad Litem for minors shall have the following certification proceeding the lawyer's signature accepting the appointment:

I, _____ do hereby represent and certify to the appointing court that I am eligible to accept this appointment as Guardian ad Litem for _____ as required by SCR 35.01.

40.FILING OF FAX TRANSMISSIONS WITH CLERK OF COURT

The procedures for filing of documents, pleadings or other messages transmitted to the Clerk of Courts in Jackson County are as follows:

Section 1: All documents, pleadings or other messages transmitted by facsimile to the Clerk of Circuit Court for Jackson County shall be "file stamped" and the fax document shall be placed in the file. The transmission sheet shall be destroyed.

Section 2: Thereafter, if the Clerk of Courts receives the original of the fax document(s), the original document shall be destroyed.

Section 3: These procedures shall be in addition to the requirements of SCR Chapter 72 and Jackson County Circuit Court Rule No. 31.

41. MOTIONS IN CRIMINAL MATTERS.

Any motion in a criminal matter shall be scheduled and notice given at the time of filing.

THE MOTION SHALL BE IN COMPLIANCE AS FOLLOWS:

1. All motions must state the grounds "with particularity." 971.30, Wis. Stats. Failure to comply with this requirement shall be grounds for dismissal of the motion. The motion and notice of motion setting forth the hearing date and time shall be filed together.
2. A party filing a motion shall be responsible for securing a hearing date. Failure to secure a date shall constitute waiver of the motion. This rule does not apply to a discovery motion.
3. A written motion, any supporting papers, and notice shall be served not later than 10 days before the date for the hearing, unless a different period is fixed by statute or by order of the court. Time shall be computed as set forth in 801.15, Wis. Stats.
4. A copy of all documents shall be filed with the Circuit Court's office at the time of filing.

42. Mediation

Individuals seeking the assistance of the Family Court Commissioner must first attempt to resolve any such issue by participation in the mediation process.

Mediation is a cooperative process of intervention between conflicting parties by a neutral third party or mediator. The purpose of mediation is to assist parties by the application of communication and dispute resolution skills in defining and resolving their own disagreements with the best interest of the child as a paramount consideration.

Wisconsin law mandates that your first mediation will be provided free of charge but for those who pursue mediation beyond one session you will be charged a mediation fee of \$200.00. This fee should be made payable to the Jackson County Clerk of Courts Office.

In order to initiate the mediation process in Jackson County you must do the following:

1. Fill out the form attached to the notification completely and legibly.
2. Return the form to the Family Court Commissioner at the address on the form.
3. Await a response from the mediator.

Mediations will be scheduled by the mediator and will be done at the Jackson County Courthouse.

MEDIATION REFERRALS (a) In any action affecting the family, including a revision of judgment or order under Section 767.32 or 767.325, in which it appears that legal custody or physical placement is contested, the Court or family court commissioner shall refer the parties to the director or family court counseling services for possible mediation of those contested issues. The Court or family court commissioner shall inform the parties that there is no privilege or confidentiality when the mediator also conducts the legal custody or physical placement study under Sub (14)(b). If both parties to any action affecting the family wish to have joint legal custody of a child, either party may request the Court or family court commissioner to refer the parties to the director of family court counseling services for assistance in resolving any problems relating to joint custody and physical placement of the child. Upon request, the Court shall so refer the parties. (c) A

person who is awarded periods of physical placement, a child of such a person, a person with visitation rights or a person with physical custody of a child may notify the family court commissioner of any problem he or she has relating to any of these matters. Upon notification, the family court commissioner may refer any person involved in the matter to the director of family counseling services for assistance in resolving the problem.

767.11(5) (a, b, c) Wis. Stats.

43. CHILD CUSTODY EVALUATION TEAMS

The following terms, conditions and protocol shall be adopted by the Jackson County Circuit Court as the rules for the Custody Assessment Team and Jackson County Family Court Counseling.

Disputed custody and physical placement issues, which are not resolved by mediation, shall be referred to a Custody Evaluation Team. The necessity of a Custody Evaluation Team shall be within the discretion of the Jackson County Circuit Court of the Jackson County Family Court Commissioner.

If mediation is unsuccessful, the mediator forwards a letter to the Family Court Commissioner stating that mediation has failed. Either party may petition the FCC for an assessment by the CAT, whereupon a pretrial conference is set up by the FCC. The parties, their attorneys, and a staff member from Mediation and Family Court Services will be present at this meeting. If the Family Court Commissioner finds a CAT is necessary to resolve the dispute, a Guardian Ad Litem is appointed, and Mediation and Family Court Services is authorized to set up a CAT. The method of payment shall be ordered and a final hearing date will be set, usually 150 days from the issuance of the order for a CAT. The FCC also orders each parent to pay half of the \$3400 cost of the evaluation, although the FCC may deviate from this rule as needed. If either party is unable to pay the cost at the time of the initial hearing, the FCC may order a monthly wage assignment in order to recover the cost of the custody assessment.

The custody evaluator from Mediation and Family Court Services becomes the case manager for the CAT. The guardian ad litem and case manager then select the third member of the team, the Child Development Specialist, from a list maintained by the Family Court Commissioner. The Child Development Specialist is typically a mental health professional with training and experience in child, adolescent, or developmental psychology, and who also has expertise in issues concerning children's adjustment to divorce and separation.

1. Initial Team Meeting

Prior to contacting the family, the Case Manager schedules a meeting of the CAT team to divide up tasks, identify central issues which need to be explored and evaluated, and set up meeting times to interview the parents. The "ultimate issues" (usually, placement and custody) facing the family are identified, as well as whether there is a need to identify a "primary residence" for the children. (The need to appoint a "primary caretaker" is usually present when one parent is seeking to move outside reasonable commuting distance and a decision needs to be made regarding which school the children will attend, or when one parent needs to be identified as "primary" as an eligibility requirement for state aid programs.) The relevant legal standards pertaining to custody and placement are also clarified. The need for additional assessments (i.e. alcohol/drug evaluations or

domestic abuse evaluations) is also explored at this time. If the Child Development Specialist (CDS) is not qualified to perform these more specialized assessments, parents will be referred to outside professionals to carry out this task. The parents are responsible for any additional fees, which these outside assessments may require.

2. Initial Family Meeting

The CAT meets with the parents, wither separately or together, to explain the custody assessment process, have the parents sign releases, make initial appointments, and answer any questions. The team explains to the parents the interview process, discusses the need, if any, for psychological testing, explains issues related to confidentiality, and explains how to present the evaluation process to the children. The distinction between "placement" issues and "parenting" issues is discussed. Information related to past counseling received by parents are encouraged to continue attempting to come to an agreement regarding placement and custody, and they are also reminded that they may return to mediation at any time during the CAT process. Finally, the parents are reminded that any previously unreported allegations of child abuse or neglect will be referred to the county for investigation, and if such referrals are made, the CAT process is again temporarily halted until the county completes its investigation.

3. The Custody Investigation

The CAT then begins the process of interviewing the family members, conducting home visits, contacting collateral contacts, reviewing questionnaire and written documents. Normally the Case Manager and GAL will met with the parents in their homes for at least one or two sessions. As a matter of procedure, the CDS will postpone meetings with the family until the GAL and Case Manager have had several interviews with the family members. Normally, the CAT members will meet with the parents 1-3 interviews each, with the children 1-2 times (usually during a home visit), and will review the autobiography and other information provided by parents. The Case manager is also responsible for contacting professional references provided by the parents, as well as other collateral contacts (relatives, friends, significant others, etc.). The following professionals are usually contacted during the course of the evaluation.

- a. Mental health providers (counselors, psychologists)
- b. School personnel (teachers, specialists, guidance counselors, school psychologists, etc.)
- c. Clergy
- d. Physicians (pertinent medical records, including mental health or psychiatric treatment records.)
- e. Dental records, if applicable
- f. Police records (domestic abuse, OWI, etc.)
- g. District attorney records
- h. Relevant legal records (injunctions, restraining orders, etc.)
- i. Child care professionals—sitters, day care providers

It is recommended that information gained from these sources not be quoted or released to the parents, in order to protect the confidentiality of the sources. School personnel and child care professionals in particular have their opinions restricted for the use of the CAT only, to safeguard their relationship with the children.

4. The CAT review meeting

After the CAT has completed the evaluation and reviewed relevant documents, the Case Manager schedules a team to review the collected data. At this meeting, recommendations are prepared and feedback sessions with the parents are scheduled. The GAL prepares a written report outlining the conclusions and recommendations are then presented to the parents, with opportunity for questions and discussions. If the parent's attorneys are attending the meeting they are advised to only ask questions for information and clarification, since at this stage in the process no negotiation or disputing findings will be permitted.

Often, the team will meet with both parents together to share findings regarding placement and custody, and will meet with parents individually to discuss any other counseling or parenting recommendations for that parent. The specific counseling and/or parenting recommendations may or may not be included in the written report.

Normally, the GAL presents the findings and reviews the written report with the parents. The role of the Child Development Specialist (CDS) at this meeting is to present information to the parents regarding the adjustment of the children, the quality of the parental bond with each of the children, the perceptions the child have of the parent's disagreements, whether or not the children need additional counseling, and other information the CDS feels is appropriate to share with the parents. The CDS also presents developmental information to the parents regarding the suitability of the recommendation custody and placement schedule given the children's ages and level of adjustment. With older children, it may be advisable to have a separate meeting with them, apart from the parents, in order to share the findings of the team directly.

5. Final hearing

The final hearing is usually held approximately two weeks following the parent feedback session. At the hearing, the parties raise whatever concerns or objections they may have with the CAT's recommendations. If the recommendations are accepted, the parties proceed to a stipulated divorce or amendment to the judgment. If the parents do not agree, a hearing is scheduled before the FCC who will order the plan on a temporary basis until a trial date can be set before a Judge. In the overwhelming majority of cases, the CAT's recommendations are adopted by the FCC, although it is not at all unusual for some final "tinkering" to be done regarding the particulars of the issues under consideration.

The Court may re-appoint the GAL to continue to monitor the adjustment of the parties and report to the Court as needed. Often, parents may have the children "monitored" perhaps every four to six weeks by the CDS, who then gives feedback to the parents, and to the GAL if needed, regarding issues affecting the children. Parents may also be advised to attend parenting classes or workshops, or complete co-parenting or communications training.

44. Authorization for Court Personnel to Establish Payment Schedules for Financial Obligations

Section 1: A court obligation is defined for this rule as a financial obligation imposed by the Court or pursuant to statute, such as, but not limited to:

- Fines or forfeitures, court costs, assessments and surcharges;
- Reimbursements to the county for costs expended by the county, such as attorney or guardian ad litem fees, charges for psychological or psychiatric examinations;

Section 2: This rule does not apply to child support or maintenance obligations or arrearages accrued in such matters. Such obligations can only be modified by actions of the Court.

Section 3: The Clerk of Court, or any deputy of the Clerk of Court shall have the authority to establish or modify payment schedules for any financial obligation set forth in Section 1 above.

Section 4: The Juvenile Court Clerk, Register in Probate or Probate Registrar shall have the authority to establish or modify payment schedules for any financial obligation arising out of a juvenile court, probate (formal or informal), Chapter 51, guardianship or protective placement proceeding.

Section 5: A payment schedule established under this rule shall be put in writing, signed by the obligor, and submitted to the Circuit Judge for approval.

Section 6: Any payment schedule established under this rule shall have the same force and effect, and be enforceable in the same manner through the process of contempt of court, as a payment schedule established by the Circuit Judge in open court or otherwise.

45. ATTORNEY'S FEES IN SMALL CLAIMS ACTIONS

Section 1: Attorney's fees in small claims actions will be ordered as listed in Sec. 814.04(b)(c) as they are indicated in the brackets:

Contested Uncontested

\$5,000 or more \$500.00 \$250.00

\$1,000 to \$5,000 \$300.00 \$150.00

Less than \$1,000 \$100.00 \$ 50.00

Section 2: Attorney's fees shall not be included in the base amount of the claim. The amount of the claim shall be listed with a "plus attorney's fees" written behind it.

Section 3: Parties requesting attorney's fees or exemplary damages in excess of those listed within the normal brackets listed above shall submit a bill of costs, and statutory authority for the Judge's approval.

46. Bond hearings

Bond hearings for anyone who has been arrested and is being housed in the Jackson County Jail will appear in court for a bond hearing at 1:15 p.m each day by video conference. If the State is unable to proceed at the 1:15 p.m. time, the matter will be taken up the following day at 1:15 p.m.

If an attorney representing the person in jail wishes to speak with their client before the 1:15 p.m. hearing, they are to go to the jail before the 1:15 p.m. hearing. The attorney will then be allowed to either appear by video conference with their client from the jail or be present in the courtroom for the hearing at 1:15 p.m.

47. Re: Small Claims

If a small claims action is commenced, the summons and complaint must be served on the defendant. If the defendant resides in Jackson County, service can be completed by mail for a monetary claim and certified mail for a return of property claim. All actions commenced where the defendant resides outside of Jackson County must be personally served. Eviction actions may be served by either certified mail or personal service. The local Sheriff's Department or a personal process server should be contacted by the plaintiff. If service is completed by sheriff service or personal process server, you must have the certificate of service on file with the Clerk of Courts office PRIOR to the return date. The filing and service fees will be added onto the judgment amount so be sure to include a copy of your invoice.

Appearances. All parties necessary to resolution of a small claims case and/or their counsel of record are required to appear in person on the return date. Failure to appear may result in a dismissal if Plaintiff fails to appear or a default judgment if the defendant fails to appear.

Mediation. All contested cases will be referred to mediation immediately. Volunteer mediators will be available at the courthouse on the return date. All parties must have authority to negotiate in good faith and have settlement authority. Failure to participate in mediation in good faith will result in a dismissal or a default judgment.

Written Answer. If the case is not resolved by mediation, the defendant shall file a written answer with the clerk and mail a copy to the plaintiff within 20 days of the return date. Failure to comply will result in a default judgment. Upon receipt of the written answer a Trial will be scheduled with the judge or his/her designee.

Eviction. In eviction matters, proof of the defendant receiving prior notice terminating tenancy must be filed with the court at the time of filing the summons/complaint. The summons in an eviction may be served by certified mail, in counties that allow small claims summons to be served by mail. The return date in an eviction action is a maximum of 25 days after the summons is issued. A trial or hearing on the issue of possession of

the premises in an action involving a residential tenancy must be held and completed within 30 days after the date of appearance.

An Affidavit of Non Military Service must be completed and filed before the initial court date in order to obtain a default judgment.

The effective date of this rule is March 1, 2014.

48. Re: Mediation in Civil Actions

Pursuant to Section 802.12 Wis. Stats. (2005/2006) Alternative Dispute Resolution (ADR) "mediation" is available to parties in civil actions including those seeking money judgments and foreclosures.

In actions of foreclosure, credit card collections and creditor/debtor actions, the court requires plaintiff to inform defendant that Mediation, (ADR) may be requested by either party. Plaintiff must serve Local Rule #48 notice regarding mediation within 30 days from the time the Defendant is served with the Summons and Complaint. Upon request of either party, the Court will determine whether the case is appropriate for use of mediation and may order the parties to seek a settlement alternative. A Defendant receiving notification of a lawsuit must submit a Request for Mediation to the Court in writing within THIRTY (30) DAYS of the date notification from the Plaintiff is received. (Proof of Notification to the Defendant must be filed within thirty (30) days of service of the Summons and Complaint).

Use of the Mediation (ADR) may extend the time for filing a responsive pleading until the applicability of a settlement alternative is determined. Upon request of either party, the Court will order a scheduling conference to set trial dates, discovery and other appropriate dates.

In foreclosure actions, plaintiff shall determine whether and by whom the subject real estate is occupied and if occupied by persons other than the defendant, plaintiff shall give notice of the pending action of foreclosure to the occupants. Loan Servicers are also required to determine if the loan is covered by the guidelines of the Homeowner Affordability and Stability Plan (HAMP) or other debt relief laws then in effect and shall provide evidence that this applicable requirement has been met.

Dated at Black River Falls, Wisconsin this __4th__ day of June, 2010.