

Lafayette County Circuit Court Rules

(Fifth Judicial District)

Revised June 6, 2003

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PART 1: PUBLICATION AND REVISION OF CIRCUIT COURT RULES

100 Effective date: March 9, 1999

101 Proposed rules shall be posted for public review in the County Courthouse by the clerk of circuit court and copies shall be forwarded to the president and secretary of the Lafayette County Bar Association at least fifteen days prior to formal adoption.

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

103 Rules shall be adopted by written order of The Lafayette County circuit judge, subject to approval of the chief judge. Effective date shall be the date of filing with the Clerk of Courts.

104 Orders adopting rules shall specify an effective date.

105 Once adopted, court rules shall be filed with the clerk of circuit court, and the clerk of circuit court shall provide copies to members of the Lafayette County Bar Association who maintain offices for the practice of law in Lafayette County, and the chief judge.

PART 2: CLOSURE OF PROCEEDINGS

200 Effective date: March 9, 1999

201 Unless good cause has been shown to the judge, a party moving that any judicial proceedings required by law to be public be closed to the news media must notify the court and the media coordinator in writing at least 72 hours prior to the time set to hear the motion. The purpose of this rule is to permit legal counsel to appear on behalf of the media and be heard. The burden shall be upon the moving party to show cause why the

proceedings should not be public as required by statute. The media coordinator's name and mailing address can be secured from the Clerk of Circuit Court or the District Court Administrator.

PART 3: CASE PROCESSING TIME GUIDELINES

300 Effective date: March 9, 1999

301 The judges of the 5th Judicial District adopted case processing time standards in 1984. With the changes since then in technology, legislation, procedures and personnel, it was considered time to review these standards for possible modification. At the March 28, 1996 District Meeting, the judges adopted the following goals for case processing. The object of these goals is to have 95% of cases be disposed within these time frames.

Case Type	Months
From initial appearance:	
Felony	12
Misdemeanor	6
Criminal Traffic	6
Contested TR/OF	3
PI / PD	
Contract/Real Estate	24
Other Civil	12
Divorce	12
Other Family	12
Paternity	6
Contested SC	3
Estates	18
Informal Proceedings	18
Trusts	
Guardianships	3

Commitments	6
Adoptions	6
Other Probate	18
Delinquency	6
CHIPS	6
Other Juvenile	12

302 It will be the practice of the court to schedule every case for a next action or review date at every stage in the life of the case.

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PART 4: RULES OF DECORUM

400 Effective date: March 9, 1999 and August 2, 2002

401 Court shall be formally opened each day in which court business is transacted either by the bailiff or the clerk of court.

402 As the judge enters the courtroom, the bailiff or clerk of court shall require all present to rise and stand. When the judge has reached the bench the bailiff or the clerk of court shall say "Hear ye! Hear ye! The Circuit Court for the County of Lafayette is now open. Silence is commanded." All shall be seated and the business of the court shall proceed.

403 In the recessing, the judge shall announce: "The court is now in recess."

404 When the trial is to a jury, the parties, their attorneys, court personnel and the judge shall take their places in the courtroom before the jury is returned to the jury box. All present in the courtroom shall stand until the jury is seated.

405 The flag of the United States shall at all times while court is in session be displayed at, on, or in close proximity to the bench, or on a standard to the right of the judge.

406 Lawyers shall never lean upon the bench or appear to engage the court in a manner which would lessen the dignity of the proceedings in the eyes of the jury and public.

407 Witnesses shall be examined from a position at the counsel table except when handling exhibits unless a lectern is provided by the court, in which case the examination shall be either from the position at the counsel table or the lectern. Persons examining witnesses may either stand while examining a witness from the counsel table or remain seated. In no case shall a witness be crowded during examination.

408 When a lawyer or party is addressing the jury, he or she shall not crowd the jury box.

409 During examination of jurors on voir dire, the lawyer or party conducting the examination shall, insofar as practical, use collective questions, avoid repetition and seek only material information.

410 During trial, no lawyer or party shall exhibit familiarity with witnesses, jurors or opposing counsel and generally the use of first names shall be avoided. In jury arguments no juror shall be addressed individually or by name.

411 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 in the eyes of the jury and public.

412 Lawyers shall advise their clients and witnesses of the formalities of the court, and seek their full cooperation therewith. It is expected that lawyers will guide clients and witnesses as to appropriate attire to wear in court proceedings. The attorneys, their clients or witnesses or persons with them at counsel table are to follow the following rules of conduct:

A. Beverages at counsel table shall be in styrofoam cups. Beverages at counsel table shall be non-alcoholic. Beverage containers shall not be constructed of a hard material or material that may be used as a weapon type object. Good judgment shall be used as to content of the beverage.

B. Paperclips shall not be allowed to accumulate on counsel table. Paperclips shall not be given to or made available to handcuffed or shackled defendants in criminal matters or proceedings. Paperclips shall not be left at the counsel table after an attorney's matter is completed.

C. Where the client or a witness is in custody, counsel shall not allow the client or witness to remove a pen or pencil from the courtroom. Attorneys shall be responsible for any pens or pencils given to their clients or witnesses and are to re-collect them after they are used.

D. THE SEATING ARRANGEMENTS AT COUNSEL TABLES. Defendant shall be seated at the counsel table nearest the jury box and the plaintiff shall be at the counsel table to the left of defendant's counsel table. A third counsel table shall be present for extra parties, Guardians ad Litem, or others' use during the course of hearings or trials. It shall be located to the left of the plaintiff's table. Attorneys should be seated to the right of their client at the plaintiff's table, to the left of their client at defendant's table, and to the right of their client at the third counsel table in the third floor courtroom, unless otherwise directed or approved by the Bailiff.

E. When a bailiff is in attendance upon the court, counsel or parties representing themselves during proceedings shall use the bailiff to take materials to the bench, to a witness, or to the court reporter for marking.

F. A party or attorney having any concerns about personal security, safety, or the actions of any person in the courtroom or court proceeding, including the

attorney's client or witnesses, shall alert the bailiff or courthouse security officer of those concerns as soon as practicable.

G. Attorneys, their clients or witnesses, while in the courtroom awaiting their case to be called shall not engage in conversation, casual or otherwise, with other attorneys or individuals. Such conversations shall occur outside of the courtroom in a manner which does not disrupt courtroom proceedings.

H. Attorneys have an ethical and professional obligation to meet with their clients prior to the time the client's matter is scheduled in court. Should counsel require time to speak with their clients before proceeding when their matter is called, they shall so inform the court and opposing counsel and request their case be set to the bottom of the calendar to allow them that opportunity.

I. When advised the court is calling a case, the parties and counsel involved in that case shall move promptly to the courtroom.

J. Court proceedings are important, and serious to all participants. Any person engaged in conduct which is disruptive to the solemnity of the court proceeding will be escorted from the courtroom. Attorneys shall review this rule and its purpose with their clients or witnesses who bring young children to court proceedings.

K. All counsel and witnesses shall use the court speaker system while participating in court proceedings.

When an attorney is representing a client who is in custody, prior to the court proceeding the attorney shall meet with the client at the jail. This rule is necessitated by prisoner handling, transporting, and court security personnel availability concerns. Counsel should make arrangements with the jail prior to meeting with their clients to establish a jail conference time.

413 Witnesses shall be examined with courtesy and respect, and their good faith presumed until the contrary appears.

414 The swearing of witnesses shall be an impressive ceremony and not a mere formality.

415 In jury cases which are disposed of upon a motion for non-suit or directed verdict, the judge in dismissing the jury should briefly explain the procedure and why a verdict was unnecessary.

416 The judge shall wear a robe while presiding on the bench, provided that judicial discretion may be exercised otherwise in proper situations.

417 In recognition of the increasing use of electronic devices by the general public and in keeping with the court's desire to maintain the dignity and decorum of the court while permitting the use of this equipment at times when the use does not interfere with the operations of the court, electronic equipment, including, but not limited to cellular telephones, beepers, lap top computers and recording devices, may not be used in the courtroom or jury deliberation room without the specific permission of the judge.

PART 5: CIVIL PRACTICE

500 Effective date: March 9, 1999 and August 2, 2002

501 All civil cases will be reviewed for service 90 days after filing. If at that time sec. 801.02(1), Stats., service has not been achieved, a dismissal order shall be initiated by the court. A scheduling conference may be noticed by the court 30 days or more after the statutory expiration of pleading service times.

502 A motion for summary judgment and a motion for dismissal shall be filed with the judge's clerk together with any brief or other supporting documents. If movant does not desire to file a brief or other documents, a statement waiving his/her right to file such brief or other documents shall be filed. The respondent shall have 20 days from the filing of the movant's brief within which to file a responsive brief and supporting documents, or waive in writing the right to do so. If the respondent fails to file a brief and supporting documents or waiver of the same within the 20 day period it shall be presumed that respondent has waived this right and the court shall accept no further supporting documents or briefs. Movant's reply brief, if any, shall be filed and exchanged within 20 days of the date of filing of respondent's brief. A decision shall be based upon the record as timely filed, unless oral argument on the motion is requested by a party. By appropriate court order, these times may be modified.

If the movant desires to file a brief in support of a motion other than one for summary judgment or dismissal, the brief shall be served and filed with the judge's clerk with the notice of motion or at least 10 days prior to any scheduled hearing date. Briefs in opposition to such motions must be filed with the assigned judge's clerk no later than 2 business days prior to the hearing of the motion. Briefs in opposition to such motions must be either personally served upon opposing counsel no later than 2 business days prior to the hearing or if service is made by mail, no later than 3 business days prior to the hearing. Briefs filed in an untimely fashion may be disregarded by the court.

Briefs shall not exceed 40 pages in length, shall be double spaced, and shall be typed in a font no smaller than 12 point. Handwritten briefs shall be legible, double spaced, and no more than 20,000 words.

503 Except as to mortgage foreclosures, no notice to defendant is required prior to entry of a default judgment in large claim civil actions where personal service was obtained upon defendant.

In cases where no personal service is obtained upon the defendant (i.e., substitute or published), notice of motion for default judgment shall be given to defendant by regular mail at defendant's last known address. The notice shall provide that in the event defendant does not request a hearing from the court, in writing, on plaintiff's motion within 15 days of the date of the notice, default judgment shall be entered.

Hearing requests shall be heard by the court as soon as practicable. Upon the expiration of the time to request a hearing, plaintiff may apply to the court for default judgment, accompanied by an affidavit of the aforesaid notice to defendant.

In actions where damages are not liquidated, a hearing shall be conducted to determine the amount of the judgment. The court may order a hearing to determine the amount of judgment in any case.

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

504 No mortgage foreclosure shall be granted except upon a hearing in open court by affidavit or testimony, due notice of which shall have been given to all defendants at least 10 days. In confirmation of sale hearings in mortgage foreclosure actions where a deficiency judgment is sought, fair value of the subject real estate shall be established by appraisal evidence given by an appraiser who is not an employee or associated with a party to the action.

505 In all pretrial matters, attorneys shall have their clients available or be able to firmly commit their clients to dates set by the parties and the court at scheduling conferences or other hearings. Failure to do so may result in sanctions being applied if a matter is rescheduled because of conflicts that would have been known to the attorney or client if this rule had been complied with by the attorney.

506 Attorneys are required to have their calendars with them in court so that dates can be set in the courtroom when possible. In the event that an attorney does not have his or her calendar in court, a date will be set in accordance with the judge's calendar.

507 All stipulated requests for continuance of trial date shall require the consent of the attorney for a party or the party if he is not represented by counsel in writing or on the record and must be for good cause shown. Non-stipulated requests for continuance must be on motion and hearing and for good cause shown by the party or with the party's written consent. All requests for continuance are subject to the approval of the court.

508 Telephone and audio-visual proceedings may be had in the Lafayette County Circuit Court pursuant to sec. 807.13, Stats., (1988 as amended). The party requesting such proceedings shall arrange them after consultation with other counsel, the court and non-represented parties in the action.

509 Jurors shall be allowed to ask questions during the course of a civil or criminal trial pursuant to the following procedure:

- a. The parties' consent to jurors being given the opportunity to ask questions under this rule.
- b. The jury members shall be instructed in the Court's preliminary instructions that they may submit questions to the court to be given to witnesses. They shall be further instructed that whether juror questions are asked of witnesses by the court is solely the court's determination.
- c. After the parties have completed their examination of a witness, the Court shall inform the jurors that they may ask questions of the witness.

d. Jurors shall write their question(s) on paper with pencil provided them by the Court. The questions when written out shall then be gathered by the bailiff who shall take them to the Bench.

e. The Court and counsel shall review the jurors' questions. If any counsel objects to the asking of any question, the question will not be asked. If counsel agree that a question may be asked of a witness, the Court shall then ask the jurors' question(s) of the witness. After the witness has answered the question(s), each party shall be given full opportunity to examine the witness as to his or her answer given to the juror question. The party offering the witness shall first question the witness.

510 Jurors shall be allowed to take notes in all civil and criminal proceedings. The court will provide jurors with paper and pencil for that purpose.

511 The following language shall be included on all summons, warrants, subpoenas and jury questionnaire and summons:

"If you require the assistance of auxiliary aids or services because of a disability, call (608) 776-4832, and for the hearing impaired call TDD (608) 776-4883, and ask for the Court ADA Coordinator."

512 Clerk's return of copies of filed documents.

When a party or a party's attorney files a document with a clerk of the Lafayette County Circuit Court and requests that the clerk return a copy of that document to the attorney or party, the attorney or party shall submit to the clerk a copy of the document requested to be returned and a self-addressed envelope bearing sufficient postage in which the clerk can return the copy to the party or party's attorney.

Where a party or party's attorney files a document with a clerk of the Lafayette County Circuit Court and requests that the clerk fill in information called for in the body of the document, the party or attorney shall submit to the clerk a copy of the document in which the requested information is to be filled in and a self-addressed envelope bearing sufficient postage in which the clerk can return the copy to the party or party's attorney.

A party or party's attorney who writes or telephones a clerk of the Lafayette County Circuit Court and requests that clerk to provide file information, such as hearing dates and times, to the party or party's attorney, shall accompany their written request with a self-addressed envelope bearing sufficient postage in which the clerk can return the requested information. If the request is made by telephone, the requesting party or party's attorney shall obtain the requested information in that telephone call, or if it's not immediately available, arrange with the clerk for a mutually agreeable time to return a call to the clerk to obtain the information.

All envelopes shall be of appropriate size to accommodate the size of the documents to be returned and shall contain correct postage amounts.

Failure to comply with these rules may result in the requested information not being provided or mailed back to the requesting party or party's attorney.

513 Clerk and Register In Probate Copying Charges

The Clerk of Circuit Court is required by state statute to charge \$1.25 per page for each page copied from a court file. The clerk's charge for non-court file copies is \$.50 per page.

The Register In Probate is required by state statute to charge \$1.00 per page for each page copied from a court file. The clerk's charge for non-court file copies is \$.50 per page.

514 Motions to be Accompanied by Brief or Legal Memorandum. Any motion filed in a civil court matter shall comply with the requirements of sec. 802.01(2) (a-e), Wis. Stats. The motion shall set forth with particularity the factual and legal grounds therefor. Papers supporting the motion shall be made part of the motion or notice of motion as directed by sec. 802.01(2)(b), Wis. Stats. Movant shall set forth his/her legal grounds for the motion in a brief or legal memorandum which may be part of the motion, notice of motion, or a separate document. "Brief" is defined to be a written document by which counsel conveys to the court the essential facts of his/her client's motion, a statement of the law involved that he/she would have the court apply, and the application of the law he/she would have the court make to grant the order sought by the motion.

No brief or legal memorandum is required in the following instances, provided the motion refers to the appropriate statute or supporting case law:

- a) A motion for temporary orders at the commencement of family action under ch. 767 Wis. Stats.
- b) A motion for hearing on contempt pursuant to ch. 785 Wis. Stats.
- c) A motion for change of venue pursuant to §§801.51 or 801.52 Wis. Stats.
- d) A motion to compel discovery pursuant to §804.12 Wis. Stats.
- e) A motion for default judgment pursuant to §806.02(1) – (4) Wis. Stats.
- f) Any other motion for which a standard form has been approved by the Judicial Conference pursuant to §758.18 Wis. Stats.

If there is no existing law applicable to the motion, the moving party shall so state in the moving papers. Failure to comply with this rule may result in sanctions including dismissal of the motion.

515 Clerk to be included in conference calls. In any action, civil or criminal, where the court and counsel are handling a matter by use of a telephonic conference call, a clerk of court shall be included in the conference call to perform her duties in taking minutes of the proceeding and calendaring matters.

516 Facsimile Filing Rule.

1. Pursuant to Wis. Stat. 801.16(2) as amended, facsimile documents transmitted directly to the Lafayette County Circuit Court shall be accepted for filing only if:
 1. No filing fee is required, and;
 2. No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile document.

2. Facsimile documents transmitted to a non-court agency, party, or other similar entity for reception and ultimate transmittal to the court shall be accepted for filing only if:

1. No filing fee is required, and;
2. No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile document.

3. Facsimile papers are considered filed upon receipt by the Clerk of Courts and are the official record of the court and may not be substituted. No additional copies may be sent. The Clerk of Courts shall disregard any duplicate papers subsequently received by the Clerk of Circuit Court, assigned judge, or court commissioner. The party transmitting the facsimile is solely responsible for ensuring the timely and complete receipt of the document. No document will be considered filed where:

1. There are errors or material omissions that result from errors in transmission causing missing, incomplete or illegible documents, or;
2. The document is not actually received because of periods when the facsimile machine is not operational for any reason.

4. Papers filed by facsimile transmission are considered filed when transmitted except that papers filed by facsimile transmission after 4:30 p.m., or on weekends or holidays, are deemed filed at the opening of the office of the Clerk of Courts on the next business day.

5. No transmission shall exceed fifteen (15) pages in length, inclusive of any cover sheet, unless the assigned judge has by order in advance permitted a greater length. The first page of any document filed by facsimile transmission that is greater than 15 pages in length shall certify on the first page of such document that an exception has been ordered by the applicable judge.

6. The Clerk of Courts for Lafayette County shall maintain the official facsimile machine and all documents filed by facsimile transmission shall be filed with the Clerk of Courts for Lafayette County. Documents sent by facsimile transmission to facsimile machines other than the Clerk of Courts facsimile machine will not be accepted as being properly filed pursuant to this rule.

7. The circuit court, judge or clerk, is not responsible for:

1. Errors or failures in transmission that result in missing or illegible documents.
2. Periods when a circuit court facsimile machine is not operational for any reason

Dated at Darlington, Wisconsin February 1, 2006.

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PART 6: CRIMINAL LAW PRACTICE

600 Effective date: March 9, 1999 and August 2, 2002

601 Repeal and recreate.

To meet the requirements of sec. 950.07, Wis. Stats., that there be intergovernment cooperation between the county board, district attorney, local law enforcement agencies, local social service agencies, victim and witness offices, and courts to ensure that victim and witnesses of crimes receive their rights and services under Chapter 950, Stats., Part 6: Criminal Law Practice Rule 601 is withdrawn and recreated to read as follows:

601 Continuances. (1) Pursuant to sec. 950.04, Wis. Stats., victims and witnesses of crime have the right to have their interest considered when the court is deciding whether to grant a continuance or rescheduling in a case under sec. 971.10(3)(b)3, Stats. Therefore, no matter scheduled in a criminal case shall be continued or rescheduled unless any victims and witnesses of the crime have been notified by the District Attorney of the continuance or rescheduling request, their interest considered, and the District Attorney or victim witness coordinator can so indicate to the court considering the continuation or rescheduling request.

(2) No circuit court calendaring clerk shall reschedule any scheduled criminal or Chapter 938 matter upon the oral or written request of a party or counsel in the proceeding, but shall refer any such rescheduling request to the Circuit Court Judge assigned to the case. The assigned judge shall not grant any rescheduling request if affected victims or witnesses have not been noticed as required by sec. 950.04, Stats.

(3) Stipulated requests for continuance of the trial date or calendared matters shall be in writing or on the record and must be based on a showing of good cause and proper notification of victims and witnesses as required by sec. 950.04, Stats.

(4) Non-stipulated requests for continuances or rescheduling must be made to the court by motion for a hearing on the request. Notice of such request shall be sent by the victim witness coordinator to persons entitled under sec. 950.04, Stats.

602 Motions to be Accompanied by Brief or Legal Memorandum. Any motion filed in a criminal court matter shall meet the criteria set forth in sec. 971.30(2), Wis. Stats. The sec. 971.30(2)(b), Wis. Stats., "brief description of the type of order or relief sought", and the sec. 971.30(2)(c), Wis. Stats., statement "with particularity (of) the grounds for the motion and the order or relief sought", may be set out in the motion, notice of motion, brief or legal memorandum. "Brief" is defined to be a written document by which counsel or party conveys to the court the essential facts of his/her client's motion; a statement of the law involved that he/she would have the court apply, and the application of the law he/she would have the court make to grant the order sought by the motion. Where the motion made entitles the movant to an evidentiary hearing, movant in his/her motion may reserve the filing of a brief or memorandum of law pending completion of that hearing. Such reservation does not exempt the filed motion from conforming to the requirements of sec. 971.30(2), Wis. Stats.

No brief or legal memorandum is required in the following instances, provided the motion refers to the appropriate statute or supporting case law:

- a) Discovery and inspection demands pursuant to §971.23 Wis. Stats.
- b) Motions for change of bail conditions pursuant to §§ 969.03, 969.035 and 969.08 Wis. Stats.

c) Any other motion for which a standard form has been approved by the Judicial conference pursuant to §758.18 Wis. Stats.

If there is no existing law applicable to the motion, the moving party shall so state in the moving papers. Failure to comply with this rule may result in sanctions including dismissal of the motion.

603 Any prosecutor who seeks to amend or dismiss a charge under sec. 346.63(1) or (5) or a local ordinance in conformity therewith, or s. 346.63(2) or (6) or 940.25 or s. 940.09 where the offense involved the use of a vehicle or an improper refusal under s. 343.305, SHALL, pursuant to s. 967.055 do so by means of a WRITTEN APPLICATION to the court which states the reasons for the proposed amendment or dismissal. The stated reasons shall address the issue of whether the proposed amendment or dismissal is consistent with the public's interest in deterring the operation of motor vehicles by persons who are under the influence of an intoxicant, a controlled substance, or other drug or combination thereof which renders him/her incapable of safely driving.

604 At the end of any hearing in which a person has been sentenced to the Lafayette County Jail, the Court shall inform the party that he or she shall discuss with their attorney the Lafayette County Jail Rules and Huber Regulations before reporting for confinement. If the court security officer deems it necessary to escort the defendant to jail immediately upon completion of sentencing, the defendant shall read the rules once he/she gets to jail. Their counsel may consult with the defendant at the jail on these Lafayette County Jail Rules and Huber Regulations. The Clerk of Circuit Court Shall maintain copies of the Lafayette County Jail Rules and Huber Regulations in a file in a convenient place in the courtroom so they may be distributed to the party or their attorney for complying with the requirements of this rule. If a sentenced person has appeared pro se, they are to be provided with a copy of the Lafayette County Jail Rules and Huber Regulations for review and reading prior to reporting for confinement under the terms of their sentence.

605 A person who has been ordered to probation as part of his or her sentencing, upon leaving the courtroom, is to report immediately to the Lafayette County Jail to be fingerprinted, only if there is no conditional jail time. If a person has been sentenced to conditional jail time with a delayed start date, they do not report to jail after court for fingerprinting.

PART 7: SMALL CLAIMS PRACTICE

700 Effective date: March 9, 1999

701 If a defendant is a non-resident of Lafayette County, the defendant may join issue in any small claims action without appearing on the return date by answering by mail, provided such answer is received by the clerk of circuit court of Lafayette County not less than 20 days from the issue date of the summons.

702 The Clerk of the Circuit Court shall keep in the clerk's office and distribute to litigants in small claims actions publications explaining the procedures to be followed by litigants in small claims actions.

703 Pursuant to approved Order of the Lafayette County Circuit Court dated September 1, 1988, as amended, Lafayette County Court Commissioners in small claims actions are empowered to conduct initial return date proceedings, to conduct conciliation conferences, to conduct trials or other proceedings under Chapter 799 as amended, to enter default judgments, to approve stipulations, and to otherwise act in small claims actions as directed by the Lafayette County Circuit Court under Chapter 799 as amended.

704 The Lafayette County Clerk of Circuit Court is designated to conduct initial return date proceedings.

705 Service of Summons in all actions under Chapter 799 except eviction actions:

Pursuant to sec. 799.12(2), Stats., effective July 1, 1988, the effective date of sec. 799.12(2), Stats., this Court by this rule authorizes the service of summons in all actions under Chapter 799, except eviction actions, by mail under sec. 799.12(3) in lieu of personal or substituted service under sec. 802.11, Stats.

Pursuant to sec. 799.12(3), Stats., effective July 1, 1988, service may be made by mail by leaving the original and necessary copies of the summons with the Clerk of Circuit Court, together with the fee prescribed in sec. 814.62(4), Stats. The Lafayette County Clerk of Circuit Court in mailing under sec. 799.12(3), Stats., pursuant to this court rule shall make those mailings in compliance with the requirements of sec. 799.12(3), Stats.

707 Pursuant to sec. 799.12(7), Stats., effective July 1, 1988, the Lafayette County Circuit Court by this rule authorizes the service of the summons and complaint under Chapter 799 actions prior to filing an authentication thereof, provided that the appropriate fee under sec. 814.62, Stats., is paid before the summons is issued and the summons is not reusable for a different defendant.

708 If the defendant in a small claims action is a non-resident, the defendant shall be permitted to join issue in any of the actions specified in sec. 799.01, Stats., without appearing on the return date by answering, either by mail or by telephone call to the office of the Lafayette County Clerk of Circuit Court at least 2 working days prior to the return date set out in the Small Claims Summons and/or Complaint. If the defendant is a non-resident under sec. 799.22(4)(am), Stats., then the defendant shall be permitted to join issue by answering by telephone call to the office of the Lafayette County Clerk of Circuit Court at least 2 working days prior to the return date set out in the Small Claims Summons and/or Complaint.

PART 8: LATE SETTLEMENT

800 Effective date: March 9, 1999

801 The circuit judges request trial counsel to pursue settlement at the earliest possible time. When any attorney feels the court can be helpful, a request for a pretrial conference can be made. Recognizing the great inconvenience and expense that can be caused to parties, jurors, and witnesses, early settlements will be promoted by attorneys who are prepared to discuss all aspects of the case.

802 When a civil jury trial is settled within one business day of the trial date, a jury fee of at least \$72.00 for a twelve person jury and \$36.00 for a six person jury may be assessed, unless waived by the court for cause.

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PART 9: FAMILY LAW PRACTICE

900 Effective date: March 9, 1999 and August 2, 2002

901 Pursuant to the Order of the Lafayette County Circuit Court approved November 21, 1988, the Lafayette County Family Court Commissioner is the director of the Lafayette County Family Court Counseling Services with the duties and powers enumerated in said order.

902 The court may direct one or both parties to prepay the single fee of \$100.00 for mediation sessions provided by family court counseling services beyond the first session. The court may also direct one or both parties to prepay the fee for a legal custody and physical placement study.

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

903 Upon appointment of a guardian ad litem in any action affecting the family, a party or both parties shall be directed to make a prepayment to the Clerk of Circuit Court to be held in trust and applied on guardian ad litem fees. If any party is financially unable to make a prepayment, upon application, the court may waive all or part of the advance fee based upon an inability to pay.

904 The Lafayette County Family Court Commissioner is delegated authority to hear and determine whether a judgment of divorce shall be granted, if both parties state that the marriage is irretrievably broken and that all material issues, including but not limited to, division of property or estate, legal custody, physical placement, child support, spousal maintenance and family support, are resolved or if one party does not participate in the action for divorce.

The Lafayette County Family Court Commissioner is designated as the Judicial Officer authorized to set child support in expedited cases filed in the Lafayette County Circuit Court under sec. 767.13(5)(b), Stats., as amended.

905 Pursuant to sec. 767.115, Wis. Stats., no action affecting the family which involves a minor child of custody, or placement of children issues may be brought on for final hearing until there has been filed with the court certification indicating the parties have completed the program Banana Splits for Parents or a comparable program and the children have completed the K-8 program Banana Splits for Children or a comparable program. These programs address issues of divorce, separation, and family division. The program Banana Splits for Parents is conducted by UW Extension at a cost of \$40 per person. This program is mandatory for parents. The K-8 Banana Splits Program for Children or comparable program may be one of a type conducted by the school districts

or by UW Extension. Program costs shall be paid by the parents. This rule does not apply to temporary orders under sec. 767.23, Wis. Stats. It does apply to revisions of legal custody and physical placement orders under sec. 767.325, Wis. Stats. This rule is implemented by the following procedure:

(A) The UW Extension will provide the Lafayette County Clerk of Circuit Court with an information sheet about the program Banana Splits for Parents, and will provide a school district information sheet about the K-8 program Banana Splits or comparable program. The Clerk of Circuit Court will provide a copy of such programs to the Chapter 767, Stats., action parties, their attorneys, and the Family Court Commissioner and indicate this on the face of the document. The Clerk of Circuit Court shall give such notices within 10 days of the filing of any such action. Notice may be given by mailing or personal delivery. Parties are deemed to have notice when copies are provided to their attorneys.

(B) The parties to a Chapter 767, Stats., action shall contact UW Extension Office (608) 776-4820 to enroll themselves in the Banana Splits Program for Parents or comparable program within 15 days of receipt of the notice from the Clerk of Circuit Court. UW Extension and the parties shall cooperate with the childrens' school district to enroll them in the School District K-8 program Banana Splits for Kids or comparable program. If the school district does not have any such program in place, the children are to participate in a comparable program conducted by UW-Extension or other agency.

(C) The parties or their attorneys shall file certification of their and their K-8 childrens' completion of the applicable programs with the Clerk of Circuit Court at least 15 days before any final hearing, or motion hearing is held. No such Chapter 767, Stats., hearing will be held until this court rule has been complied with unless compliance has been excused by the court upon a good cause showing by a party. Good cause may include geographic hardship, childrens' best interests, or a parent not cooperating with the program. Certification may be in such form as a letter from UW Extension, school district personnel, or agency, affirming the parents or children have completed the program.

906 Mediation Agreements. Pursuant to sec. 767.11(12), (13), Wis. Stats., concerning certain procedures to be followed by attorneys, parties, and the Lafayette County Family Court Commissioner when a stipulation has been reached in mediation shall include the following:

A. Mediation Agreement Reached in a Pending Divorce Action. If the parties are represented by attorneys, (including Guardian ad Litem) the attorneys, clients, and mediator will sign the agreement and the attorneys may contact the Family Court Commissioner or the Lafayette County Circuit Court for approval of the stipulation. Attorneys for the parties in signing the mediation agreement do so only to indicate they are reviewing the agreement as counsel, not signing the agreement as parties. The stipulated mediation agreement may be incorporated into Temporary Orders or the Judgment of Divorce as part of that document. Mediated agreements that are to be part of a temporary order are to be presented to the Family Court Commissioner for signing and entry. If only one party is represented by an attorney, that attorney shall follow this procedure.

If neither party is represented by an attorney, then the parties and mediator shall sign the stipulation/agreement and the Lafayette County Family Court Commissioner will file it with the Clerk of Circuit Court and provide a letter of explanation to the parties that they must contact the Clerk of Courts for purposes of scheduling a final divorce hearing before the Lafayette County Circuit Court. At that hearing, the stipulated agreement will be incorporated into the court's Findings of Fact, Conclusions of Law, and Judgment.

B. Post Judgment Divorce Action. In a post judgment divorce action where a referral of the parties to mediation results in their entering into or reaching a stipulated mediated agreement, the Lafayette County Family Court Commissioner will instruct the parties, whether they are represented by counsel or not, that they must prepare the appropriate order incorporating the stipulation into or as an amendment to the existing Judgment of Divorce and present that to the Lafayette County Circuit Court for its signature and entry. A hearing will not be required on the stipulation/agreement of the parties unless either party makes proper application to the court for that hearing, or unless the circuit court, upon receipt of the stipulation, orders a hearing on the agreement.

C. Paternity and Other Family Actions. In the case of a paternity action or other family code action in which the parties have been referred to mediation and in mediation have reached a stipulation/mediation agreement, the original of that stipulation/mediation agreement shall be filed with the Lafayette County Clerk of Circuit Court, and the Lafayette County Family Court Commissioner shall instruct the parties, whether they are represented by attorneys or not, that they must contact the Clerk of Circuit Court to schedule a hearing before the circuit court for the circuit court to review the stipulation/mediation agreement of the parties and to make the appropriate findings and orders.

907Parenting Plans. Upon filing a petition where petitioner knows that legal custody or physical placement will be contested, petitioner must attach a blank copy of local Form FA-

612, Proposed Parenting Plan (as revised from time to time) to the petition served on the respondent. In cases of a joint petition for divorce, with children, the person filing the petition shall be responsible for delivering a copy of the blank form to the other petitioner. Copies of the form can be obtained from the Lafayette County Clerk of Circuit Court.

Where the petitioner, respondent or both know that legal custody or physical placement will be contested, both shall prepare, exchange with opposing party, and file in the Clerk of Courts Office a parenting plan no later than five (5) days before the Scheduling Conference is held. In cases of a joint petition for divorce or a pro se action, the party filing the petition shall be responsible for delivering a copy of the parenting plan form to the other joint petitioner or pro se litigant. Copies of the parenting plan form can be obtained from the Lafayette County Clerk of Circuit Court office.

908Time Limits For Filing De Novo Hearing Requests. Any Wis. Stats. Sec. 757.69(8), 2003

Wis. Stats, as amended, motion of any party for review by the Lafayette County Circuit Court of a decision of the Lafayette County Family Court Commissioner, shall be filed with the Lafayette County Circuit Court within twenty (20) days of the signing of any written memorandum or order by the Family Court Commissioner. Any motion for either a review of a decision of the Family Court Commissioner, or for a new hearing on the subject of the Family Court Commissioner's decision, order or ruling, shall be in writing and shall include a written brief or memorandum on the law in support of the motion. The motion or application for such review shall also include a statement that the motion is made within the time limits set forth by this rule. Failure of a party to file a motion within the time limits set forth by this court may be a basis for the court to dismiss the motion on its merits. If such a motion is filed, prior to scheduling a de novo hearing, the moving party shall file with the Clerk of Courts the written order or written memoranda of an oral order signed by the Family Court Commissioner. A hearing de novo will not be scheduled until that document is on file with the court.

PART 10: PROBATE LAW PRACTICE

1000 Effective date: March 9, 1999

1001 Probate matters will be scheduled before the Lafayette County Circuit Court Probate Branch at times to be calendared by the court.

1002 The Lafayette County Register in Probate by approved order is designated to act in the capacity of Lafayette County Probate Court Commissioner with the powers and duties enumerated in sec. 757.69(1)(e), Stats., as amended. In the probate court judge's absence or unavailability, the Register in Probate is designated by approved order to sign orders setting time to prove will and heirship and notice to creditors, orders limiting time for filing claims (on waiver) and determination of heirship, and to sign Domiciliary Letters.

1003 The Lafayette County Register in Probate by approved order is designated to received testimony proving heirship and to certify it under sec. 757.69(1)(e) Stats., as amended.

1004 Proof of heirship shall be made in probate proceedings at the time designated in the order for determination of heirship, or as soon thereafter as counsel can be heard. Proof of heirship can be made under Rule 1003 before the Register in Probate if the probate judge is not available, and can be made upon testimony by an attorney with knowledge.

1005 Closing estates upon waiver or notice. If the court is not available, information proving the final account and the filing of the documents required for closing the estate shall be done before the Register in Probate who shall certify to the probate judge that the file is in order for entry of judgment by the court.

1006 In probate court practice there is implemented a notice procedure to be followed by the Register in Probate. Those notices and when they are sent are as follows:

NOTICE

WHEN SENT

PR-1453 Notice of Overdue Inventory

After 6 Mo. Expiration

1007 An attorney wanting to be included in the probate courts mailings on guardianship or trust matters after the appointment and qualification of the guardian or trustee shall file notice thereof in the trust or guardianship file. If notice is to cease being sent to such attorney or to be sent to a different attorney, notice thereof shall be filed by said attorney(s) in said file.

1008 Recognizing that the Register in Probate is also Judicial Assistant, Juvenile Clerk and Deputy Clerk of Circuit Court, and must from time to time personally attend court proceedings; that there is no backup person in the Register in Probate's office when she/he attends court proceedings; that by court rule the Court Chambers [CR 1104] are to be locked if no court staff is physically present in the Court Chambers; attorneys or others having business with the Register in Probate office are to first call the Register in Probate office [1-608-776-4811] to set a time at which that business can be conducted or to be certain that the Register in Probate will be personally present at the time they wish to conduct their business.

PART 11: MISCELLANEOUS PROVISIONS

1101 Reference to approved order means an order of the Lafayette County Circuit Court which has been approved by the chief judge and filed with the Lafayette County Clerk of Circuit Court.

1102 Effective date is the date of filing with the Lafayette County Clerk of Circuit Court.

1103 Court Appointment of Guardian ad Litem:

Attorneys wishing to be considered by the court for appointment as guardian ad litem for a minor must be eligible to accept an appointment under SCR 35.01. Acceptance of a guardian ad litem appointment under SCR 35.02 constitutes a representation to the court that the appointed attorney has complied with SCR 35.01.

Compensation for the services of a guardian ad litem shall be at the legal rate (Wisconsin Public Defender rates), but the court under State ex rel Frederick upon concluding in a case that it must order compensation in excess of the statutory fee to secure qualified and effective representation and ensure the effective administration of justice, may set compensation rates above the Public Defender rates up to the rates set in SCR Chapter 81.

Attorneys accepting guardian ad litem appointments shall submit a bill to the court on a monthly basis. Where the court has ordered contribution toward the guardian ad litem expense to be paid by a party or parties, the court clerk receiving the funds shall disburse them to the Lafayette County Treasurer. The guardian ad litem bills shall be paid by the Lafayette County Treasurer upon presentation of an order for payment from the court. Persons ordered to pay all or a part of the guardian ad litem fees and expenses pursuant to court order who fail to comply with said order, shall have their accounts referred to the Lafayette County Corporation Counsel for appropriate legal action.

1104 Circuit Court Chambers Access

Circuit Court Chambers consists of the Register in Probate/Judicial Assistant office, Court Reporter's office, probate vault, and the Circuit Court Judge's office. Whenever there is no one present in any of these offices, the Circuit Court Chambers shall be locked.

Persons seeking access to the Circuit Court Chambers shall contact the Clerk of Circuit Court office staff or the Court Security Officer for access to the Court Chambers. Access shall be for purposes such as filing papers in the Register in Probate's office or using files in the probate vault. The Clerk of Circuit Court staff person or the Court Security Officer shall remain with the person(s) until their purpose for access is completed and shall then re-lock the Court Chambers.

1105 Under sec. 756.03, Wis. Stats., the Lafayette County Circuit Court authorizes the Lafayette County Clerk of Circuit Court, and deputies to excuse jurors from jury upon the following grounds only:

1. A juror excuse or request for deferral of service may be granted by the

Clerk of Circuit Court on grounds of undue hardship, which includes:

- a. Juror is a nursing mother.
- b. Juror for health or medical reasons cannot perform jury service. Documentation in the form of a medical practitioner's written statement is required to be filed with the court.
- c. Juror is a student attending an institution of higher learning outside Lafayette County.
- d. Juror has a planned or booked vacation which cannot be cancelled.
- e. Juror is a sole proprietor whose absence from his business would cause readily apparent economic loss. Written documentation of the nature and extent of probable loss the party would sustain due to jury service is required to be sent to the clerk.
- f. Juror suffers from infirmities of aging or other like incapacities, or has difficulties ambulating, sitting for long periods of time without discomfort, or like afflictions.
- g. Juror, spouse, or child is scheduled to undergo a medical procedure or treatment during the time the trial is to be held.

2. All other juror requests for excuse from service, or deferral from service, shall be referred by the Clerk of Circuit Court or deputies to the Circuit Judge assigned to the case for determination.

1106 To assist persons wishing to examine Probate Vault Records for genealogy research purposes or other purposes, the following procedure is adopted:

1. Persons wishing to do extensive genealogy research are encouraged to go to the Area Research Center located in the Southwest Wisconsin Room of the Karrmann Library of the University of Wisconsin - Platteville. Their telephone number is (608) 342-1645. This is a regional center with documents from counties other than Lafayette.

2. Probate vault files, when there is court staff available to retrieve them, can be viewed in the Clerk of Circuit Court's office under the clerk's supervision or by viewing the microfilm on the reader in the Clerk of Courts office.

3. Copy charges by statute are \$1.25 per page for copies made by the Clerk of Court.

4. Persons with court clearance will be allowed in the vaults to work with files, but must check in with the Register In Probate or Clerk of Courts staff prior to entering either office's vault.

1107 In cases where Lafayette County is permitted by statute or case law to recoup Guardian ad

Litem, Psychologists or Psychiatrists fees, and expenses from the parties to an action before the Circuit Court, the Court shall enter an order effecting such recoupment by means of lump sum or time deferred payments of those expenses by a party or parties to the litigation. The order for recoupment shall reflect consideration of the economic circumstances of the parties as determined by the court at the time of the setting of the recoupment obligation. When a recoupment order, or order directing reimbursement of Lafayette County's expenditures for Guardian ad Litem, psychological or psychiatric or like professional services is entered, a copy of that order shall be provided to the Corporation Counsel for Lafayette County

In a Chapter 767 matter where issues concerning a child necessitate the appointment of a Guardian ad Litem, before the court appoints a Guardian ad Litem it shall inform the parties of their responsibility to each deposit with the Lafayette County Clerk of Circuit Court/GAL, by a date certain, a set sum of money as a contribution toward the Guardian ad Litem fees and expenses to be incurred by the appointment. Unless waived by order of the Lafayette County Circuit Court upon proper application to the court and showing of entitlement to having the posting of Guardian ad Litem fees waived by a party, each party shall post the required sum before the Guardian ad Litem shall be appointed and enter into his or her duties under the appointment. The Guardian ad Litem during the course of the performance of his or her appointed duties shall provide the court and parties with monthly statements of the fees and expenses incurred in carrying out the duties and obligations under the appointment. The Clerk of Circuit Court shall see to the disbursement of the Guardian ad Litem's billings out of the fees posted with the court and shall inform the parties and Guardian ad Litem when that amount nears being used up. The court shall from time to time, if necessary, enter further orders directing the parties to make further appropriate deposits of monies with the Clerk of Courts to cover the Guardian ad Litem's expenses during the pendency of the action.

1108 When any party in any action before the Lafayette County Circuit Court seeks to be relieved of the obligation to pay Guardian ad Litem fees, psychological assessment fees, or psychiatric interview and report fees or in any action makes application to the court for an order appointing counsel to represent that party at the expense of Lafayette County, that party shall file a copy of his or her moving papers with the Lafayette County

Corporation Counsel. Service of said papers on the Corporation Counsel shall be timely so as to enable the Lafayette County Corporation Counsel to attend the hearing on the party's application and represent the interests of Lafayette County on the issues the application presents to the court.

1109 Uniform Rules for Trial Court Administration. Pursuant to SCR 70.34, the Director of

State Courts is to distribute to the Lafayette County Circuit Court Uniform Rules for Judicial Administration that may be adopted by or amended by the Director of State Courts. The Lafayette County Circuit Court is bound by the Uniform Rules for Trial Court Administration so promulgated by the Director of State Courts. The Uniform Rules for Trial Court Administration so promulgated by the Director of State Courts are incorporated into and made part of the Lafayette County Circuit Court Rules. To the extent that there may be a conflict between the Lafayette County Circuit Court Rules and the Uniform Rules for Trial Court Administration, the Uniform Rules for Trial Court Administration shall prevail. The Lafayette County Clerk of Circuit Court shall maintain a copy of the Uniform Rules for Trial Court Administration with the Lafayette County Circuit Court Rules in her office to be made available to anyone requesting information on the Lafayette County Circuit Court Rules.

1110 Holidays and Closing Court Offices Rule

1. Lafayette County Court offices, including the clerk of circuit court and register in probate, are closed on the following days: New Year's Day, Good Friday, Memorial Day, July 4, Labor Day, Veteran's Day, Thanksgiving Day, Day After Thanksgiving, Christmas Eve, Christmas Day, and New Year's Eve Day.

2. In the event that normal business hours cannot be maintained or normal business cannot be conducted in the office of the clerk of court and/or the register in probate, any papers filed or fees paid on the next day business is conducted shall be deemed timely, if a deadline passed while the office was unable to conduct business. Any suspension of court operations for any reason other than total closure of county government shall be approved by the circuit judge.

3. If closure of county government suspends court operations, or the court is closed by the circuit judge, the office of Chief Judge and Direct of State Courts shall be notified.

PART 12: POLICY AND PROCEDURES REGARDING THREATS AGAINST THE JUDICIARY AND SECURITY INCIDENTS IN THE COURT

1200 Effective date: March 9, 1999

This rule is promulgated to comply with Trial Court Administration Rule - 8: Threats to the Judiciary and Court Employees.

1201 Threats are defined as written or oral declarations of an intention to inflict injury or pain upon individuals employed by or involved in the court system. Any threat shall be treated as serious.

1202 Security incidents are episodes of conduct in the courts in which the physical health or safety of participants or the physical property of the courts are put at risk.

1203 All threats and security incidents are to be immediately reported personally or by telephone to the sheriff's office.

1204 Court Security officer. The sheriff is directed to designate an officer to serve as a court security officer. The court security officer shall be responsible for:

- referral and investigation of all threats and security incidents.
- assistance in training of court personnel in handling threats and security incidents.
- making recommendations to maximizing court security in the future.
-

1205 Training. Upon hiring, every employee (including elected officials) shall be trained in the policies and procedures of handling threats and security incidents, including the use and completion of the report form. Refresher training shall be coordinated by the circuit judge, clerk of court, and court security officer. To the extent possible, such initial and refresher training should include the following:

- the court's policies and procedures concerning threats and security incidents.
- the physical layout of the courts and escape routes from courtrooms and court offices.
- recognizing when a threat is being made.
- responding to a bomb threat.
- responding to a hostage situation.
- techniques in remaining calm and avoiding panic during a stressful or potentially dangerous incident.
- techniques in responding to threats and security incidents in such a manner as to defuse the danger of the situation without placing the individual at physical risk.
- techniques in enhancing a person's personal safety either in the courts or elsewhere.
- telephone protocol when a threat is being made over the phone.
- handling irate or abusive individuals in person or over the telephone.
- knowing when to contact law enforcement because of immediate concerns with a "panic button" rather than by telephone.
- handling threats that are made away from the courthouse.
- gathering evidence for potential prosecutions.
- using the threat/security incident report form.
- role playing activities in order to familiarize the employee with the process of recording and reporting threats.

1206 Threat/Security Incident Report form (GF-147). A record shall be made of all threats and security incidents on a Threat/Security Incident Report form. Such record shall be made contemporaneously with the event being recorded or as soon after as possible. The original of such report shall be transmitted to the Court Security officer. If deemed appropriate, a copy may be maintained in the court offices affected.

1207 Panic buttons. A panic button, if one is available for use, shall be used only in those cases where there is immediate dangerous or life-threatening activity that needs the

presence of law enforcement officers. The Sheriff shall instruct officers acting under the sheriff to treat a panic button call as a dangerous or life-threatening activity in progress.

1208 Telephone threats.

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

Dated at Darlington, Wisconsin June 6, 2003

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PART 13: POLICIES AND PROCEDURES OF THE JUVENILE AND CHILDREN'S COURT

1300 Effective date: March 9, 1999

1301 This local court rule establishes the revised policies and procedures of the juvenile and children's court of Lafayette County. It shall supersede all previous statements of the policies and procedures of the Lafayette County Circuit Court concerning proceedings under chs. 48 and ch. 938 in whatever form or format promulgated.

1302 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 ch. 48 proceeding concerning a child who is within the jurisdictional requirements of §48.13, Wisconsin Statutes, generally involving orphaned, abandoned, abused, neglected, special treatment children, and children with alcohol or other drug abuse impairments.
3. Court: When used without further qualification, means the court assigned to exercise jurisdiction under chapters 48 or 938, Wisconsin Statutes.
4. Court Intake: The process of submitting to the juvenile intake worker written referrals from agencies or departments authorized in chapters 48 or 938 to refer a child/juvenile to the court.
5. Custody Intake:

The process by which a person is taken into custody under §§48.19 and 938.19, Wisconsin Statutes, and delivered to the juvenile intake worker for a custody determination.

6. JIPS: Juvenile In need of Protection or Services; a ch. 938 proceeding concerning a juvenile who is within the jurisdictional requirements of §938.13, Wisconsin Statutes, generally involving uncontrollable juveniles, habitual truants, school dropouts, under 10 who commits a delinquent act, not responsible because of mental disease or defect, or not competent to proceed.

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.

8. Holdover Room:

A room located in the Lafayette County jail, or at a place under the control and supervision of the Lafayette County Sheriff, his deputies or assigns, used for holding juveniles under Chapter 48, 938 or 51 matters as described in these rules.

1303 General policies.

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

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 chs. 48 and 938.

2. The court will not routinely waive time limits.

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

- In Delinquency and JIPS matters, remove the "cause and effect" relationship between juvenile behavior and court-ordered "consequences" in delinquency matters, and
- In CHIPS matters, place the child and parents in a limbo status concerning the various needs, rights, and responsibilities of the parties.
- 1304 "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 Lafayette County. The disposition/supervision function shall be in the Lafayette County Human Services agency.

Rationale: There exists a potential conflict of interest between the functions of intake and disposition. If the two are joined, the roles of each 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. The powers of the intake worker are similar to those of a judge.

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

Rationale: It is fiscally impossible for a county the size of Lafayette to have full-time back-up workers or holdover room attendants. Utilizing a list of on-call back-up 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 intake worker; if the intake worker is not available, the backup workers shall be contacted in the order provided by the court.

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 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) who can conduct Custody Hearings under §§48.21 or 938.21, Wisconsin Statutes. If a Juvenile Court Commissioner makes the initial custody decision, only another court commissioner with juvenile court powers or the Circuit Judge can conduct a custody hearing. If the Circuit Judge is 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: Lafayette 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 Lafayette County, using the Circuit Judge for

intake purposes on other than a "last-resort" basis would adversely affect the progress of juvenile court proceedings.

1305 Custody intake "decision guidelines"

1. 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.

2. Intake 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.

3. Intake shall first determine whether the court has jurisdiction over the person.

a. In delinquency matters, the referring agency shall attempt to establish if the person is subject to original adult court jurisdiction or the juvenile court. If the person is subject to original adult court jurisdiction, the procedures specified in section 1306 of this rule and chs. 967 to 979, Wisconsin Statutes, shall apply.

b. In the event an immediate determination cannot be made whether the juvenile is subject to original adult court or juvenile court jurisdiction, any person age 16 or under shall be presumed to be subject to juvenile court jurisdiction until juvenile intake or the court is satisfied otherwise. The juvenile intake worker shall decline to make a custody determination in a case if the intake worker knows of his or her own knowledge that the person is not subject to juvenile court jurisdiction.

c. If the person is not subject to original adult court jurisdiction, intake shall determine what jurisdictional basis exists for the requested hold under chs. 48 or 938.

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

a. Chapter 48 presumptions:

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

Rationale: In construing chapter 48, the paramount consideration is the "best interests 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 if one is available;
- e. Placement in the home of a person not a relative;
- f. A licensed foster home;
- g. Shelter care, such as LaCrosse, Sauk or Rock 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 if one is available;
- Placement in the home of a person not a relative;
- A licensed foster home;
- Shelter care (such as LaCrosse, Sauk or Rock County Shelter Care);
- In delinquency matters, secure detention in:
 - Secure detention facility (such as Rock or LaCrosse 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. Class C, D & E felony Battery, 940.19 (2) to (6)
- f. Mayhem, 940.21
- g. 1st degree sexual assault, 940.225(1)
- h. Kidnapping, 940.31
- i. Discharging firearm from automobile or in parking lot under certain conditions, 941.20(3)
- j. Arson to building, 943.02(1)
- k. Car jacking while possessing a dangerous weapon, 943.23(1g)
- l. Car jacking while possessing a dangerous weapon and causing great bodily harm, 943.23(1m)
- m. Car jacking while possessing a dangerous weapon and causing death, 943.23(1r)
- n. Armed robbery, 943.32(2)
- o. 2d or subsequent offense of Harassment with threat of death/great bodily harm, 947.013(1t)
- p. Harassment with threat of death/great bodily harm based on information obtained electronically, 947.013(1v)
- q. 2d or subsequent offense of harassment based on information obtained electronically, 947.013(1x)
- r. 1st or 2nd degree sexual assault of child, or repeated acts of sexual assault to same child, 948.02(1) or (2)

- s. Physical abuse of child, 948.03
- t. Use of handgun, short-barreled rifle/shotgun while committing a felony under ch. 940
- u. Possession of a short-barreled rifle/shotgun, §941.28
- v. 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" if one is available 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 non-secure portion of the Lafayette 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 nonsecure 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 Lafayette County Human Services agency. The Lafayette County Sheriff's office, in cooperation with the Lafayette County Circuit Court and the Lafayette 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 lay person who has been given appropriate training in their role. The Lafayette 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 presumptive secure custodial placement crime listed in §938.208(1)(a) (b), or (c), Wisconsin Statutes.

b. In delinquency matters which are not presumptive secure custodial placement crimes, the severity of present alleged offense:

- 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 juvenile
- Whether act represents "random, senseless act of violence"
- The number 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 other 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 appear relevant to level of risk of flight

e. Current legal status:

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

f. Protection needs:

- Is 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 present caregiver able to adequately protect this person
- Is this person vulnerable to revenge acts by others, including co-actors, victims, or others
- Other factors relating to the need to protect the person

11. Deadline for petitions if no custody hearing is requested

a. If a child/juvenile has been taken into custody and placed in a secure or 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 to §§48.24 or 938.24, Wisconsin Statutes, has been filed within five (5) days of the date of the custody order.

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 an original adult court jurisdiction matter 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.

1306 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 ch. 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 chs. 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 adult 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 defendants 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 hold is only because the defendant has not met the conditions of bail/bond established by the court. 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:

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

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.

1307 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 ch. 48 and 983 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).

3. If a petition under either ch. 48 or ch. 938 has not been filed by the time of the custody hearing and the statutory grounds exist for an extension of time to file a petition, a petition must be filed within:

a. Ch. 938 matters: 48 hours from the time of the hearing.

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

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

1308 "Court Intake".

1. All intake referrals under §§48.24(1) or 938.24(1), Wisconsin Statutes, are to be submitted in writing on the appropriate forms, either the Court Referral--Juvenile, Law Enforcement form or the Court Referral--Juvenile, Non-law enforcement form.

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(1) or 938.24(1), Wisconsin Statutes, shall be conducted by the 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 intake worker assures such consistency. Because the time limits for conducting an intake inquiry are sufficiently flexible, the 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), Wisconsin Statutes, are not required if all of the following have occurred:

a. A custody intake decision was made pursuant to §§48.19 or 938.19, Wisconsin Statutes;

b. A hearing on the custody has been held pursuant to §§48.21 or 938.21, Wisconsin Statutes;

c. The person has been continued in custody (secure or nonsecure); 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 an intake inquiry with 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 ch. 48 or a deferred prosecution agreement under ch. 938 when doing so would not unduly depreciate the seriousness of the matter referred in the eyes of the juvenile, parents, victims, and the public.

Rationale: Diversion of children from the formal court system is one of the goals of both chapter 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 chapter 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.

7. The intake worker shall consider the following factors in screening intake referrals:

- a. Seriousness of the allegations
- b. Intent
- c. Severity of personal injury
- d. Severity of property damage
- e. Prior allegations of similar activity
- f. Attitude of the public
- g. Attitude of the victim
- h. Previous contacts with law enforcement, social services, or juvenile intake
- i. Age and maturity

- j. Attitude of the person and/or parents
- k. Degree of apparent incorrigibility/uncontrollability
- l. School attendance and behavior patterns
- m. Involvement in gang-related activity
- n. Other social factors
- o. Resources available to the family and community to provide adequate care
- p. Criteria in §938.18(5), Wisconsin Statutes, concerning waiver to adult court
- q. Any other facts or circumstances available to the intake worker that impact on the referral decision consistent with the welfare and safety of the person and the protection of the public, including those factors provided in Rule 1305, concerning custody decision-making.

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 ch. 938 matter in the following situations unless the district attorney has referred the matter back to the intake worker with such a 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 non-elected member of the judicial branch--should not make informal disposition recommendations in those cases which would appear to unduly depreciate 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 worker should conduct an intake conference and may recommend 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 new 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 ch. 48 or a deferred prosecution agreement under ch. 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 disposition 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 agreements 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 a 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 interests of the child or the interests of society require an immediate decision. In such cases the intake worker may notify the child and parents of their rights under chs 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 1317 of this local court rule, the intake worker may:

- a. Refer the matter to the appropriate agency for investigation and review. That agency shall then make a determination whether an intake referral should be made, or,
- b. Conduct an intake inquiry based on the petition presented to the juvenile court clerk for filing.

Rationale: Section 48.25(1), Wisconsin Statutes, 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 1316 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.

1309 Notice to victims of children's acts.

1. POLICY. Pursuant to §938.346(5), the following rules are to be in effect, as of December 1, 1998 related to the required attempts to notify victims of juvenile's acts:

- a. Within a reasonable time of a decision by the District Attorney to file a petition, the District Attorney will attempt to notify, by mail, any victim of a juvenile's act and inform them of their rights included in §938.346(1)(e), (f), (fm) and (g) and as relevant in §938.346(1)(d) and (em). Victims may confer with the District Attorney regarding amendment of petitions, consent decrees, and disposition recommendations.

- b. Within a reasonable time of a decision by the District Attorney not to file a petition (for reasons other than insufficiency of the allegation(s):

- (1) the Victim Witness Coordinator or District Attorney will attempt to notify, by mail, any victim of a juvenile's act of their rights as may be relevant in §938.346(1)(a), (b), (c), (d), (em), and (h) and

- (2) the District Attorney will attempt to notify, by mail, the victim of the decision not to file a petition (reference §938.346(3)).

Victims may confer with the assigned Social Worker concerning dispositional report or consent decree recommendations, or may confer with the Juvenile Intake Worker related to Deferred Prosecution Agreements.

- c. If, after the filing of a petition under §938.12 or §938.13(12), a proceeding is dismissed or otherwise does not result in a consent decree or dispositional order, the District Attorney will attempt to notify, by mail within a reasonable time, each known victim of the juvenile's act of the fact that the petition was dismissed or did not result in a consent decree or disposition.

d. If, after receipt of a referral, an inquiry is closed by the Juvenile Intake Worker or otherwise does not result in a deferred prosecution agreement, the Juvenile Intake Worker will attempt to notify, by mail within a reasonable time, the victim(s) and inform them of the outcome of the inquiry.

e. Notification of victims of court and physical custody hearings shall be accomplished by the Court and District Attorney and/or corporation counsel as outlined in the procedures below.

f. The court shall inquire of the District Attorney and/or Social Worker in all hearings as to whether the attempts to inform/notify victims of their rights have been made and if so whether or not the victim has requested the opportunity to exercise relevant rights related to the outcome of the case.

g. In cases in which victims are present in the hearing, prior to entering a consent decree or disposition the court shall inquire of the victim as to whether or not they wish to make an oral statement and/or submit any additional written information to the court for consideration.

h. In cases where a criminal act is committed by a juvenile under 10 years of age which is prosecuted under Chapter 938 as a JIPS action by corporation counsel, corporation counsel shall comply with sec. 938.346, Stats., required notice to victims of juvenile acts as set forth herein.

i. Continuances or rescheduling requests.

(1) Pursuant to sec. 950.04, Stats., victim and witness rights require the court under sec. 938.315(2), and sec. 938.299(1), Stats., to consider their interests in rescheduling or granting continuances in cases. Therefore, no matter scheduled in a chapter 938 case subject to the provisions of sec. 950.04, Stats., shall be continued or rescheduled unless any victim or witness of the juvenile's crime have been notified by the District Attorney or Corporation Counsel of the requested continuance or rescheduling, their interest considered, and the District Attorney, Corporation Counsel, or Victim Witness Coordinator's office can so indicate to the court considering the continuation or rescheduling request.

(2) No court calendaring clerk shall reschedule any scheduled chapter 938 matter upon the oral or written request of a party or counsel in the proceeding, but shall refer any such rescheduling request to the Circuit Court Judge assigned to the case. The assigned judge shall not grant any rescheduling request if affected victims or witnesses have not been noticed as required by sec. 950.04, Stats.

(3) Stipulated requests for continuances of hearing dates or calendared matters shall be in writing or on the record and are to be based on a showing of good cause and proper notification of victims and witnesses as required by sec. 950.04, Stats.

(4) Non-stipulated requests for continuances or rescheduling must be made to the court by motion for a hearing on the request, Notice of such

request shall be sent by the victim-witness coordinator to persons entitled to such notice under sec. 950.04, Stats.

2. PROCEDURES RELATED TO HEARINGS

a. Notification of Court Hearings

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

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

b. Notification of Physical Custody Hearings.

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

c. Confirmation of Compliance.

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

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

1. If a custody hearing is held:

a. 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 non-attending parent if the address is known immediately at the conclusion of the hearing.

c. If signed, the signed copy of JD-1716 shall be filed in the court file. If the child/juvenile or parent(s) did not sign, the juvenile court clerk shall file a copy of the form with a notation as to the person(s) and date(s) on which the notice was provided.

2. At an intake inquiry:

a. At the 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 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.

1311 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 plea 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.

1312 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. Lafayette 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 Lafayette County shall be coordinated through the Lafayette 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 the 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.

1313 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 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 ch. 938, matters, the court loses jurisdiction in either a ch. 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 a 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), Wisconsin Statutes, 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), Wisconsin Statutes.

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), Wisconsin Statutes, 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 chs. 48 & 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.

1314 Requests by victims or the insurance companies of victims for disclosure of juvenile identity and police records.

1. Local Court Rule 12, effective November 1, 1991, is repealed effective July 1, 1996.

2. 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.

3. 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).

1315 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 juveniles 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 the 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,
 - That the previous adjudication remains of record and has not been reversed.
 - 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 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 the 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.

1316 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 adjudication, 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,
- transcripts of court proceedings 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.

1317 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 ch. 938,
- The juvenile, juvenile's parent, legal guardian, or custodian.
- 1318 Duties of the Juvenile Court Clerk in handling CHIPS petitions filed by the counsel or guardian ad litem for a parent, relative, guardian, or child, or directly by such a person acting without an attorney.

1. The Juvenile Court Clerk shall not accept for filing any petition under §§48.13 or 48.14, Wisconsin Statutes, presented by the counsel or guardian ad litem for a parent, relative, guardian or child, or directly by such a person acting without an attorney, unless that petition has been first referred to juvenile intake for an intake inquiry under §48.24, Wisconsin Statutes.

Rationale: Section 48.24, Wisconsin Statutes, requires that information indicating that a child should be referred to the court shall first be referred to the intake worker. However, §48.25, Wisconsin Statutes, 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.

1319 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 ch. 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, at least \$15 per week from each parent.
- If there is only a single parent or the two parents are residing separately, at least \$15 per week from each.

c. All payments on reimbursement for attorney fees shall be made to the Clerk of Court/GAL, and mailed to the Clerk of Circuit Court/GAL, 626 Main Street, Darlington WI 53530. Failure to make payments as ordered may subject the nonpaying party to contempt proceedings under Ch. 785, Wis. Stats. and are enforceable under ch. 985, Wisconsin Statutes, for contempt of court.

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 may 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, at least \$15 per week from each parent.
- If there is only a single parent or the two parents are residing separately, at least \$15 per week from each.

c. Reimbursement ordered under this section shall be paid to the Clerk of Court/GAL and mailed to the Clerk of Circuit Court/GAL, 626 Main Street, Darlington WI 53530. Failure to make payments as ordered may subject the nonpaying party to contempt proceedings under Ch. 785, Wis. Stats. and are enforceable under ch. 985, Wisconsin Statutes, for contempt of court.

3. Costs 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 Lafayette County Human Services for a determination of the amount the parent(s) are able to pay. Lafayette County Human Services shall establish a payment schedule for reimbursement.

b. All payments on reimbursement for costs of custody/placement shall be made to Lafayette 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 Lafayette County Human Services for a determination of the amount the parent(s) are able to pay. Lafayette County Human Services shall establish a payment schedule for reimbursement.

b. All payments on reimbursement for services shall be made to Lafayette 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.

Dated at Darlington, Wisconsin June 6, 2003

BY THE COURT:

William D. Johnston

Circuit Court Judge

APPROVED: Filed this day of , 2003

Date

Honorable Michael N. Nowakowski Catherine M. McGowan

Chief Judge Clerk of Circuit Court

Fifth Judicial District

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