Outagamie County Circuit Court Rules

(Eighth Judicial District)

Effective Date: 01/11/2019

Section 1: Distribution of Workload

Section 2: General Court Rules

Section 3: Criminal, Traffic and Misdemeanor Case Rules

Section 4: Court Commissioner Rules

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Section 6: Sentencing to Outagamie County Jail

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Outagamie OWI Sentencing Guidelines

Outagamie 2nd, 3rd & 4th Offense OWI Sentencing Guidelines (See Separate Document)

SECTION 1: DISTRIBUTION OF WORKLOAD

OUTAGAMIE COUNTY CIRCUIT COURTS AND COURT COMMISSIONERS CASELOAD DISTRIBUTION AUGUST 1, 2015 – JULY 31, 2021

Court Commissioners - Intake for Circuit Courts: (CI) initial appearances in misdemeanor and felony crimes, traffic forfeitures and traffic crimes, ordinance violations and forfeitures, DNR and snowmobile violations; (SC) small claims trials; (JI) initial juvenile hearings and detention hearings under Chapter 48, Search Warrants, Watts hearings, probable cause hearings in mental Commitments, and status conferences in traffic, ordinance and misdemeanor cases. Pleas in juvenile and traffic forfeitures with consent of the District Attorney, defense attorney, if any, and

the party. Time and calendar permitting, preliminary hearings may be held. When Court Commissioner has a conflict, Family Court Commissioner will handle those cases.

Family Court Commissioners - Divorce temporary hearings, post-divorce motions and hearings, domestic abuse restraining orders and hearings, harassment restraining orders and hearings, stipulated divorces, and wage assignment hearings. All matters requiring Court attention in paternity matters with the exception of paternity adjudication trials. When Family Court Commissioner has a conflict, Court Commissioner will handle those cases.

Probate Court Commissioner, Register in Probate, Probate Registrar - Supervise and conduct all uncontested probate proceedings including Formal and Informal Probate, Termination of Life Estates, Joint Tenancy, Summary Settlements and Summary Assignments. Supervise all guardianship and trust annual accountings.

Circuit Court Judge - Each Circuit Court shall be randomly assigned by computer an equal share of all the following cases requiring judicial attention. Each court in this circuit shall be classified a Civil Court, a Criminal Court, a Juvenile Court, a Traffic Court, a Family Court, and a Probate Court. There shall be both general and rotating case categories. Cases shall be classified and from each general classification assignments shall be equally to each court as follows:

A. GENERAL

1. CV Civil (including writs except some Habeas Corpus Writs – See Special Categories)
2. CV Wisconsin Department of Revenue Garnishments
3. CV Appeals to Circuit Court from Municipal Courts (Ordinance and Traffic Appeals)
4. CV Asbestos cases (Assigned by Administrative Judge)
5. CC Harassment Appeals and Child Abuse
6. S-1 Small Claims–Contested Eviction
7. S-2 Small Claims–Appeal/jury trials
8. S-3Small Claims–Contempt proceedings on Court Commissioner Cases
9. FA Family (Divorce/Legal Separations/Annulments)
10 FA-2 Other Family/Incoming URESA
11. PA Paternity
12. CF Criminal Felony

12A. CP Preliminary Hearings

12B. CI Section 980 Sexual Predator

12C. CX Complex Forfeiture

13. CM Criminal Misdemeanor

14. CT Criminal Traffic

15. TPR Involuntary and Voluntary Termination of Parental Rights

16. PR Probate Formal – Contested Matters

17. IN Probate Informal – Contested Matters

18. JD John Doe

19. AD Adoptions

20. IN-T/PR-T Trust, Petitions to Terminate Trusts, Construction of Trusts and Proceedings on Discharge of Trustees and/or Appointment of Successor Trustees

B. ROTATING CLASSIFICATIONS

Classifications/Categories 1, 3, 4 & 6 shall rotate for 18-month periods.
Classifications/Categories 2, 5 & 7 shall rotate for 36-month periods.

Category 1: ME, MG, GN –

33.33% Mental commitments, juvenile mental commitments, and guardianships. All Probate delinquencies. (Probate delinquencies include, Orders to Show Cause hearings on past due inventories and final accounts in formal probate, also unclosed formal and informal probate cases. Also includes OSC hearings for delinquent annual accounts in guardianships.) All open probate cases that pass their closing date during the rotation period shall be transferred from the Register in Probate's assignment listing to the judge's assignment listing who shall have the responsibility thereafter to work with the Register in Probate and to use whatever means are necessary to bring the case to a closing. (Rotation by due date of event) 33.33% of protective placement appeals from Court Commissioner 33.33% of jury trial demands in WATTS cases. (Shall be assigned to the judges that have this category at the time the appeal is filed or at the time the demand for jury trial is made)

Category 2: JC, JV –

33.33% of each Juvenile category (Rotation by filing date)

Category 3:

TR, FO, JO - City of Appleton traffic and ordinance including juvenile traffic and ordinance (Rotation by filing date) and County traffic and ordinance, state non-criminal traffic, non-Appleton traffic and ordinance, DNR violations (Rotation by filing date)

Category 4: ME, MG, GN –

33.33% of Mental commitments, juvenile mental commitments, and guardianships. (Rotation by filing date). 33.33% of protective placement appeals from Court Commissioner 100% of outgoing URESA (Rotation by filing date) 33.33% jury trial demands in WATTS cases. (Shall be assigned to the judges that have this category at the time the appeal is filed or at the time the demand for jury trial is made or filed.)

Category 5: JV, JC –

33.33% of each Juvenile Category (Rotation by filing date)

Category 6: ME, MG, GN –

33.33% of Mental commitments, juvenile mental commitments, and guardianships. (Rotation by filing date). 33.33% of protective placement appeals from Court Commissioner 33.33% jury trial demands in WATTS cases. (Shall be assigned to the judges that have this category at the time the appeal is filed or at the time the demand for jury trial is made or filed.)

Category 7: JV, JC –

33.33% of each Juvenile Category. (Rotation by filing date)

Exceptions (JV/JC):

a) Any extension, revision or sanction hearings should be scheduled in the court where the case originated, if it was originally filed within the present judicial rotation. Any case which was commenced prior to that judicial rotation period, but if the judge that issued the last order in the juvenile file is currently in juvenile rotation then s/he shall be assigned to that case and all other cases shall be reassigned pursuant to the 33.33% distribution to the current juvenile courts. Once a case has been assigned to one of the three juvenile courts, it remains with that judge for any additional extension, revision or sanction hearing until the end of that judicial rotation.

b) If in chips cases there are more than one child from the same family being processed all cases should be assigned to the same judge. (The judge with the lowest case file number.)

C. SPECIAL CATEGORIES

1. Writs of Habeas Corpus

a) All writs of habeas corpus from state correctional institution inmates will be treated as a civil case or incarcerated person (IP) case: a judge will randomly be assigned, that judge will immediately determine the merits of the petition.

b) From jail inmates with pending cases – to judge handling oldest open case.

c) Any situation not covered by A or B, above, shall be assigned by computer assignment under Category 1 – CV (writs of certiorari)

2. Post Divorce and Post Paternity - stay with judgment-granting Court.

3. Felony Cases: Under CCAP the case will be assigned upon filing to a Circuit Court, however the preliminary hearing shall be scheduled by the Clerk of Courts as set forth in this order.

D. Administrative Responsibilities shall be assigned as follows: February 1, 2015 – August 31, 2021

		BRANCH
1.	Presiding Judge/Liaison with Clerk of Courts office	5
2.	Family Matters, Family Court Commissioner and staff, Mediation Services	2
3.	Small Claim, Judicial Court Commissioners and staff	2
4.	Law Library, Security Committee	5
5.	Probate Matters, Probate Commissioner and staff, Guardianships, Mental Commitments, Trusts and Guardians ad Litem, Veterans Court	4
6.	Law Clerks, Juvenile Matters, Juvenile Intake, Human Services, Veterans Court	7
7.	Criminal, Ordinance and Traffic matters, Coordinating Council (Criminal Justice), Drug Treatment Court	3
8.	Civil Matters, CJTS Programs and staff, Drainage Board, Truancy Court	1

E. All circuit judges shall set aside the first Monday morning of the odd months of the year from 9:30 a.m. to 11:30 a.m. for a county judicial meeting.

EXHIBIT A – WORKLOAD DISTRIBUTION

Rotation Cycle of Cases in Rotation Category

8-1-2015 to 7-31-2021

	1st Period	2nd Period	3rd Period	4th Period
DATES	**8-1-2015 to 1-31-2017**	**02-1-2017 to 7-31-2018**	**8-1-2018 to 1-31-2020**	**2-1-2020 to 7-31-2021**
Branch 1	Category 6	Category 1	Category 3	Category 3b
Branch 2	Category 2	Category 2	Category 6	Category 4
Branch 3	Category 5	Category 5	Category 7	Category 6
Branch 4	Category 4	Category 6	Category 1	Category 7
Branch 5	Category 3	Category 4	Category 5	Category 5
Branch 6	Category 1	Category 3	Category 4	Category 1
Branch 7	Category 7	Category 7	Category 2	Category 2

Categories 1, 3, 4 & 6 shall rotate for 18 month periods

Categories 2, 5 & 7 shall rotate for 3 year periods

CATEGORIES:

1 Mental (ME/MG/GN 33 %)
2 Juvenile (JV/JC 33%)
3 City/County/State Traffic and DNR (FO/TR) *Rotation by filing date
4 Mental (ME/MG/GN 33%)
5 Juvenile (JV/JC 33%)
6 Mental (ME/MG/GN 33%)
7 Juvenile (JV/JC 33%)

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SECTION 2: GENERAL COURT RULES

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Scheduling Procedure

Counsel for parties in Outagamie County Circuit Court cases will not receive notice of further proceedings unless they have themselves initiated the proceeding or, they have filed a Notice of Retainer.

When Notice of Retainer is not on file, notice of court proceedings will be mailed to the party or client at such address as is provided the Clerk in the initiating documents or otherwise provided in writing.

Pre-Sentence Investigation Reports

1. The Probation Officer shall deliver to the Clerk of Courts the pre-sentence investigation report via electronic means at least five (5) days prior to the sentencing date.

2. The District Attorney and Defense Attorney shall be provided a copy of the pre-sentence investigation report. The District Attorney and Defense Attorney shall not copy the pre-sentence report.

3. Any copy of the pre-sentence investigation distributed to the District Attorney or Defense Attorney must be returned to the Court immediately following the sentencing hearing.

Domestic Abuse Bonds

WHEREAS Wisconsin Act 346 becomes fully effective on April 1, 1989, and this Statute, concerning domestic abuse cases, has some provisions concerning contact prohibition upon arrest, the Circuit Courts of Outagamie County order the following in an attempt to provide bond conditions consistent with this Statute, and to continue conditions which have been successfully enforced in the past;

IT IS HEREBY ORDERED upon release from custody following an arrest under section 968.07, Stats. (1987), and, unless there is a waiver as described below, the arrested person shall avoid the residence of the alleged victim of the domestic abuse incident, any premises temporarily occupied by the alleged victim, would avoid contacting or causing any person, other than attorneys for the arrested person and alleged victim, to contact the alleged victim. This condition shall be in effect for five (5) days immediately following the arrest for the domestic abuse incident. This five-day prohibition represents an additional period of "no contact" to that provided by the Statute, but is in no way inconsistent with the statutory provisions.

IT IS FURTHER ORDERED that consistent with section 968.075(5)(c), Stats., at any time during the five-day "no contact" period, the alleged victim may sign a written waiver of the requirements of the "no contact" provision set forth above. The law enforcement agency making the arrest shall have a waiver form available. Such waiver form shall be consistent with section 968.075(5)(b), Stats.

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Domestic Abuse Cases

IT IS HEREBY ORDERED, that all Bonds from the Outagamie County Sheriff's Department or Outagamie County Court Commissioner's Office are authorized to provide the following provisions on Bond Forms in Domestic Abuse cases concerning the five (5) day no-contact provisions of those Bonds:

Clothing or personal hygiene items for five days can be obtained only by one of the following Court authorized methods:

1. Through contact by defendant's attorney with the victim.

2. In cooperation with the arresting police agency at a mutually convenient time.

3. Pursuant to a hearing before the Court Commissioner scheduled after written request is filed with Commissioner's office.

Facsimile Transmission of Documents

Effective July 1, 1991 facsimile documents transmitted directly to the courts shall be accepted for filing only if:

a. The circuit court has a facsimile machine capable of reproducing documents that meet the Supreme Court Rule 72.01 concerning retention of filed documents. Only plain-paper facsimile machines currently comply with this requirement.

b. The circuit court has a facsimile machine physically located within the offices of the clerk of circuit court or the register in probate.

c. The document does not exceed fifteen (15) pages in length, excluding cover sheet.

d. No filing fee is required.

e. No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile document.

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

a. No filing fee is required.

b. No additional fee or charge must be paid by the circuit court for accepting or receiving the facsimile document.

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

The circuit court, judge or clerk is not responsible for errors or failures in transmission that result in missing or illegible documents or periods when a circuit court facsimile machine is not operational for any reason.

A judge assigned to a particular matter may authorize in advance the filing of particular documents in that case that do not conform to these rules if good cause is shown and they are in conformance with SCR 801.16.

Documents that are not to be filed but are to be used by the court for reference or other purpose may be transmitted by facsimile transmission at the discretion of the judge or clerk.

Threats Against Judiciary and Security Incident in the Courts

1. 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.

2. 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.

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

4. *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.

5. *Training*. Upon hiring, every employee (including elected officials) shall be trained in the policies and procedures of handling threats and security incidents, including the use and completion of the report form. Refresher training shall be scheduled for all court employees on at least a yearly basis. All training shall be coordinated by the circuit judge, clerk of court, and court security officer. To the extent possible, such initial and refresher training should include the following:

- 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.

6. *Threat/Security Incident Report form CS-265*. A record shall be made of all threats and security incidents on the 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.

7. *"Panic buttons."* The panic button 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.

8. *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.

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Procedure for Interpreter Billings

1. Interpreters agreeing to report for Court proceedings should appear 5 minutes prior to the scheduled court time.

2. Billings may be made from the reporting time on the basis of a one-half hour minimum per trip to the Outagamie County Government Center and, in .10 hour increments thereafter. If the interpreter comes from beyond a 20 mile radius of Appleton, then a one-hour minimum per trip may be billed. Similarly, if an interpreter has provided simultaneous interpretation/translation in Circuit Court proceedings for five years or more, then a one-hour minimum per trip may be billed.

3. Mileage is reimbursed at the rate of $.325 per mile per trip to the Courthouse. Mileage reimbursement shall be for actual mileage only.

4. Whenever an interpreter is required for a Court proceeding, the Clerk shall record in the minutes the scheduled time to start, the actual commencement of the proceeding and the adjournment time.

5. The interpreter shall submit charges at the close of the proceeding on a form provided by the Circuit Courts.

6. Appointments by the Court are for matters associated with in-Court proceedings only. Billing for matters associated with other Court activities must be billed to the party or attorney from whom the work is requested.

GAL Appointments in Harassment

No action for a Harassment Injunction may be filed on behalf of a minor petitioner unless the minor petitioner first has a Guardian Ad Litem appointed. Fees of the Guardian Ad Litem for the petitioner shall be paid by the County.

The Court or Family Court Commissioner may, at the time of the hearing on the injunction petition, assign responsibility for payment or reimbursement of the Guardian Ad Litem fees for the minor to either party or to the parent of any minor party.

Court Appointed Fee Schedule/Rules

The policies and procedures for court appointed attorneys shall be governed by the **attached schedule**, which is made an Order by the courts.

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Qualified Impact Program Order

WHEREAS:

1. Lock-up inmates may qualify under jail rules for the IMPACT Program and thereby be assigned to work in maintenance, painting, kitchen/laundry and similar areas of responsibility.

2. Qualified IMPACT Program inmates are compensated at a rate determined by the Sheriff.

3. Jail rules permit a sentence reduction of 1 day for each 24 hours worked where the inmates forego compensation in favor of community service.

4. The Circuit Judges approve the sentence reduction program.

NOW, THEREFORE, IT IS ORDERED:

1. Jail sentences shall be subject to reduction of 1 day for each 24 hours worked in the IMPACT program while in lock-up.

2. The jail shall report annually to the Coordinating Council and the Courts on the extent of utilization, impact on jail population and comparative success of IMPACT Program participants where such information is available.

3. The Program is available to all lock-up inmates, subject to Sheriff's Department screening and thus the Judgment of Conviction need not disclose eligibility. The Court may, however, determine ineligibility at the time of sentencing.

Communication With Probation Agents After A Court Orders A Pre-Sentence Investigation Report

1. For written communications: If an attorney contacts a writer of a PSI report regarding a substantive issue, they must include a cover letter summarizing the submissions made to the agent. A complete set of the communication must be sent to the Court and opposing counsel.

2. For telephonic communications: If an attorney contacts a writer of a PSI report regarding a substantive issue, opposing counsel must participate in the conference call.

3. For in-person communication: If an attorney contacts a writer of a PSI report regarding a substantive issue, opposing counsel must be present.

Notice of Appearance, Notice of Retainer or Order of Appointment by the Court

Notice of Appearance, Notice of Retainer or Order of Appointment by the Court or Public Defender **must** be filed for counsel undertaking ongoing representation in any circuit court proceeding.

Court-generated notices, orders or communication will be directed only to counsel who have filed such a notice or who proceed under Order of Appointment by the Court or Notice of Appointment by the Public Defender.

Outagamie County Court Rule on Foreclosure Procedures

IT IS ORDERED that in all foreclosure actions filed in Outagamie County after the effective date of October 19, 2012, the plaintiff shall attach to the Summons and Complaint served on the defendant/homeowner the following forms:

1) Notice of Availability of Mediation; and 2) Application for Mediation.

Forms, which shall be printed on light green paper, can be downloaded from the Outagamie County website at

http://www.outagamie.org/government/departments-a-e/clerk-of-circuit-courts , or will be available at the Outagamie County Clerk of Courts Office.

"Residential mortgage foreclosure actions" is defined as those foreclosure actions involving either first or second mortgages and involving one- to four-family residences, owner occupied, or tenant occupied, so long as the landlord owns no more than five one- to four-family rental properties.

While entry into the Foreclosure Mediation Program is voluntary for both parties, by consenting, the parties agree to abide by the process set forth in the Foreclosure Mediation Process Description below.

Foreclosure Mediation Process Description

A. Goal. The Outagamie County Foreclosure Mediation Program is patterned after the Wisconsin Foreclosure Mediation Network Model. The goal of the Program is to assist parties to determine, within a reasonable period of time, whether foreclosure can be avoided by an alternate mutually agreeable arrangement, such as a loan modification or repayment plan, or to allow for a graceful exit from the property. The mediation program seeks to achieve this goal by structuring the collection and exchange of information to prepare the parties for their mediation session. The neutral and impartial mediator then guides and summarizes the communications so that parties gain a complete and clear understanding of any options that may exist, or the reasons retention options are not available.

B. Eligibility. The Program is available to parties to a first or second mortgage foreclosure action involving a one- to four-family residential property. The Homeowner need not reside in the property, but they may not own more than four other rental properties. This is consistent with the eligibility criteria for the U.S. Treasury's Making Homes Affordable loan modification program. In addition, the action must be pending in Outagamie County. Vacation properties or "seasonal homes" are not eligible, nor are homes subject to a bankruptcy.

C. Request/Consent Process:

1. **Mediation Request Form.** To initiate the mediation process, either party may make a request. The Homeowner's request must utilize the "Mediation Request Form." Within two business days of receiving the Request Form, the Program Administrator will refer a housing counseling agency to the Homeowner via mail or email. The Homeowner's second step is to contact a housing counselor to set up a meeting for the purpose of compiling a complete financial package. The housing counselor sends the package directly to the Program Administrator through the portal, once designated. The Homeowner's third step is to pay the application fee of $150 by check, money order or credit/debit payment via telephone.

If the Homeowner does not complete all three steps within 60 days from receipt of the Mediation Request Form, in the absence of extenuating circumstances, the application will be deemed inactive.

2. **Lender's Consent.** After the Homeowner has completed all three application steps, the Program Administrator will notify Lender's counsel and request Lender's participation, seeking a response within 10 business days. Lender's non-refundable fee of $150 is due at the time of consent. If no response is received within 30 days, the Program Administrator will notify the Court that Lender has not responded and will close the mediation.

D. Mediation Preparation/Document Exchange:

1. **On-line Portal.** By consenting, Lender agrees to utilize an Administrator selected secure internet based portal to:

a. Post the lender required loan modification application forms and requirements,

b. Receive the Homeowner's loan modification package documents and

c. Exchange messages about any outstanding documents or information.

2. **Initial Submission of Loan Modification Request Packet ("Financial Package").** Within 2 business days of lender's consent, the Program Administrator will send the Homeowner's financial package to the lender, either via the Portal or via lender's counsel.

3. **Notice of Deficient Package and (Lender's Confidential Loan Data Sheet).** Within 5 business days after receipt of Homeowner's initial submission of information, Lender shall:

a. Notify the Program Administrator of any known deficiencies, including any missing information or documentation required for the loan modification application to be complete, and

b. Send the completed Confidential Loan Data Sheet.

4. **Supplemental Submission.** Within 10 days from the date of the Lender's notification of deficiencies in the financial package, Homeowner shall submit supplemental information or documents. This deadline may be extended for compelling circumstances beyond the Homeowner's control.

5. **Notice of Commencement of Review Period.** When no outstanding Lender requests for information or documents remain, the Program Administrator will send a Notice to the Court advising that:

a. The Homeowner has delivered to Lender, via Program Administrator, a completed application for a loan modification;

b. Lender is reviewing the application for alternatives to foreclosure; and

c. The next scheduled mediation activity.

F. Mediation Session

1. **Assignment of Mediator.** At the time of the Initial Submission, the Program Administrator will assign a trained neutral and impartial mediator, who will utilize the facilitative style of mediation, refraining from directing or advising the parties, and will abide by the Uniform Model Standards of Mediator Conduct.

2. **Attendance by Parties with Authority.** By consenting, Lender agrees to designate a representative with knowledge of all of the Lender's loss mitigation programs either with full authority to make a determination on the Homeowner's request or access to persons having such authority. Such representative may appear via video or teleconference. All attorneys will appear in person or via videoconference (if such accommodations are available). Absent prior arrangements, all mortgagors and the mediator must be present at the mediation session. If subsequent mediation sessions are scheduled, all appearances may be via teleconference.

3. **Confidentiality and Privilege.** All communications made by the parties, attorneys and other participants at or in connection with the mediation shall be privileged and not reported, recorded or placed into evidence, or made known to the Court or construed for any purposes to be an admission. The Mediator will keep confidential all statements made during the mediation session, and will report to the Court only the results of the mediation or the procedural status of the mediation case.

4. **Scope of Subject Matter.** The mediation session may include negotiation of a modification of the Homeowner's loan, whether by new payment terms, reduction or forgiveness in principal, interest, escrow shortage or advanced costs, surrender or sale of the mortgaged property or otherwise. Disputes of the amount due, application of payments, or other claims are within the scope of mediation only if both parties expressly make such election.

5. **Close of Mediation.** The Mediator shall cause the mediation process to conclude when:

a. The Homeowner has withdrawn from the mediation process,

b. The Lender has reached a determination about the Homeowner's eligibility for a loan modification and the Homeowner has been afforded an opportunity to discuss the determination during a mediation session, or

c. The Homeowner has failed, after 10 business days, to supply information or documents identified as outstanding by the Lender and the Lender has requested that mediation be closed.

The Program Administrator shall send to the Court a Final Mediation Report no later than 10 days after the conclusion of the mediation.

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Outagamie County Court Rule on Concealed Carry Law

WHEREAS:

1. The Circuit Courts of Outagamie County have the inherent authority to administer their courtrooms, subject to federal and state constitutions, to ensure the safety and fairness of the proceedings.

2. Courthouses, under Chapter 175, include the Outagamie County Government Center and the Outagamie County Human Services Building which includes Courtroom H.

3. It is the policy of the Outagamie County Circuit Courts that judges not carry concealed weapons in an Outagamie County Courthouse.

4. The office of the District Attorney in Outagamie County has advised the Circuit Courts of Outagamie County that as a matter of department policy, the District Attorney, Deputy District Attorney and Assistant District Attorneys will not carry firearms in the Outagamie County Courthouses.

5. It is a policy of Outagamie County that County employees not possess any weapon in county facilities, or in the performance of county duties, unless as a requirement of the job.

6. Outagamie County has established substantial resources and means of ensuring courthouse security, including prohibiting firearms from county buildings, security screening at the Government Center, emergency notification technology in Courthouse facilities, and guidelines for emergency response to all courtrooms.

7. The judges of Outagamie County are committed to implementation of Section 175.60 Wis. Stats. in an orderly fashion consistent with both individual rights and public safety.

NOW, THEREFORE, IT IS ORDERED

1. Any written authorization to carry a weapon in a courthouse or courtroom by an Outagamie County Judge under §175.60(16)(b)2 shall be submitted to the presiding judge in Outagamie County for final approval. If approved, the presiding judge shall provide a copy of the authorization to the Sheriff's Department and Appleton Police Department.

2. Any person authorized to carry a concealed weapon into a courthouse or courtroom under §175.60(16)(b)2 shall, at least seven (7) days before bringing any concealed weapon into an Outagamie County courthouse, file with the Clerk of Courts and the Outagamie County Sheriff's Department the following:

A. A copy of the order or authorization granting them permission to carry a concealed weapon in the courthouse and/or courtroom.

B. A written statement which discloses the following information:

1. Type of weapon.

2. The reasons to introduce the weapon to the courthouse and/or courtroom.

3. What business the individual will have at the courthouse while carrying a concealed weapon.

4. Whether the weapon will be carried in a courtroom and, if so, which courtroom(s).

5. The date or dates on which the individual intends to carry a concealed weapon in the courthouse.

The clerk of court shall provide a copy of the above filings to the presiding judge in Outagamie County and to any judge in whose courtroom a concealed weapon is proposed to be carried.

3. The Outagamie County District Attorney shall advise the presiding judge in Outagamie County of any change in policy such that the District Attorney, Deputy District Attorney or any Assistant District Attorney intends to carry a concealed weapon in a courthouse or a courtroom.

4. Any Outagamie County Circuit Court Judge shall advise the presiding judge in Outagamie County of any change in position such that the judge intends to carry a weapon in an Outagamie County courthouse as authorized by §175.60(16)(b)2. Any other Circuit Court Judge, reserve judge, or other judicial officer assigned to serve in an Outagamie County courthouse, shall advise the presiding judge of the intent to carry a concealed weapon in an Outagamie County courthouse prior to their service.

5. Upon application by any person to an Outagamie County Circuit Court Judge under §175.60(16)(b)2 for permission to carry a concealed weapon in a courthouse, the judge shall hold a hearing on the record and shall issue a written order. Such petition shall be in writing, shall be first filed with the Clerk of Courts, assigned randomly to a Circuit Court Judge and referred to the assigned Court with disclosure of any prior or pending applications under §175.60(16)(b)2.

6. Petitions for a 30 day emergency license to carry a concealed weapon may be filed under §175.60(9r) in the county of the petitioner's residence. Any such petition filed in Outagamie County shall be filed in writing with the Clerk of Courts, assigned a file number and assigned randomly to one of the Circuit Courts. Such petition shall be referred to the assigned Court with disclosure by the Clerk of any other applications by the same person for emergency orders.

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SECTION 3: RULES FOR CRIMINAL, TRAFFIC AND MISDEMEANOR CASES

Personal Appearance in Criminal Cases in Outagamie County for Initial Appearances

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Guidelines for Misdemeanor and Traffic Cases

Sec. 1 APPLICABILITY. These rules shall be applicable to all misdemeanor and traffic cases both civil and criminal, where the cases are assigned for jury trial.

Sec. 2 ASSIGNMENT FOR TRIAL. Trials shall be scheduled to be held within sixty (60) days following initial appearance or municipal transfer date, except that in those cases where a refusal hearing has been requested, the trial shall be scheduled within sixty (60) days after the refusal hearing decision.

Sec. 3 DETERMINATION OF TRIAL DATE. At the time of the initial appearance or municipal transfer, the Court Commissioner shall assign each case either a jury trial date together with a pretrial conference date or just a pretrial conference date as directed by the specific circuit court.

Sec. 4 DISCOVERY DEMANDS. Written discovery demands, under Section 971.24 through 24 and 345.421, must be filed within ten (10) days of the initial appearance pursuant to section 97131(5)(a) and 345.421. The responding party shall reply to the discover demand within fifteen (15) days of the receipt of the written discovery demand, except that in cases where refusal hearings have been requested the response shall be made within fifteen (15) days after the refusal hearing decision.

Sec. 5 PRETRIAL CONFERENCE. The pretrial conference shall be held approximately two weeks prior to the jury trial before the Court. The defendant must be present at this conference unless the attorney has full authority to enter a negotiated agreement at the time of the conference. The attorneys who have full authority in the case for both sides must be present at this conference. All unrepresented defendants must be present at the conference. Failure to make the required appearance may result in a default judgment being entered in a forfeiture matter against the defendant and a warrant in criminal matters. Failure of counsel to be present may result in a fine being levied for contempt as to either side in this case.

The attorneys are to notify the Court if they have reached a negotiated settlement in the case. The Court Commissioner will take pleas and impose sentences on forfeiture actions.

MOTIONS. All motions which should be capable of resolution before trial, including motions to suppress statements, must be filed in writing within ten (10) days from the initial appearance. Motions based upon information first obtained as the result of the discovery answer shall be filed within ten (10) days after the completion of discovery.

Sec. 7 JURY FEES. In cases where there is a combination of criminal and traffic regulation or ordinance charges and a jury trial is demanded, a jury fee must be posted in the forfeiture matters.

The time requirements for the posting of the jury fee should be as follows:

a) If a pretrial is requested, the fee must be posted within ten (10) days from the time of the pretrial;
b) If no pretrial is requested, the jury fee must be paid within ten (10) days from the initial appearance.
c) Where criminal and forfeiture charges are filed arising out of once incident, separate jury trials will be scheduled.

Sec. 8 REFUSAL HEARINGS. The Outagamie County Court Commissioner shall hold refusal hearings where a timely written demand has been filed pursuant to the Statutes. The Court Commissioner's Findings and Recommendations are subject to review by the Court where an objection is filed within ten (10) days' time after counsel are notified as to the Findings.

Personal Appearance in Criminal Cases in Outagamie County for Initial Appearances

Personal appearances will be required at all initial appearances in criminal matters except as noted below.

Initial Appearance by Mail in Criminal Misdemeanor Cases

Attorneys may appear by mail at the Initial Appearance on all non-traffic Criminal Misdemeanor cases scheduled by Summons, upon filing in advance of the appearance date, a written plea of not guilty; a written Authorization to Act; and a written Notice of Retainer or Order of Appointment. Filings comprising the written appearance must be received in the Clerk of Court's office three (3) business days prior to the initial appearance.

At the Initial Appearance, upon filing of the trial request, notice of pretrial conference and trial dates or just pretrial conference dates will be provided to counsel for the defendant and to the State.

Personal appearances will be required of all defendants not represented by counsel.

This rule supersedes the Court Rule authorizing written appearance dated January 5, 1998.

Waiver of Preliminary Hearing When Accompanied With a Plea Bargain

When a preliminary hearing is scheduled and the parties appear and waive the preliminary hearing without entering a plea, the case shall be assigned for arraignment to a circuit court by the usual lottery system.

When a preliminary hearing is scheduled and the parties appear and waive the preliminary hearing as a part of a plea bargain, the circuit court scheduled for the preliminary hearing shall consider the plea bargain, make its findings and, if the plea bargain is accepted by that Court, may retain the matter in that Court for sentencing.

This rule shall apply for both pleas to felonies and plea bargains that amend the charge to misdemeanors.

Amendment or Dismissal of Felony Cases by the District Attorney

WHEREAS, the Circuit Courts are to accept pleas that are in the public interest; and

WHEREAS, the District Attorney has the discretion to submit negotiated pleas to the Court for the Court's approval; and

WHEREAS, the District Attorney makes such decisions based upon information which is unavailable to the Court but which the Court should have available to it before accepting a negotiated plea:

NOW, THEREFORE, IT IS HEREBY ORDERED that the District Attorney shall file, at the time of a plea wherein any felony count is being amended or dismissed, a written statement containing the factors and considerations taken into account in making such plea negotiation, including but not limited to prior criminal record of the defendant and statement from the victim.

This court rule shall become effective for any plea taken after July 1, 1990.

Habitual Traffic Offender

A person filing a petition as a Habitual Traffic Offender for an Occupational License shall bring with them to court for the hearing a complete Driving Record Abstract from the Department of Transportation and a SR22 proof of insurance form. Without such items, the petition will be dismissed. The record shall not be dated before the date of filing of the petition.

The Clerk shall advise all persons filing such a petition of the court rule.

Substitution in Misdemeanors and Misdemeanor Criminal Traffic

In Misdemeanor and Misdemeanor Criminal Traffic cases, a request for Substitution of a Judge must be filed within seven (7) days of the initial appearance when the Circuit Court or Judge is disclosed at or before the conclusion of the initial appearance. Where the Circuit Court or Judge is not disclosed at the initial appearance, the substitution request must be filed not later than seven (7) days after the filing of the notice or order designating the Circuit Court or Judge.

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Probation for Misdemeanor Offenders

WHEREAS;

1. Misdemeanor offenders in Outagamie County are from time to time placed on probation through Outagamie County Criminal Justice Treatment Services.
2. Conditions of probation routinely include the payment of various amounts for costs, fees and restitution.
3. The Judgment of Conviction need not set forth a schedule for payment, and the Criminal Justice Treatment Services office may, but need not, set up a payment schedule.

4. It is necessary under these circumstances to make clear the time, when under any circumstances, all payments must be made absent a contrary condition in the Judgment of Conviction.

Notice of Intent to Revoke

Whenever Notice of Intent to Revoke is filed with the Clerk of Courts as a result of a refusal to take a sobriety test, the law enforcement agency filing the Notice must file a report or statement declaring the number of prior offenses under s.343.307, Wis. Stats.

Guidelines for Deferred Prosecution Agreements

The following guidelines are hereby established by the Judges to determine those cases which might be appropriate for a deferred prosecution agreement:

1. A DPA will not be offered if the case is charged as a battery and there is clear evidence of substantial bodily harm.
2. A DPA will not be offered if the case is charged as a battery where there has been the use or threat of use of a weapon, such as a gun or knife.
3. Generally, a DPA will not be offered where the defendant has any prior criminal record or had previously been under Probation and Parole supervision.
4. A DPA will not be offered when the defendant has failed to complete or participate in Court-ordered drug or alcohol abuse treatment, and the incident was associated with the use of drugs.
5. If none of the above apply to exclude a DPA, then the following relevant factors should weigh in the decision to exclude or offer a DPA:
    - prior police contacts
    - prior domestic abuse history
    - violations of temporary restraining orders
    - whether the defendant has voluntarily engaged in counseling
    - treatment since the incident leadings to arrest; time elapsed from other violations or failed treatment
    - present or past injunction against the defendant

When offering to resolve a case by means of a DPA, the prosecutor and defense counsel should be prepared to explain the rationale for offering a DPA within the confines of the above factors.

Outagamie County Court Rule on Bail Bond

The following procedure is adopted:

Three (3) months after a defendant fails to appear at a required Court hearing, the Clerk of Courts is authorized to begin the bail bond forfeiture procedure per Wis. Stat. s.969.13.

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TRAFFIC FORFEITURES AND ORDINANCE VIOLATIONS

The following procedure is adopted:

Upon conviction, the clerk of courts office shall mail to the last known address of the defendant either a *Default Judgment* or a *Judgment of Conviction* and *Reminder Notice,* whichever is applicable. The *Default Judgment* and *Reminder Notice* shall state the date the assessment is due and the failure to pay enforcement actions that may be taken if the assessment is not paid in full by the due date. Failure to pay enforcement actions authorized by Wisconsin State Statutes include but are not limited to: driver's license suspension, issuance of a civil judgment, tax refund intercept, income assignment, and referral to a collection agency. If the defendant fails to pay the assessment in full by the due date listed on the *Default Judgment* or *Judgment of Conviction,* the clerk of courts office may impose any or all of the failure to pay enforcement actions.

Consolidation of Cases

WHEREAS: Assignment of all pending cases for one defendant to one court would be beneficial to the courts, the defendants, prosecutors and defense attorneys.

1. At the initial appearance in a criminal case, a trial judge shall be assigned from the random draw except as provided in this rule.
2. A single judge shall be assigned all files presented against a defendant at initial appearance.
3. If a defendant has a criminal case pending, any subsequently filed cases shall be assigned to the judge with the earliest pending case. The district attorney shall advise the Court Commissioner at the initial appearance, who shall assign the judge of the earlier pending case, and the clerk's office shall so designate. Once all pending cases against a single defendant are closed, any new cases will be assigned in accordance with Item 1. above.
4. When a criminal complaint lists more than one defendant, one assignment shall be drawn per file.
5. All defendants in a multiple-defendant complaint shall be assigned the same trial judge, and in the case of felonies, all defendants should be scheduled for preliminary hearing at the same time, if possible. The district attorney shall notify the court commissioner at initial appearance in multiple defendant cases which judge has been previously assigned the case, if a trial judge has been previously assigned.

   If multiple defendant cases are inadvertently assigned to different trial courts, they will be administratively transferred by the chief judge to the trial judge first assigned.

Civil Case Consolidation. Petition and proposed Orders to consolidate pending civil actions under §805.05 Wis. Stats, shall provide for consolidation to the Court with the first filed case.

Joinder of Parties - Criminal

The following procedure is adopted:

Sec. 971.12(2) allows joinder of multiple defendants by charging the defendants in the same complaint, information or indictment. Where multiple defendants are so joined, the joined case shall be assigned to a single Circuit Court. Separate and consecutive case numbers shall be assigned by the Clerk to each joined defendant. The first numbered defendant shall be assigned randomly in the usual fashion. The consecutive defendants shall be assigned to the same Court. Parties shall utilize case numbers for all parties on any filing in a joined case and the caption on any filing shall identify all parties.

No scheduling of proceedings for separate parties in a multi-defendant case shall occur unless ordered by the assigned Circuit Court. Notice of any proceedings in a joined case shall be made to all joined parties or their counsel. Joined defendants shall remain joined for preliminary hearing(s), motion hearings and trial purposes subject to severance orders issued by the Circuit Court.

Traffic and Forfeiture Default Judgments

IT IS ORDERED that when a defendant does not appear on the traffic return date or fails to request a timely refusal hearing, the defendant will be found guilty by default and the Clerk of Court is hereby ordered to render and enter judgment. The Clerk of Court shall inform the defendant of the Court's finding of guilt and of the penalties imposed.

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SECTION 4: COURT COMMISSIONER RULES

1. CRIMINAL COURT RULES

1. Personal appearances are required by the defendant, prosecutor, and defense attorney on Felony matters at the Initial Appearance. However, a defense attorney may file a written Authorization to Act within 10 days of the Initial Appearance date by request on misdemeanor matters.
2. Attorneys may appear in writing at the Initial Appearance on all non-traffic Criminal Misdemeanor cases scheduled by Summons, upon filing in advance of the appearance date, a written plea of not guilty; a written Authorization to Act; and a written Notice of Retainer or Order of Appointment. Filings comprising the written appearance must be received in the Clerk of Court's office 5 business days prior to the initial appearance. At the Initial Appearance, upon filing of the trial request; notice of jury conference or status conference and trial dates will be provided to counsel for the defendant and to the State. Personal appearances will be required of all defendants not represented by counsel.

3. Statutory time periods will be followed unless special exception is granted in advance.
4. Persons arrested on a body only warrant over the weekend will have their case taken up at 8:45 a.m. Monday morning. If they are booked in after **12:00 p.m.** the case will be taken up the following day. All other in custodies will be heard at 3:30 p.m. Monday through Friday. Persons booked into jail after **12:00 p.m.** may first appear in court on the next business day following arrest at 3:30 p.m. for the setting of bail if they have not posted pursuant to the normal bond schedule at the jail. Same day initial appearances will be provided for all persons booked into jail before **12:00 p.m.**
5. Written bond forms will be given to the defendant and to the person posting bail if bail is required. Cash bail will be returned to the person posting after fines, forfeitures and costs have been deducted.
6. All scheduling by the Court Commissioner or his staff will be done pursuant to the guidelines established by Circuit Court Judges. Deviations or continuances must be arranged through the assigned Judge.
7. Initial appearances by summons will be scheduled by the District Attorney's Office on Tuesday's at 1:00 p.m. and 1:30 p.m., Thursday at 1:00 p.m. and 1:30 p.m.
8. Audio/visual appearances may be permitted under certain circumstances upon request in advance and with the permission of the Court.
9. Changes in dates by telephone will only be allowed in emergency cases. Documentation of the emergency may be required by the Court Commissioner.
10. Modification of bail hearings will be scheduled in the normal course of business upon written request.
11. Parties represented by an Attorney may request continuances in misdemeanor cases with prior written approval. Felony matters with representation by an Attorney may be rescheduled with the agreement of the District Attorneys Office. All requests for continuances must be in written form.

12. Felony cases will be scheduled for preliminary hearing within 10 days where a cash bond over $500.00 is required and 20 days where a cash bail under $500.00 or a signature bond has been authorized. Rescheduling will be done only if the time has been waived or will be waived within the 10 or 20 day time period. This must be done on the record by all parties.

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2. JUVENILE COURT RULES

1. All juvenile delinquency and chips petitions shall have initial appearances and status conferences before the Court Commissioner on Tuesdays between 9:00 a.m. and noon.
2. Personal appearances are required by the juvenile, prosecutor and defense attorney on juvenile delinquency matters.

3. Changes in dates by telephone will only be allowed in emergency cases. Documentation of the emergency may be required by the Court Commissioner.
4. All requests for juvenile detention hearings needed that day must be made by 10:30 a.m. by calling the Court Commissioner's Judicial Assistant and notifying the District Attorney and the State Public Defender Office of the date and time of the hearing.
5. All detention hearings will be scheduled at 3:00 p.m. Monday through Friday.
6. Juvenile detention hearings shall be scheduled within the first working day following the detention.

3. ORDINANCE COURT RULES

1. If a person cannot attend the initial appearance date that is reflected on the citation a person may file a written request to have the case rescheduled. That request must be filed in written form before the initial appearance.
2. If you enter a plea of guilty or no contest a forfeiture of money shall be ordered.
3. If a plea of not guilty is entered with a request for a trial the trial will be scheduled before the court unless there is a demand for a jury trial. If there is a demand for a jury trial the fee for a six person jury is $36.00 which must be posted within 10 days of the initial appearance. The jury fee is non refundable and not applicable to any fine received.
4. There may also be a request for a pre-trial conference with the prosecuting attorney prior to a court trial. Pre-trials seldom result in a dismissal of charges, but frequently a compromise is reached.
5. Stipulations must be filed on or before the scheduled time to review the stipulation or personal appearances are required. Failure to file stipulations or failure to appear will result in a default judgment, dismissal or warrant as appropriate. The defense attorney is responsible for the stipulation to be filed with represented defendants and the prosecution is responsible to file stipulations with non-represented defendants.
6. Personal appearances are required by the defendant or his/her attorney w/authorization. This includes the authorized employee in instances of corporate or business defendants. No appearances will be allowed by others, e.g. parents, spouses, or friends. The defendant is allowed one continuance in these matters and that request must be in written form.
7. If the citation is for underage drinking/alcohol and the defendant wishes to participate in the Juvenile Drinking Diversion Program a plea of guilty or no contest must be entered. A confirmation report must be filed with the court that the defendant has contacted the appropriate agency. The case will then be adjourned for 90 days for completion of the education/treatment program. Upon completion a compliance form must then be brought back on the continuance date if you want to have the benefit of a reduced fine and waiver of the driver's license suspension under the Juvenile Drinking Diversion Program.

8. Any fines, forfeitures, or costs imposed are due at the time of imposition unless the court provides for payment to be made within 30 days. Defendants requesting

any type of payment plan are directed to contact the cashier at the Clerk of Court's Office.
9. Juveniles may request community service in lieu of payment of fines, forfeitures, or costs at a payment hearing with prior written notice to the Court.
10. Alternative suspensions of drivers' licenses for non-payment will be effective at 4:30 p.m. on the date payment is due.

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4. PROBATE COURT RULES

1. The Court Commissioner shall follow all policies and procedures established by the Circuit Court.
2. Probable cause hearings for mental or alcohol commitment, or protective placements shall be heard at the Government Center before the Court Commissioner unless the person is medically unable to travel to the Court
3. The petitioning party shall contact the Court Commissioner's Judicial Assistant for scheduling purposes.
4. Findings and Orders in Guardianships, Conservatorships and Mental commitments.

    1. Beginning with all cases of the above nature heard subsequent to the signing of this policy, all Findings and Orders consistent with court proceedings shall be presented to the respective court for signature no later than 14 days following said proceedings. Failure to comply with this policy will result in the issuance of an order to show cause, and/or imposition of such sanctions as the court deems appropriate.

5. Watts Procedures (Hearing is Requested)

    1. GAL shall notify the Public Defender Office within 2 days of meeting with ward and an oral request for hearing is made.
    2. If the GAL has not received a response from the Public Defender Office within 7 days, he/she should follow-up, and if necessary, prepare the appropriate order appointing counsel. (The sooner counsel is appointed the better.)
    3. GAL should file report with the Register in Probate Office within 5 days of meeting with ward and provide a copy to the Corporation Counsel (only when a hearing is requested). Upon the appointment of Adversary Counsel, the GAL shall provide a copy of the Watts review to said Counsel.
    4. Within 7 days of the Corporation Counsel receiving the Gal Report, the Corporation Counsel shall file a written report regarding the issues in question with the Register in Probate Office and provide a copy to both Adversary Counsel and the GAL.
    5. Within 7 days of the GAL and Adversary Counsel receiving the Corporation Counsel's written position, each shall respond in writing as to his/her position on the issues. The original is to be filed with the Register in Probate Office and a copy provided to the Corporation Counsel.

6. Any request for removal of a Watts hearing from the calendar shall come from either Adversary Counsel or the appointed GAL.

6. Watts Review (Effective October, 2001, when hearing is not requested)

1. The Guardian ad Litem will have 30 days to conduct the review and file the Annual Report of the Guardian ad Listen with the Register in Probate Office.
2. Watts review summary hearing will be scheduled by the Register in Probate at the time the Guardian ad Litem is appointed.
3. The Guardian ad Litem will give notice to the ward and the guardian both in person and by phone of the scheduled hearing date.
4. The Watts review summary hearings will be held on the 1st or 3rd Tuesday of the month with the Register in Probate.
5. The GAL shall appear at the hearings, no other interested parties needs to appear unless they object to the continued protective placement.
6. The Court will make the necessary determination and findings based upon the reports on file. The Court will then enter the Order for Continued Protective Placement based upon said findings.

5. MISCELLANEOUS COURT RULES

1. The Court Commissioner shall follow all policies and procedures established by the Family Court Commissioner on family court cases.
2. Weddings may be scheduled by contacting the Court Commissioner's Judicial Assistant.

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SECTION 5: Family Court Rules

1. FAMILY COURT STRUCTURE

2. EX-PARTE ORDER TO VACATE RESIDENCE

3. PROCEEDINGS BEFORE FAMILY COURT COMMISSIONER

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5. NOTICE TO THE CHILD SUPPORT AGENCY

6. ORDER FOR APPEARANCE OF LITIGANTS

7. ARREARAGE

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9. CUSTODY AND/OR PHYSICAL PLACEMENT STUDIES

10. SUSPENSION OF PROCEEDINGS IN DIVORCE ACTIONS

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12. FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

13. FILING DOCUMENTS

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17. UNREPRESENTED LITIGANTS

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19. APPEAL FROM DECISION OF A COMMISSIONER ON PETITION FOR DOMESTIC ABUSE OR HARASSMENT INJUNCTION

20. GAL APPOINTMENTS IN HARASSMENT INJUNCTIONS

21. ADJOURNMENT, CONTINUANCE, OR RESCHEDULING OF A PENDING MOTION OR HEARING IN FAMILY COURT

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1. FAMILY COURT STRUCTURE

1. Family Court Matters: Family Court matters will consist of all actions affecting the family as enumerated in Section 767.001(1) of the Wisconsin Statutes.
2. Assignment of Judge to Family Court: All Family Court matters except as indicated below will be heard by the Circuit Court assigned in accordance with the Circuit Court workload distribution rules.
3. Caption on Family Court Matters: All matters filed in Family Court shall be captioned: State of Wisconsin – Family Court – Outagamie County.

2. EX-PARTE ORDER TO VACATE RESIDENCE

1. An ex-parte temporary restraining order under §813.12(3) may be issued only if the Judge or Family Court Commissioner has reasonable grounds to believe that the respondent has engaged in, or based on prior conduct the respondent may engage in, domestic abuse of the petitioner.
2. Such grounds must be set forth in a petition consistent with §813.12(5)(a).

3. If such relief is granted ex-parte, it shall be effective for no more than 14 days, unless extended by written consent, or extended ex-parte another 14 days upon failure to serve respondent with due diligence shown by petitioner.
4. The Judge or Family Court Commissioner shall hold a hearing post-temporary restraining order within 14 days of said order, and the issuance of injunctive relief under §813.12(4) shall be considered.

3. PROCEEDINGS BEFORE FAMILY COURT COMMISSIONER

1. Temporary Hearings:

    1. Initial orders to show cause and motions for temporary orders as authorized in §767.225 Wis. Stats., shall be brought before the Family Court Commissioner.
    2. Any motion to review an order or decision of the Family Court Commissioner shall be governed by §767.17 and 757.69(8) Wis. Stats. Any party has the right to a de novo hearing before the assigned Judge if a written request is filed with the Clerk of Courts within 10 business days of receipt of the order signed by the Family Court Commissioner. A temporary Order is effective when signed by the Family Court Commissioner and remains in effect while the action is pending unless altered on de novo appeal or by other subsequent order. The Circuit Court's subsequent de novo hearing order shall apply retroactively to the effective date of the Family Court Commissioner's order unless otherwise provided by the Circuit Court.
    3. No such motion shall be heard and no action shall be set for trial until the Summons, Petition, Affidavit and Order to Show Cause, if any, have been filed with the Clerk of Courts.

2. Notice for Hearing before the Family Court Commissioner

    1. Pursuant to §801.15(4) Wis. Stat., a written motion and notice of hearing thereof shall be served not later than five (5) days before the time specified for the hearing.
    2. An Affidavit and Order to Show Cause shall be served not later than forty-eight (48) hours prior to the time specified for the hearing.
    3. Saturdays, Sundays and legal holidays shall be excluded in the above computations.

3. Temporary Hearing Requirements

    1. Upon all hearings scheduled before the Family Court Commissioner, both parties shall appear in person and with their attorneys, if any, unless excused for good cause by the Family Court Commissioner.
    2. At the time of the initial temporary hearing before the Family Court Commissioner, whether by order to show cause or motion, any party represented by counsel should file a temporary financial disclosure statement no later than the time of the temporary hearing.

4. All divorce cases which are stipulated as to all issues shall be set for hearing for divorce before the Family Court Commissioner. If one or more of the parties are represented by counsel, said hearing may be scheduled on representation by counsel

that a written stipulation is drafted and signed by the parties and has been reviewed by the Child Support Agency. If neither party is represented by counsel, said hearing shall only be scheduled if the written stipulation has been reviewed and approved as to form by the Self Help Center and the Family Court Commissioner. In all cases, if public assistance is involved the stipulation must have the prior approval of the Child Support Agency before scheduling it for hearing.

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4. SCHEDULING OF FAMILY COURT MATTERS

1. Once a family court matter has been scheduled, it will be adjourned only for cause and with the consent of the Judge to whom it was assigned.
2. Stipulated Divorce Cases: If the case is stipulated as to all issues, it shall be set for hearing before the Family Court Commissioner. Said hearing shall only be scheduled after a representation by counsel that a written stipulation is drafted and signed by the parties and has been reviewed by the Child Support Agency. If neither party is represented by counsel, said hearing shall only be scheduled if the written stipulation has been reviewed and approved as to form by the Self Help Center and the Family Court Commissioner. In all cases, if public assistance is involved the stipulation must have the prior approval of the Child Support Agency before scheduling it for hearing.
3. All divorce cases not scheduled for trial within seven (7) months after filing and in which no current written reconciliation agreement is pending shall be set for scheduling conference with the court assigned. The judge shall at the scheduling conference encourage settlement of all outstanding issues and if settlement cannot be obtained enter an appropriate scheduling order setting forth dates for the exchange of all financial information, appraisals, tax returns, and setting dates for the cutoff of discovery and trial and setting any and all other dates appropriate to bring the matter to a conclusion. Trial shall be scheduled in the assigned circuit court.

4. Contested Divorce Cases are those for which the issues are not substantially stipulated.

    1. The party requesting a date for contested hearing shall file with the court a certificate stating that all unresolved issues have been discussed by the parties and counsel or that they are unable to engage in such discussion, and that it is not presently possible to stipulate as to all issues, and that discovery has been completed.
    2. Said certificate shall set forth with specificity the remaining unresolved issues and moving party shall attach thereto copies of:
        1. Appraisals or certificates of value on all property, real and personal, including pension and profit sharing plans, on which value has not

been agreed, in writing, signed by the person(s) intended to be called as witnesses at trial, if necessary.

2. Updated Financial Disclosure Statement with figures intended to be relied upon at trial, including the basis for any values not supported by appraisal or certificate of value. Attached thereto shall be copies of the latest two years federal and state income tax returns.
3. The certificate shall contain a written statement by the party that he or she intends to rely on the values set forth in said certificate.
4. A proposal for custody and placement, if such are in dispute, together with a list of witnesses intended to be called at trial, if necessary.
5. In contested cases where contribution to attorney's fees is sought, the Certificate of Contested Issues must include a complete and full recitation of costs and disbursements incurred by the party seeking contribution, and further must include a full and complete recitation of all activities and time spent by counsel in representation. Absent a disclosure of the attorney's fees, costs and disbursements in accordance herewith, contribution will not be allowed.

3. A copy of the certificate and attachments shall be filed with the court and served on opposing counsel or the other party if unrepresented. The values set forth shall, in the absence of manifest injustice, be conclusive at trial unless, within twenty (20) days after service, the opposing party files with the Clerk of Courts, and serves on the moving party, or counsel, if any, information and documentation as set forth in section 4.2 above, on which they intend to rely at trial. Proof of service shall be filed with the court.
4. Expert witnesses shall be disclosed with the filing of Certificate of Issues.
5. Before scheduling as either stipulated or contested, the scheduling clerk shall determine:
    1. The required waiting period has been waived or met, or will be met prior to the date scheduled.
    2. That proofs of service or written waiver as required by statute are in the file, and
    3. That the custody report, if applicable, has been filed or, in the alternative, a written statement from the Family Court Program that the custody report will be available by a date certain.
6. Post Judgment Matters**:** See Section XVI of the Outagamie County Family Court Rules, infra.

5. NOTICE TO THE CHILD SUPPORT AGENCY

When any party is receiving public assistance, [foster care, child care assistance, Badger Care, W-2, medical assistance or foodshare] has applied for public assistance or has received public assistance during the pendency of the action or an arrearage exists in favor of the State of Wisconsin, the moving party shall give notice to the Outagamie County Child Support Agency in accordance with Section 767.217 Wis. Stats., submit a copy of the financial disclosure statement, the final stipulation, if any, and the Findings of Fact, Conclusions of Law and Judgment of Divorce. Notice of

all court hearings or family court hearings shall be given to the Outagamie County Child Support Agency.

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6. ORDER FOR APPEARANCE OF LITIGANTS

Pursuant to Section 767.235 Wis. Stats., unless non-residence in the State is shown by competent evidence, service is by publication, or the Court shall for other good cause otherwise order, both parties in actions affecting the family shall be required to appear at the trial. An order of the Court or Family Court Commissioner to that effect shall, accordingly, be procured by the moving party and shall be served upon the non-moving party before the trial.

7. ARREARAGE

Unless otherwise ordered by the Court, all arrearage in temporary child support and maintenance or family support ordered before the judgment shall be carried forward as an arrearage in the judgment. Unless the parties agree otherwise, or it is shown by credible evidence that the records of the Child Support Agency are not accurate, the amount of such arrearage shall be as shown by such records.

8. MAINTENANCE PROVISION TO RETAIN JURISDICTION

Unless otherwise provided by the Court, where no maintenance amount is fixed at the trial and jurisdiction is retained to fix maintenance in the future, a provision substantially as follows shall be included in the judgment: "The party(ies) retain(s) the right to request maintenance until _____. Their right to request maintenance is limited to an appropriate substantial change in circumstance consistent with the requirements of 767.59(1f) Wis. Stats., or other circumstances as agreed to by the parties and indicated herein."

9. CUSTODY AND/OR PHYSICAL PLACEMENT STUDIES

1. In all matters where custody or physical placement is an issue, the court or Family Court Commissioner shall enter an order requiring the parties to attend at least one session with a mediator pursuant to 767.405(5) & (8), Wis. Stats. This session may be waived by the Court upon finding that attending the session will cause undue hardship or would endanger the health or safety of one of the parties, pursuant to 767.405(8)(b).

2. Parties to any action affecting the family may, at their own expense, receive mediation services from a private mediator, pursuant to s.767.405(7). Parties who receive services from such a mediator shall sign and file with the Director of Family Court Counseling Services and with the Court or Family Court

Commissioner a written notice stating the mediator's name, and the date of the first meeting with the mediator.

3. Upon notification by the Court designated mediator, or by a private mediator, that mediation has been terminated and no agreement has been reached, or upon request of either party, the Court or Family Court Commissioner shall appoint a Guardian ad Litem consistent with 767.405(12)(b) and 767.407 Wis. Stats., except when an exception as provided under 767.405(1)(am) applies. The matter shall then be set for Guardian ad Litem review hearing and/or for a status conference to determine whether a legal custody or physical placement study is needed. The Guardian ad Litem review hearing and/or status conference shall be attended by both parties and counsel, if any, and the Guardian ad Litem for the child(ren). The Court shall enter any order for a study, if required. The fee policy for Family Court Services for Mediation/Studies shall apply.

   Before a Custody Study is started, the parties shall be required to participate in a pre-investigation interview to determine if further mediation is appropriate. If further mediation is determined to be appropriate at the interview, or at any time during the evaluation, the parties may be referred to mediation services or may participate in the county provided program in accordance with Family Court Rules.

   Mediation Services shall conform to the following standards:

   1. The mediator should have not less than twenty-five (25) hours of mediation training, or not less than three (3) years of professional experience in dispute resolution. Every mediator assigned under 767.405(6)(a) shall have training on the dynamics of domestic violence and the effects of domestic violence on victims of domestic violence and on children.
   2. The mediator should meet with the parties for a significant length of time in order to provide the parties meaningful mediation as anticipated by Wis. Stats. §767.405 and fulfilled his or her duties as set forth in Wis. Stats. §767.405(2)-(10).
   3. Notification of use of a private mediator under 767.405(7) shall include an indication of whether the mediation conformed to both statutory requirements and the rules indicated therein.

4. If an agreement is reached in mediation, the agreement must be prepared in writing and submitted for review to the attorney, if any, for each party and by the Guardian ad Litem, if one has been appointed. The reviewing attorney or attorneys and the Guardian ad Litem must certify in writing on the agreement that they have reviewed the agreement, and the Guardian ad Litem must comment on the agreement based on the best interest of the child.
   The Director of Family Court Services, the Family Court Commissioner, or Circuit Court may reject a proposed mediation agreement for the following reasons, but not limited hereto:
   1. The mediation agreement is not in the best interest of the child because the agreement does not address all pertinent and relevant issues concerning the

child and issues which materially impact upon the child's well-being are therefore, unresolved.

2. The agreement is contrary to the factors set forth in Wis. Stats. §§ 767.41(2)-(5).

5. In all cases where custody, physical placement studies have been ordered, a notice of the filing of said study shall be given by the Court, to the attorneys for the parties, and the Guardian ad Litem and any unrepresented party, who may then review the same in the offices of the branch of the Circuit Court where the action is pending, or the Clerk of Court's office.

6. Any attorney for any party, the Guardian ad Litem and an unrepresented party may obtain a copy the Case Assessment and Conclusion in any case involving said Guardian ad Litem, attorney for any party or such party, by submitting a written request to the Court for a copy of said report. Release of said report shall be subject to the following conditions:

1. The recommendation section of the Custody Evaluation is the only section that may be reproduced by said attorney and provided to their client. All other portions of said report shall not be reproduced in any fashion by said attorney, Guardian ad Litem or unrepresented party.
2. Any such attorney, Guardian ad Litem, or unrepresented party shall be advised that the contents of such report should not be disclosed to any person or persons other than a party to the case wherein the custody evaluation has been made.
3. Copies of such reports shall be returned to the Court upon completion of the case.

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10. SUSPENSION OF PROCEEDINGS IN DIVORCE ACTIONS

1. All orders to suspend proceedings in divorce actions to effect reconciliation shall be effective for a period not to exceed 90 days pursuant to Wis. Stat. 767.323. Within the period of Suspension, either party may, by Motion, terminate the Suspension.

2. If the parties reconcile, they shall notify the Family Court Commissioner or the Court, by filing a Stipulation Dismissing the Divorce/Legal Separation. If reconciliation does not occur and the Suspension expires without a Motion to Terminate Suspension, the parties shall notify the Family Court Commissioner or the Circuit Court in writing of the failed reconciliation and the case shall proceed as if no reconciliation was attempted.

11. FINAL FINANCIAL DISCLOSURE STATEMENT

1. Financial disclosure statements filed by each party in accordance with these rules shall be updated on the record on the date of the final hearing. Such updated

financial disclosure statements may be considered by the Court in accordance with Rule 4.4.3.
2. When any party is receiving public assistance [foster care, child care assistance, W-2, Badger Care, medical assistance or food share] or has applied for same, at the time of the service of the Summons or filing of the Joint Petition, a copy of said financial disclosure statement shall be filed with the Outagamie County Child Support Agency within ninety (90) days after the service of Summons or filing of the Joint Petition.
3. If any party, subsequent to the service of the Summons or filing of a Joint Petition, receives or applies for public assistance [foster care, child care assistance, W-2, Badger Care, medical assistance or food share], each party shall file with the Outagamie County Child Support Agency a financial disclosure statement, within thirty (30) days of the determination of said eligibility.
4. Upon failure by either party to timely file a complete financial disclosure statement as required, the Court may accept a statement of the other party, if timely filed, as conclusive.
5. The parties and attorneys of record shall have access to all financial information filed in accordance with these rules unless otherwise provided by specific court order.

12. FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

1. The Findings of Fact, Conclusions of Law and Judgment shall be drafted by the moving party or an attorney and shall include the last known address, the place of employment and the earnings of each party, if known. When real estate is involved, the legal description is required.
2. When payments of child support, maintenance or family support are ordered, the moving party shall also be responsible for drafting an Order for Income Withholding.
3. Before submission of the Findings of Fact, Conclusions of Law and Judgment to the Court or Family Court Commissioner, they shall be submitted to the opposing counsel if any for approval and to the Outagamie County Child Support Agency as required by Section 5 of the Outagamie County Family Court Rules, infra.
4. At the time of the final hearing, whether contested or not, counsel for the parties, or the parties if they are unrepresented, shall file with the court a completed Divorce/Annulment Worksheet, containing all the information required to be disclosed.
5. The following language shall be inserted in each judgment or order providing for a child support, maintenance or family support payment in every family law matter:

> "The person ordered to make child support, maintenance or family support payments under this order is required to make those payments so long as this order is in effect, whether or not the person is employed at any time in the future. Support orders cannot be modified for any period of time before the date of service of a Motion to Modify on the other party except as otherwise provided by statute. If the payor fails to make payments as ordered for any period of time which includes at least two payments or 30 days, whichever is shorter, the payor shall be required to take one of the following actions:

1. Register with the Job Service and actively seek work from at least 15 prospective employers each week. Make a report of your efforts to find work to the Outagamie County Child Support Agency on Thursday of each week on forms supplied by the Agency. Maintain an active file with the Job Service.
2. Provide a health care provider's written statement to the Outagamie County Child Support Agency and to the payee indicating that you are unable to work. Provide information to the Outagamie County Child Support Agency of any insurance or other payments that you are receiving because of your inability to work.
3. Request that the Outagamie County Child Support Agency review your specific circumstances and modify the seek work order in paragraph 1, above. Even if you make this request, you will still have to follow the procedures in paragraphs 1 and 2, above, until the review has taken place.
4. Make an agreement with the payee and the Outagamie County Child Support Agency to modify the support obligation.
5. If you are unable to obtain a modification in Paragraphs 3 and 4, you may file a motion with the Outagamie County Family Court seeking a modification in your support obligation or seek work order. Even if you follow the procedures in paragraphs 1, 2, or 3, above, your support order and the requirement to follow the procedures in paragraphs 1 or 2, above, will continue until the Court changes them.

IF THE OUTAGAMIE COUNTY CHILD SUPPORT AGENCY IS NOT INVOLVED IN YOUR CASE, YOUR OBLIGATION TO MAKE REPORTS WILL BE FULFILLED BY MAKING THE REPORTS TO THE OTHER PARTY."

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13. FILING DOCUMENTS

All documents relating to Family Court matters shall be filed in the office of the Clerk of Courts. All documents relating to Family Court matters shall be provided to the Outagamie County Child Support Agency if required by Section 5 of the Outagamie County Family Court Rules, infra.

14. PAYMENTS

1. All payments of child support, maintenance or family support required to be made in Family Court matters shall be paid through the office of the Wisconsin Support Collections Trust Fund (WI SCTF), Box 74200, Milwaukee, WI 53274-0200, pursuant to s.767.57(1).
2. When payments of child support, maintenance or family support are ordered or modified, whether at a temporary hearing, final divorce or post judgment hearing, the moving party shall be responsible for drafting an Order for Income Withholding.

15. GUARDIAN AD LITEM

1. Appointment: A Guardian ad Litem for minor children shall be appointed in accordance with §767.407 Wis. Stats., and in accordance with the existing contract for Guardian ad Litem services held by Outagamie County, if any.
2. Payment of Guardian ad Litem fees:

(a) If the parties are able to pay the fee, the Circuit Court or Family Court Commissioner shall direct payments by either or both parties in such amount as is submitted by the Guardian ad Litem and approved by the Circuit Court or Family Court Commissioner. Fees shall be paid within 90 days of the court's approval, unless otherwise ordered by the court. In the event a party fails to pay his or her required fees within 90 days of approval, or as otherwise ordered by the court, the Guardian ad Litem shall be entitled to a Judgment against the defaulting party. Upon default, the Guardian ad Litem shall file a Petition for Judgment, a Verified Affidavit setting forth the default and the proposed Judgment. A copy of the Petition and Affidavit shall be mailed to the defaulting party by the Guardian ad Litem before Judgment will be granted. A conformed copy of the Judgment that is granted shall be mailed to the defaulting party by the Guardian ad Litem. The Judgment shall be enforced in the same manner as civil judgments, unless otherwise ordered by the court.

(b) If the Circuit Court or Family Court Commissioner determines the parties are presently indigent the Guardian ad Litem appointed shall be one of those under contract with Outagamie County to accept such appointments. Recovery of fees by attorneys so appointed shall be as permitted by the terms of their contract with Outagamie County.

16. POST-JUDGMENT MATTERS

1. All motions and/or Orders to Show Cause for modifications of and/or enforcement of a judgment will first be heard by the Outagamie County Family Court Commissioner, unless the Family Court Commissioner recommends, and/or the Court determines that the matter is more appropriate for a hearing before a Circuit Court.
2. Findings of Fact and Order of the Family Court Commissioner shall be prepared by the moving party or such party as the Family Court Commissioner directs, and submitted to the Family Court Commissioner for signature within thirty (30) days of the date of the post-judgment hearing before the Family Court Commissioner. A party directed to prepare an Order under this section must prepare and submit said Order within the above specified time limits regardless of whether they or any other party to the action seeks de novo review under section 16.3 of the Family Court Rules.
3. Either party may, at any time after the hearing, but no later than ten (10) days after service of said findings and order, move for a de novo hearing on said post judgment matters. If no motion for a de novo hearing before Circuit Court is made, said order shall become the order of the court. If a motion for de novo hearing is filed by any party, the Court shall schedule a hearing and notify the parties. If the Family Court Commissioner certifies an issue to the Circuit Court for imposition of

contempt sanctions against a party, either party may, at any time after the hearing but no later than forty five (45 days) days after service of the Order of the Family Court Commissioner, move for imposition of said sanctions by the Circuit Court. The Circuit Court shall then schedule a hearing and the moving party shall be responsible for personal service of notice of said hearing upon the responding party. If a timely motion is not filed, the original motion for contempt shall be dismissed and the certification by the Family Court Commissioner shall be ineffective.
4. A motion for de novo hearing of an Order in a post judgment hearing renders ineffective the post-judgment order of the Family Court Commissioner. The Circuit Court's subsequent de novo hearing order shall apply retroactively to the effective date of the Family Court Commissioner's post judgment order unless otherwise provided by the Circuit Court.

5. All motions for de novo hearing and/or contempt/sanctions hearings shall be scheduled before the Circuit Court which rendered the judgment.

6. Post Judgment Custody/Physical Placement Issues are governed by Section 9 of the Outagamie County Family Court Rules, infra.

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17. UNREPRESENTED LITIGANTS

1. Persons acting on their own behalf in divorce matters are expected to familiarize themselves with the provisions of Wisconsin divorce procedure as set forth in the statutes and these rules. The Wisconsin Statutes concerning divorce are available at the Appleton Public Library, and online at https://docs.legis.wisconsin.gov/ and these rules may be viewed at the office of the Family Court Commissioner or online at the Wisconsin State Bar website.
2. A person acting on his or her own behalf should be aware that failure to follow the correct procedures, or failure to file the necessary documents may result in substantial delays or dismissal of their case. State statutes prohibit court officers or employees of the Clerk of Courts and Family Court Commissioner’s office from giving legal advice, although they may direct unrepresented litigants to available resources.
3. Persons who represent themselves are required to prepare the following papers to initiate an action for Divorce or Legal Separation (current forms are available online at https://www.wicourts.gov/

- Joint Petition (if filing jointly)
- Petition and Summons (if filing alone)
- Certificate/Affidavit of Service

4. **Self Help Center:**

1. The Self Help Center is a county operated office intended to assist unrepresented litigants in the preparation of forms through the divorce/separation process. Self Help Center staff cannot provide legal advice. Self Help Center staff cannot mediate divorce/separation agreements, either in whole or in part. Self Help Center staff can answer questions and direct unrepresented litigants to available resources.

2. Parties who represent themselves and who have either reached an agreement or anticipate reaching an agreement **MUST** submit the following completed documents for review at the Self Help Center before they are given a final stipulated divorce hearing date before the Family Court Commissioner (as of March 1, 2017; see the Self Help Center for updates):

- Marital Settlement Agreement

- Financial Disclosures (one for each party)

- Parties' Approval of Findings of Fact, Conclusions of Law and Judgment

- Findings of Fact, Conclusions of Law and Judgment

- Divorce/Annulment Worksheet

- Last 2 years of tax returns (both Federal and State) and 8 weeks proof of income.

5. Persons who represent themselves are required to have at the time of the final hearing the original and 3 copies of:

- Marital Settlement Agreement

- Parties' Approval of Findings of Fact, Conclusions of Law and Judgment

- Findings of Fact, Conclusions of Law and Judgment.

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18. FOSTER CARE CASES

Existing section 18 Foster Care Cases deleted in its entirety. Provisions were subsumed into Section 5 of Family Court Rules.

19. APPEAL FROM DECISION OF A COMMISSIONER ON PETITION FOR DOMESTIC ABUSE INJUNCTION OR HARASSMENT INJUNCTION

Either party may, no later than thirty (30) days after service of the injunction or after dismissal of the petition, move for a de novo hearing on said petition. If a motion for de novo hearing is filed, the Clerk of Courts shall assign the case to a Circuit Court branch and pursuant to Wis. Stats. s.813.126, the Circuit Court shall hold the de novo hearing within 30 days after the Motion requesting the hearing is filed unless the Circuit Court finds good cause for an extension. Any determination, order or ruling entered by the court commissioner in an action under 813.12, 813.122, 813.123 or 813.125 remains in effect until the Circuit Court issues its decision at the close of the de novo hearing.

20. GAL APPOINTMENTS IN HARASSMENT INJUNCTIONS

No action for an Harassment Injunction may be filed on behalf of a minor petitioner or against a minor respondent unless the minor petitioner or minor respondent first has a Guardian Ad Litem appointed. Fees of the Guardian ad Litem shall be paid pursuant to the Guardian ad Litem contract of Outagamie County.

Notwithstanding the above paragraph, the Court or Family Court Commissioner may, at the time of the hearing on the injunction petition, assign responsibility for payment reimbursement of the Guardian ad Litem fees for the minor petitioner to an adult respondent.

21. ADJOURNMENT, CONTINUANCE OR RESCHEDULING OF A PENDING MOTION OR HEARING IN FAMILY COURT

The moving party for any hearing is the only party who can adjourn that hearing without a Motion or Stipulation.

Any party or attorney seeking an adjournment, continuance, or rescheduling of a pending motion or hearing shall first attempt to reach an agreement for adjournment with the other party or attorney. If agreed, the parties shall notify the Family Court Commissioner's Office in writing or in telephone conference.

If a party objects to a requested adjournment, the party requesting the adjournment shall notify the Family Court. The Family Court may then rule on the request either by phone conference with all parties present or at the time of the originally scheduled hearing. Costs may be assessed against parties or attorneys who unreasonably refuse adjournment requests. Exceptions to this rule may be made for Guardians ad Litem who have calendar conflicts and who were not consulted on the originally scheduled hearing date or who need additional time to investigate and make recommendations to the party and the court.

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SECTION 6: SENTENCING TO OUTAGAMIE COUNTY JAIL

The Outagamie County Board and the Outagamie County Executive have supported over the years community based corrections. Through Criminal Justice Treatment Services (CJTS) and Huber Law Rehabilitation (HLR) programs the County provides a means for community involvement with offenders to assist the offenders in normalizing their environment and to further assist in the transition from incarceration to their being back in the community. Huber Law Rehabilitation programs, specifically, aim at providing means to enable offenders to be more productive members of society and to reduce future crime.

The Circuit Judges of Outagamie County concur with the efforts of Outagamie County officials in adopting these programs.

THEREFORE: IT IS THE ORDER of the Courts of Outagamie County that all sentences to the Outagamie County Jail by the Circuit Judges of this County shall be subject to and incorporate therein in all respects the rules and regulations of the CJTS/HLR programs with the benefits of these programs to be made available, if and when appropriate, to all qualified offenders.

Sentencing to the Outagamie County Huber Law/Work Release Floor

The Outagamie County Board and the Outagamie County Executive have over the years supported community based corrections. Through Criminal Justice Treatment Services and Huber Law Rehabilitation programs the County provides a means for community involvement with offenders, to assist the offenders in normalizing their environment and to further assist in the transition from incarceration to their being back in the community. Huber Law Rehabilitation programs aim at providing means to enable offenders to be more productive and employable members of society and to reduce future crime. Specifically, this is done through the High School Equivalency Program, Employability Program and Alcohol/Drug Services.

The Circuit Judges of Outagamie County concur with the efforts of Outagamie County officials in adopting these programs.

THEREFORE; IT IS THE ORDER of the Courts of Outagamie County that all sentences to the Outagamie County Jail by the Circuit Judges of this County shall be subject to and incorporate therein in all respects the rules and regulations of the HLR programs with the benefits of these programs to be made available, if and when appropriate, to all qualified offenders. In addition, Employability and High School Equivalency Programs shall be mandatory for all residents (Work Release and Huber Law) unless waived by Criminal Justice Treatment Services. Program participation is expected to begin upon admission to Huber Floor.

Alcohol/Drug Service Program participation is also mandatory for those ordered by the Court or probation conditions. Participation is expected to begin upon admission to the Huber Floor.

Community service shall not be commenced until jail time is completed unless permitted earlier by Criminal Justice Treatment Services, Probation Officer, or Sheriff's Department.

Failure to comply with this order shall be considered failure to perform a lawful duty and shall result in the loss of good time. (Wis. Stats. §302.43).

Release of Huber Inmates to Attend Court

Wisconsin Statutes do not explicitly grant the court authority to release inmates who are on Huber privileges for purposes of attending court. If the court does not release these inmates for attendance at court, they must be escorted by Sheriff personnel. Since these same inmates are released, on their own, to attend work, school, church, and child care duties, they present no additional risk to public safety by being released for purposes of attendance at court. It would be a substantial savings of personnel resources and financial resources to the County if these inmates were released to attend court on their own.

For the foregoing reason, the Courts hereby authorize the Sheriff's Department to release inmates to attend court without Sheriff personnel escort. The normal procedures for checking in and out shall be observed. Violations of this Court ordered release will be treated as any other violation of Huber release privileges.

COURT RULE ON WARRANTS WITH PURGE CONDITIONS (FAILURE TO SUBMIT DNA SAMPLE OR FINGERPRINTS/PHOTOS)

EFFECTIVE AUGUST 14, 2018:

The Outagamie Circuit Court Judges make the following order on all applicable Outagamie County cases:

IT IS SO ORDERED THAT:

1. A person arrested on a warrant for failing to appear at a hearing on a case in which the sole charge is a violation of Wis. Stat. §946.52, failing to provide a biological sample, may be released upon submission of a DNA sample or verification of a sample on file. No hearing before the Court is necessary prior to release once they are in compliance Wis. Stat. § 973.047(1f) (DNA submission).
2. A person arrested on a warrant for bail jumping <u>after the case for which they are on bond closes</u>, where the only violation of bail is the failure to submit to fingerprinting and photographing, may be released once fingerprints and photographs are obtained on both the bail jumping case and the original case for which the bond was ordered.

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SECTION 7: PROBATE

1. Temporary Guardianships under Section 880.15 and 880.08
2. Out of State Personal Representatives
3. Special Administration Proceedings
4. Use of Guardianship Assets which Exceed Medical Assistance Allowance
5. Guardian ad Litem Fee Reimbursements for Guardianships, Protective Placements, and Watts Reviews
6. Protective Placement Proceedings in Private Guardianships
7. Use of Guardianship Assets to Reimburse Medical Assistance - Order Rescinding Court Rule
8. Rule Of Outagamie County Circuit Court Regarding Annual Watts Review Summary Hearings
9. Rule of Outagamie County Circuit Court Regarding Guardians
10. Rule of Outagamie County Circuit Court Regarding Corporate Guardians
11. Rule of Outagamie County Circuit Court Regarding Guardianships with Assets Exceeding $50,000

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1. Temporary Guardianships under Section 880.15 and 880.08

Notice: Notice of the Petition being filed and the appointment being made shall be given to the ward within 24 hours of the appointment, and proof thereof shall be filed with the Probate Office. The notice shall include the names of all persons who have petitioned for guardianship, the specific allegations of the grounds of incompetency, and the specific duties which have been granted the Temporary Guardian. It shall also include notice of right to counsel and right to petition for reconsideration or modification.

Duties: The appointment must be for the performance of specific duties, and the Order Appointing Temporary Guardian and The Letters of Temporary Guardianship shall set forth these specific duties. The duties may not be "All the duties of a General Guardian."

Account: If the duties include the handling of the wards assets, an accounting will be due within 90 days of the issuance of the Letters, unless extended. In such case, the accounting will be due within 90 days of the issuance of the Letters extending the Temporary Guardianship. A Temporary Guardianship may be extended only once, for a period of 60 days.

Fees: A $10 filing fee will be due upon filing of the petition in cases where assets are to be handled. An additional fee may be collected at the filing of the accounting if the assets under the Temporary Guardian's control exceed $10,000.

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2. Out of State Personal Representatives

Effective this date any personal representative residing outside the State of Wisconsin, but being appointed in an Outagamie County Estate Action, shall provide a bond to the court in the amount determined by the judge, Probate Court Commissioner or Probate Registrar, and no appointment of said personal representative shall take place until the filing of said bond with the court.

3. Special Administration Proceedings

Effective for all petitions for special administration, filed on or after this date, which will not be accompanied by any other proceedings, the following will apply. Pursuant to 867.21(1), within three months of the issuance of Letters of Special Administration, the special administrator will be required to file with the probate office a complete summary of his or her activities. This shall include a list of all assets coming into the possession of the special administrator and an accounting of how those assets were used - in effect, a brief inventory and final account. The statutory filing fee (814.66(2) shall become payable at the time of filing said accounting. Upon receipt of such a summary, the special administrator may be discharged.

4. Use of Guardianship Assets which Exceed Medical Assistance Allowance

This policy is intended to instruct guardians of wards who are on Medical Assistance and reside in a nursing home on appropriate methods of maintaining asset levels of wards so as not to exceed Wisconsin Medical Assistance limits.

The policy applies in the event that the wards assets are at or near the Wisconsin Medical Assistance Program allowable asset limit, and the ward resides in a nursing home.

A. In order to preserve Wisconsin Medical Assistance coverage, guardians are instructed to dispose of assets in the following manner:

1. Guardians are to first meet immediate needs of their ward. This would include clothing, recreational and social activities, necessary furnishings, personal items, medical services and devices not covered by other funding sources, allowable insurance, etc.

2. If asset limits are still at or near the current limit, guardians are instructed to invest in allowable burial assets. A current list of allowable burial assets can be received from the Assigned Income Maintenance Case Manager or by calling (920) 832-5168.

3. When burial assets have been purchased to a maximum limit and no immediate needs exist, and the ward resides in a nursing home, the guardian is instructed to donate excess assets to the Wisconsin Medical Assistance Estate Recovery Program. The state will accept up to the total accumulated amount currently paid on behalf of the recipient as voluntary repayment of benefits provided and will reduce any future claim on the ward's estate or on the estate of the surviving spouse by that amount. (Note that any amount over the accumulated benefits paid will be considered a gift and will not offset any future claims.) Information regarding the amount of Medical Assistance Benefits paid out on behalf of the recipient can be obtained from the following address:

Bureau of Health Care Financing Coordination of Benefits Unit Box 309 Madison, WI 53701-0309 Contributions may be made to that same address. The guardian must include a letter stating the name and Medical Assistance Number of the ward, a statement indicating the amount of money being repaid, and a statement that these funds are donated on a voluntary basis in repayment of medical assistance benefits paid on behalf of the recipient. A copy of the letter should be sent to:

Register in Probate, Outagamie County Government Center 320 S. Walnut Appleton, WI 54911

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5. Guardian ad Litem Fee Reimbursements for Guardianships, Protective Placements, and Watts Reviews

This policy is effective in cases where guardian ad litem fees are paid by Outagamie County.

Beginning with services provided in 1994, Outagamie County shall be authorized to collect payment for reimbursement of Guardian ad Litem fees out of a wards' monthly income or other assets.

The guardian ad litem shall submit a bill to the Office of the Register in Probate. The Register in Probate will send a copy of the bill, along with an instructional letter, to the guardian for reimbursement. If the ward is on Medical Assistance the Register will also send a copy of the bill to the Department of Human Services Medical Assistance Unit so they may arrange for an adjustment of the next medical

assistance payment. The payment shall be reported on the annual account along with other expenses.

Existing guardians shall be informed of this obligation by mail in January, 1994. New guardians shall be informed of this obligation by the Register in Probate at the time of their appointment.

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6. Protective Placement Proceedings in Private Guardianships

At the October 3, 1994 meeting of the Outagamie County Circuit Judges, agreement was reached that when a petition for guardianship is filed by a private attorney, that attorney will also handle the protective placement proceedings when needed, rather than our Corporation Counsel as in past practice. This policy will be effective with petitions for guardianship filed in the office of the Register in Probate on or after November 1, 1994.

Questions on procedure may be directed to the Probate Office.

7. Use of Guardianship Assets to Reimburse Medical Assistance - Order Rescinding Court Rule

The Outagamie County Court Policy approved on December 8, 1993 directing that guardianship assets that exceed Medical Assistance limits be used for donation to the Wisconsin Medical Assistance Estate Recovery Program is hereby rescinded.

8. Rule Of Outagamie County Circuit Court Regarding Annual Watts Review Summary Hearings

Beginning January 1, 2008, the following procedure is adopted for Watts reviews where a full due process hearing is not requested:

1. The Guardian ad Litem will have 30 days to conduct the review and file the Annual Report of Guardian ad Litem with the Register in Probate office.
2. A Watts review summary hearing will be scheduled by the Register in Probate at the time the Guardian ad Litem is appointed.
3. The Guardian ad Litem will give notice to the ward and the guardian of the scheduled hearing date.
4. The Watts review summary hearings will be held once a month before the Probate Court Commissioner.
5. The Guardian ad Litem shall appear in person or by telephone for the Watts review summary hearing. None of the other interested parties need to appear unless they object to the continued protective placement.
6. The Court will make the necessary determination and findings based upon the reports on file. The Court will then enter the Order for Continued Protective Placement based upon said findings.

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9. Rule Of Outagamie County Circuit Court Regarding Guardians

Beginning January 1, 2012 the following procedures/rules are adopted for all Guardians appointed or currently acting in Outagamie County:

1. The proposed guardian of the estate shall obtain and file with the Court a full Credit History Report prior to appointment as guardian of the estate and thereafter every four (4) years file with the Annual Account a full updated Credit Report.

2. All guardians of the estate appointed prior to January 1, 2012 shall obtain and file with the Court a full Credit History Report on/before July 31, 2018 and thereafter every four (4) years file with the Annual Account a full updated Credit Report.

3. A proposed Guardian shall obtain and file with the Court prior to appointment as guardian a Wisconsin Department of Justice Criminal History Check and a Caregiver Background Check.

4. The Guardian of the estate shall provide completed itemized ledgers of all income and expenses for the entire year for their ward with the filing of the annual account. The guardian may use the sample available from the Register in Probate office or form otherwise approved by the Register in Probate.

5. The Guardian of the estate shall provide a copy of the bank statements and any financial statements for their ward for the entire year with the filing of the annual account.

6. The Guardian of the estate shall obtain Court approval for all large ticket item purchases over $500.00 <u>before</u> making said purchase. This requirement shall not apply to customary daily and monthly living related expenses such as mortgage, rent, cost of care in a facility, utilities, medical, clothing and groceries. Failure to obtain approval may result in said purchase being denied and the purchase price required to be repaid by the guardian.

7. The proposed guardian of the estate of a minor or adult who will be residing with the guardian or a relative of the ward, or residing in any home/duplex/apartment owned by the guardian or a relative of the ward, shall provide a Monthly Expense Breakdown (form to be provided) within 30 days of appointment. Any existing guardian, at the request of the Register in Probate office, shall complete and file a Monthly Expense Breakdown form.

8. All requests for mileage reimbursement must be presented to the Court (Register in Probate office) pursuant to Wisconsin State Statutes and if approved will be at the Volunteer IRS rate of 14¢ per mile.

9. The guardian of the estate shall retain all income receipts, disbursement receipts, and financial statements.

10. Cases will be selected randomly each year and the guardian of the estate will be required to provide the Court with all disbursement receipts, and all cancelled checks for the year.

11. If an Order to Show Cause is issued to a guardian, the Court may impose a $75.00 fine on said guardian.

12. If a second Order to Show Cause is issued to the same guardian, whether in the same year or a different year, the Court may impose a $150.00 fine on said guardian.

13. If a third Order to Show Cause is issued, whether in the same year or a different year, the Court may impose a $250.00 fine and the guardian may automatically be removed.

    All the above policies and rules were updated/revised and made as of effective January 1, 2018.

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10. Rule Of Outagamie County Circuit Court Regarding *Corporate* Guardians

Beginning January 1, 2012, the following procedures/rules are adopted for all Corporate Guardians appointed or currently acting in Outagamie County:

1. A Credit History Report shall be provided to the Court every four (4) years on all individuals of the company who handle financial matters including the owner.
2. The Corporate Guardian of the estate shall obtain either a bond or a crime insurance policy (which includes coverage for third party theft) for the amount of the aggregate assets for all wards. The bond amount will be reviewed annually by the Register in Probate office and the Corporation Counsels office.
3. The Corporate Guardian of the estate shall provide a complete itemized statement/ledger for the entire year for each ward with the filing of the annual account.
4. Corporate Guardians of the estate may not comingle Outagamie County ward's assets with assets of individuals who they may be representative payee for or assets of wards' from another county. All Corporate Guardians must comply with this rule by **June 1, 2012.**

5. The Corporate Guardian of the estate shall provide a copy of the bank statements relating to any individual accounts for wards and any comingled account for wards.

6. The Corporate Guardian of the estate shall obtain Court approval for all large ticket item purchases over $500.00 before making said purchase. This requirement shall not apply to customary daily and monthly living related expenses such as mortgage, rent, cost of care in a facility, utilities, medical, clothing and groceries.
7. If an Order to Show Cause is issued to the guardian the Court may impose a $75.00 fine on said guardian
8. If a second Order to Show Cause is issued to the same guardian, whether in the same year or a different year, the Court may impose a $150.00 fine on said guardian
9. If a third Order to Show Cause is issued, whether in the same year or a different year, the Court may impose a $250.00 fine and the guardian may automatically be removed.

11. Rule of Outagamie County Circuit Court Regarding Guardianships with Assets Exceeding $50,000

Beginning April 1, 2012, the following procedure/rule is adopted for all Guardians appointed or currently acting in Outagamie County:

Within 60 days after the appointment of a guardian of the estate or upon review of an existing case where a guardian of the estate has been appointed, the Court may require the below additional procedure with respect to any guardianship with assets exceeding $50,000.00

1. Order certain assets or a portion of the ward's assets (including the majority of the ward's assets) be deposited in an insured account of a bank, credit union, savings bank, or other financial institution in the name of the guardian and the ward as a restricted account.
2. No withdrawals may be made from the restricted account without a specific Court Order after petition has been made by the guardian.
3. Proof of deposit shall be filed with the Court within 30 days of Order to deposit.
4. Within 30 days after the Court has issued an Order to Deposit, the financial institution must be served with said order and Admission of Service by the financial institution shall be filed with the Court.
5. The guardian of the estate shall provide the Court with a monthly budget of the ward's income and expenses (form to be provided) within 30 days of the Court making a request.
6. Upon receipt of the monthly budget the Court may issue a separate Order authorizing regular withdrawals of a specific amount for daily and monthly related living expenses as deemed appropriate by the Court.
7. 7. Failure to comply with any of the above rules may result in removal as guardian after the filing of a petition and the matter being heard before the Court.

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SECTION 8: JUVENILE COURT RULES

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This local court rule establishes the policies and procedures of the Juvenile and Children's Court of Outagamie County, superseding all previous statements of the policies and procedures of Outagamie County Circuit Court concerning proceedings under Chs. 48 and 938.

1. Child: Refers to a person under the age of 18 involved in a chapter 48 CHIPS proceeding.
2. CHIPS: **Ch**ild **I**n need of **P**rotection or **S**ervices; 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. JIPS: **J**uvenile **I**n need of **P**rotection or **S**ervices; 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.
4. 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.

1. GENERAL POLICIES

1. It is the policy of the Outagamie County Court to implement the legislative purposes expressed in §§ 48.01 and 938.01, Wisconsin Statutes. 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 court.
2. The Court will not routinely waive time limits. The court recognizes the importance of expediting court proceedings involving juveniles and children to bring matters to resolution as quickly as possible. The court equally recognizes the importance of diverting cases away from the formal court process whenever possible. Consistent with the diversion of cases away from the formal court process, it is the opinion of the Outagamie County Judiciary that the delays, continuances, and extensions allowed under 48.315 or 938.315 of the Wisconsin Statutes are also applicable to the Juvenile Court Intake process.

2. CUSTODY INTAKE AUTHORITY

1. The role of the Juvenile Court Intake Worker as stated under 48.067/938.067 of the Wisconsin Statutes is to provide intake services 24-hours per day, 7 days per week for the purpose of screening children/juveniles taken into custody and not released. Juvenile Court Intake Services in Outagamie County for Chapter 938 are provided by the Division of Youth and Family Services. Child Protective Services and Child Welfare Court Intake is provided by the Children, Youth, and Family Services Division.
2. The duty of the Juvenile Court Intake Worker is to interview any child/juvenile who is taken into physical custody and not released, and where appropriate, interview other available concerned parties. No juvenile may be placed in a secure or non-secure setting unless the juvenile has been interviewed in person by an Intake Worker. However, an Intake Worker may authorize a placement after consulting by telephone with the law enforcement officer who took the juvenile into custody while the Intake Worker is enroute to the in-person interview.
3. Juvenile Court Intake Services will be provided by persons who are qualified Court Intake Workers.
4. The Circuit Judge shall be used for custody intake only if no other qualified individual is available.

3. CUSTODY DECISION GUIDELINES

1. All custody requests shall be made through law enforcement or human services personnel.
2. The person performing the court intake function should not be contacted until the requesting agency has made a reasonable, articulable decision that a person should be held. This contact provision does not apply to situations where the human services personnel is the same person taking and holding in custody. The requesting agency shall be required to complete the custody intake request form before an intake decision is made.
3. Intake shall first determine whether the court has jurisdiction over the person.

1. 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, Chs. 967 to 979, Wisconsin Statutes, shall apply.
2. 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.
3. 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.

1. Chapter 48 presumptions:

1. A child shall be removed from the home if the best interests, as it relates to the safety of that child, so dictates.
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 under 48.207 are met):

1. Home placement;
2. Home placement with conditions;
3. Placement in the home of a relative;
4. Placement in the home of a person not a relative;
5. A licensed foster home;
6. Shelter Care

2. 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, or when a juvenile's behavior indicates disregard for the safety of the juvenile or others.
2. If removal from the home is not necessary to protect citizens from juvenile crime or to maintain the juvenile's safety, intake shall consider whether any of the following conditions on home placement are warranted:

- Home placement with conditions;
- Home placement on Electronic Monitoring.

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;
- Placement in the home of a person not a relative;
- A licensed foster home;
- Shelter Care;
- In delinquency matters, Secure Detention in: Outagamie County Sheriff's Department Secure Detention Facility.
- The juvenile portion of Outagamie County Adult Jail meeting the requirements of DOC 346 and 938.209 are met.

4. If the juvenile is charged with or it appears reasonable to believe that the juvenile will be charged with a crime which establishes a presumption of secure custody under § 938.208(1), that juvenile shall be placed in secure custody unless the Intake Worker is satisfied that such custody is **not** necessary to protect the public.
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 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 as referent information.
7. Intake staff shall consider the following criteria when appropriate in making a custody decision and the appropriate level of placement:

    1. **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.**
    2. **In delinquency matters which are not presumptive secure custodial placement crimes, the <u>severity of present alleged offense:</u>**

        - 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

3. **In delinquency matters, the <u>prior</u> CHIPS, JIPS, and/or delinquency <u>record</u> 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

4. **<u>Risk of Flight</u>:**

- Whether the child/youth is presently a runaway from a court-ordered placement
- Whether the child/youth has previously run away from a court-ordered placement
- Attitude of the child/youth toward remaining in custody
- Record of obeying home curfews and rules
- Ability of caregiver to control the person
- School attendance record
- Likelihood of the youth to be successful at running from placement based on:
  1. Age
  2. Apparent maturity
  3. Availability of other associates that would assist running away
  4. "Gang" relationships that would foster runaway status
  5. Level of consequences child/youth now faces for immediate behavior
  6. Other facts that appear relevant to level of risk of flight

5. **<u>Current legal status</u>:**

- Whether the child/youth is currently subject to a dispositional order
- Whether there are other court actions involving the child/youth currently pending
- The child/youth's present level of custody
- Whether there are prior adjudications of a similar nature
- Whether other dispositional alternatives been tried in past
- Other factors relating to the child/youth's present legal status

6. **<u>Protection needs</u>:**

- Whether the child/youth is subject to abuse or neglect in home

- Whether there have been verbal threats against this child/youth
- Whether the child/youth exhibits potential harm to self by recent behavior or threats
- Whether the present caregiver is able to adequately protect the child/youth
- Whether the child/youth is vulnerable to revenge acts by others, including co-actors or victims
- Other factors relating to the need to protect the person

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4. 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. 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:

   1. **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.
      - 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.

2. **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.

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.

5. CUSTODY HEARING 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. A physical custody hearing is to be requested by Juvenile Court Intake by calling the Outagamie County Court Commissioner to request a hearing no later than 10:00 a.m. the day of the hearing. The custody hearing shall be held at 3:00 p.m., although depending on the Court Commissioner's calendar, the time may be modified.
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 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. Temporary Physical Custody reports shall be submitted by the Intake worker and considered by the Court without the need for testimony, which may be presented at the detention hearing, provided that it is relevant, not a waste of time, or a needless presentation of cumulative evidence. A determination of the foregoing will be made on a case by case basis by the Court.
4. A parent and/or child may sign a waiver of their right to participate in a custody hearing.
5. 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:
   1. Ch. 938 matters: 48 hours from the time of the hearing.
   2. Ch. 48 matters: 72 hours from the time of the hearing, excluding Saturdays, Sundays and legal holidays.
6. 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.

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6. COURT INTAKE

1. All intake referrals under § § 48.24(1) (except for protective service court referrals) 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.
2. All intake referrals under § § 48.24(1) or 938.24(1), Wisconsin Statutes, shall be conducted by the qualified Intake Workers in the Division of Youth and Family Services or the Division of Children, Youth, and Families.
3. All parties making a referral may make a recommendation for disposition, but that recommendation is not binding on the Intake Worker.
4. All Intake referrals shall be handled within a 40-day time period. However, Intake Workers may file requests for extension of 40 days for good cause. It is the opinion of the Outagamie County Judiciary that the delays, continuances, and extensions, as enumerated under 48.315 or 938.315 of the Wisconsin Statutes are applicable to the Juvenile Court Intake process. Juvenile Court Intake Workers may request a delay, continuance, or extension from the Outagamie County Judiciary for reasons allowable by statute and approved by the Division Manager just as if a petition has been filed.
5. Intake conferences under § § 48.24(1) or 938.24(1), Wisconsin Statutes, are not required if all of the following have occurred:
   1. A custody intake decision was made pursuant to § § 48.19 or 938.19, Wisconsin Statutes
   2. A hearing on the custody has been held pursuant to § § 48.21 or 938.21, Wisconsin Statutes;

3. The person has been continued in custody (secure or non-secure); and,
4. 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.

6. Intake conferences 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 § § 970.023(2) or 971.31(13).
7. 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.
8. The Intake Worker shall consider the following factors in screening intake referrals:
   1. Seriousness of the allegation
   2. Intent
   3. Severity of personal injury
   4. Severity of property damage
   5. Prior allegations of similar activity
   6. Attitude of the public
   7. Attitude of the victim
   8. Previous contacts with law enforcement, social services, or juvenile intake
   9. Age and maturity
   10. Attitude of the person and/or parents
   11. Degree of apparent incorrigibility/uncontrollability
   12. School attendance and behavior patterns
   13. Involvement in gang-related activity
   14. Other social factors
   15. Resources available to the family and community to provide adequate care
   16. Criteria in § 938.18(5), Wisconsin Statutes, concerning waiver to adult court
   17. 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 concerning custody decision-making.
9. Special Considerations for Truancy The issue of truancy where probable cause is demonstrated that the truancy is the result of the parents' refusal to send the child to school, and further where there is probable cause to believe the truancy is clearly not a result of disobedience of the child, has come to the attention of the court;

Referral procedure to Intake

1. Pursuant to Wisconsin Statutes 48.13(6) and 118.15(5), the school attendance officer may make truancy referrals to the Juvenile Intake Office. Upon receipt of the referrals, the Intake Worker may conduct an

intake inquiry with the child and parent, guardian, or legal custodian. The Intake Worker will determine whether or not the truancy is due to the child being taught at home, the child's disobedience, the parents' refusal to send the child to school, or the parents' negligence in failing to send the child to school. Following an assessment of the child's needs as well as an assessment as to the cause of the truancy, the intake worker will decide how to handle the case.

Intake Recommendations and Alternatives

2. Where truancy is a result of the child's disobedience or refusal to attend school, the Intake Worker may close the case, enter into an informal agreement, or recommend formal court proceedings.
3. Where the truancy is the result of the parents' refusal or negligence in failing to send the child to school, the Intake Worker will consult with the Assistant District Attorney for consideration of one of the following alternatives which are designed to hold any person having under control of a child who is between the ages of 6 and 18 years accountable for their child's school attendance.
    1. The District Attorney may file a petition alleging that the child is in need of protection and services. In doing so the District Attorney may summons the parent or guardian to appear in court. The District Attorney shall also petition the court for a Guardian ad Litem pursuant to 48.23(3). If the court finds that it is in the best interest of the child and the child's Guardian ad Litem consents, the child will be excluded from the formal court proceedings. If after the court determination it is determined that the child's truancy is due to the failure of the parent(s) to compel the child to attend school, the court may order the parent(s) to compel the child to attend school as part of disposition pursuant to 48.345. If the parent(s) does not abide by the Judge's order, the judge may find the parent(s) to be in contempt of court.
    2. As an alternative, pursuant to Wisconsin Statute 118.15(5), the District Attorney may prosecute the person who has under their control the child who is between the ages of 6 and 18 years.

10. 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:

    1. If the Intake Worker is satisfied there is probable cause to believe the juvenile committed a Class A or B Felony.

    2. The juvenile and at least one of the parents does not appear at an intake conference despite agreement to attend; and the level of risk indicates a need for court intervention.

3. The juvenile or the family deny the allegations of the referral and the level of seriousness indicates a need for a determination by the court.

11. The Juvenile Intake Worker may consider recommending an informal disposition agreement or Deferred Prosecution Agreement in the following circumstances:

    1. In delinquency/JIPS matters when:

        1. The juvenile admits to the allegations or to certain facts regarding the allegations.

        2. The juvenile agrees to complete all obligations.
        3. The juvenile's parents appear cooperative with the court.
        4. Required services are available without a court order
        5. The community is protected.
        6. The youth is being held accountable.

    2. In CHIPS matters when:

        1. The custodial parent(s) agree that the child is in need of protection and services
        2. 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, unless safety can be assured.

12. When a matter has been presented to the Intake Worker by the Juvenile Court Clerk when no Intake Inquiry was conducted, the Intake Worker may:

    1. 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

    2. Conduct an intake inquiry based on the petition presented to the juvenile court clerk for filing. 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. 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.

13. In order to facilitate the efficient exchange of information between the Juvenile Intake Workers of Outagamie County, the District Attorney's Office, and the Defense Counsel, the following Order for disclosure is made:

1. When referrals are made to the District Attorney's office for court action involving a juvenile, the Juvenile Court Intake office shall transmit to the District Attorney's office copies of any psychological, AODA and similar assessment or treatments reports involving the juvenile whose case is at issue. In addition, the Juvenile Intake Worker shall transmit copies of any referral letter to such assessors or treaters. Further, the Juvenile Intake Worker shall provide in writing, the names of any other assessors or treaters to which the juvenile has been referred.

2. The District Attorney's office shall provide the Defense Attorney copies of such records either as part of the petition, or pursuant to normal discovery.

3. The subjective impressions (work-product) of the individual Juvenile Intake Worker shall remain confidential, and shall not be released, unless specifically ordered by the judge who has jurisdiction over the particular case at issue.

4. The prosecuting and defense attorneys shall not re-disclose such reports to anyone, except the court before whom the case is pending, and they may discuss the contents of such reports with their clients. Failure to keep such records confidential shall subject such attorney to sanction as may be appropriate under the circumstances of any particular case.

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7. NOTICE TO VICTIMS OF CHILDREN'S ACTS

In accordance with 938.78(2)(b)(1), information may be exchanged with the victim-witness coordinator. The Juvenile Intake Unit of the Division of Youth and Family Services and victim-witness coordinator in the District Attorney's office shall be responsible for notifying each known victim who sustained personal injury or property damage of:

1. The policies and procedures of the court concerning their rights.
2. Notices of scheduled proceedings in delinquency matters.

8. NOTICE OF RIGHTS, OBLIGATIONS, AND POSSIBLE DISCLOSURES TO CHILD/JUVENILE AND PARENT(S)

1. If a custody hearing is held:

    1. 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.

2. 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.
3. 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 a Chapter 938 intake inquiry:

1. 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.
2. 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.

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9. DISPOSITIONAL ACTIVITIES

1. Court reports that have been ordered by the court shall be completed and filed with the court not less than two working days before the scheduled dispositional hearing. The agency completing the court report shall forward copies of the report to the Clerk of Courts no later than 48 hours prior to the disposition hearing.
2. The Clerk of Courts shall provide a copy to the prosecuting attorney, defense attorney and/or Guardian ad litem if applicable. Defense attorneys and Guardians ad litem shall not copy or re-release such reports to anyone, except the court before whom the case is pending, and they may review in person or discuss the contents of such reports with their clients. Failure to keep such records confidential shall subject such attorney to sanction as may be appropriate under the circumstances of any particular case. When the Indian Child Welfare Act applies, a copy of the report must also be forwarded to the ICWA attorney and ICWA Social Worker.
3. Outagamie County Department of Health and Human Services shall be the agency primarily responsible for implementing court dispositional orders involving supervision.
4. Dispositions involving persons who are not residents of Outagamie County shall be coordinated through the Outagamie County Department of Health and Human Services agency.
5. If a matter has been transferred from another county to this county for a dispositional hearing, the dispositional hearing shall be set within 45 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.

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10. CHAPTER 938 CASE CONFERENCE REQUIREMENTS

Before filing a petition, the interested party, other than the agency primarily responsible for the provision of services, must request and participate in a case conference to discuss concerns and consider the options. The case conference must include, at a minimum, the youth's Social Worker, a representative from the District Attorney's Office, the juvenile's attorney, and the juvenile's parents.

11. MOTIONS TO EXTEND, TERMINATE, OR REVISE DISPOSITIONAL ORDERS, AND MOTIONS TO CHANGE PLACEMENT

1. All motions to extend, terminate or revise disposition orders or to change to a more restrictive placement shall be directed to the District Attorney's office for filing.
2. The agency primarily responsible for implementation of a Chapter 938 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.
3. 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.
4. 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
5. 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) to 938.365(6), Wisconsin Statutes.
6. 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

7. An uncontested revocation of a consent decree may be heard by the Court Commissioner or by the Circuit Judge who signed the consent decree, or to the Circuit Judge who would be assigned if the Judge who signed the consent decree is no longer in the juvenile rotation . Contested revocations shall be heard by the signing Judge or the assigned Judge in the juvenile rotation.

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12. DISCLOSURE OF RECORDS AND RELEASE OF INFORMATION

Information pertaining to juveniles may be released by Outagamie County Department of Health and Human Services upon request under the following circumstances:

Restorative Justice Program

All requests by victims or the insurance companies of victims for disclosure of the juvenile's identity shall be referred to the Restorative Justice Program.

1. For valid claims of restitution, the names and addresses of juveniles and their parents may be released upon written request of the victim. The release of further information concerning the file or the juvenile should be directed to the court for further consideration. The victim must be informed that the information may only be used for pursuing legal means of restitution.

2. All requests by victims or the insurance companies of victims for police records shall be referred to the law enforcement agency responsible for the investigation. Law enforcement agencies may further refer these requests to the circuit judge responsible for juvenile records

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).

4. For the sole purpose of mediation, information regarding the participants name, age, and crime may be disclosed to the victim, the victim's parents (if the victim is a minor), and the staff of the juvenile mediation program at the discretion of the Restorative Justice Program Coordinator.

5. For employment and community service, staff may exchange client information with employers, prospective employers, and worksite supervisors on a need to know basis for the purposes of:

    1. Placement of youth in community services worksites,

    2. Assisting youth in obtaining and maintaining employment,

    3. Enhancement of community protection,

4. Monitoring of compliance for both pre and post disposition of informal or formal supervision

5. Working in partnership with youth, employer, and worksite supervisor in the areas of job application and interviewing, job retention, conflict resolution, self-esteem building, and the like.

6. For the sole purpose of placement or continuing the placement at worksites, the Restorative Justice Program Coordinator may disclose the name, address, home phone number, number of hours and amount of restitution ordered to the worksite supervisor or worksite employee designated to supervise the participant. Where the juvenile is found or alleged delinquent on the basis of a property crime, and is referred for a community service or restitution worksite; the Restorative Justice Coordinator may disclose the allegation or finding of participation in the crime for the purposes mentioned above.

Probation and Parole

Records concerning the conduct of any person under the supervision of the Wisconsin Department of Corrections, Division of Probation and Parole may be released under the following circumstances:

1. Police reports of all law enforcement agencies within Outagamie County containing information concerning the conduct of any person under the supervision of the probation and parole officer.

    1. The records shall be kept separate by such probation and parole officer, and shall not be released to any person, except for purposes of taking appropriate remedial actions against the person supervised by the probation and parole officer. Where possible, the name and identity of the juvenile involved shall not be re-disclosed by the probation and parole officer.

2. All Court reports and dispositional studies that relate to any defendant who is the subject of a Court ordered pre-sentence investigation.

    1. The Division of Probation and Parole may receive copies of the aforementioned materials deemed necessary to complete the pre-service investigation.
    2. Following the sentencing of the defendant, all file materials copied by the Division of Probation and Parole shall be destroyed within 30 days.

Victim-Witness Coordinator

Wisconsin State Statute 48.981(7) 8 authorizes the release of information from the Division of Children, Youth, and Families to the victim-witness coordinator in circumstances where a criminal complaint has been filed.

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13. REQUESTS TO REVIEW COURT FILES INVOLVING CHILDREN AND JUVENILES

1. All requests for review of court records involving a child or juvenile shall be directed to the juvenile court clerk and shall be in writing. All requests for access to court records shall be responded to, in writing, within 5 working days of the request.

    1. The juvenile court clerk shall make available upon request the appropriate forms (such as JD-1738 and JD-1739) for requesting such information.

2. No copies of any court records shall be made or provided to any person requesting access to the records of a child or juvenile, unless specifically authorized by court order.

    1. The juvenile court clerk is authorized to provide a copy of the Disposition Order to a law enforcement agency in order for law enforcement to determine whether a child has violated a condition of supervision or dispositional order. The arresting law enforcement agency is required to keep these Orders under the same conditions of confidentiality as all other juvenile records. The Order shall not be redistributed to any other person or agency without express written approval by the Court.

3. If a request is made by a juvenile, parent, guardian, or legal custodian under § § 938.396(2)(ag) or (am), or 48.396(2)(ag), before release of any information requested the juvenile court clerk shall either:

    1. 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,
    2. 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:

    1. Determine if the juvenile is alleged to have committed a crime specified in § 938.34(4h)(a), and, if so,
    2. 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 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.

    1. 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.

    2. 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 that case for a determination.

6. Intake files retained by the Juvenile Intake Worker are not considered court files for the purposes of this rule.
7. The juvenile court clerk is authorized to allow media access to juvenile records (Chapter 938) that contain information of community interest.
    1. The member of the media who seeks to view the juvenile court record must produce identification and credentials of his or her employment, and sign and date the time of his or her viewing of the file on the form attached to the Order for Release of Juvenile Records to Members of the Media, acknowledging compliance with the limitations of disclosure of juvenile records.
    2. The members of the media who view the juvenile court record are ordered not to disclose the identity of the juvenile or the juvenile's family, or any facts or circumstances that would reasonably disclose the identity of the juvenile or family of the juvenile named in the petition, unless allowable under Wisconsin Statutes. The identity of child victims shall not be disclosed without specific court approval.
    3. In accordance with aforementioned procedures, reports that are identified to be alcohol and drug abuse assessment records, psychological or psychiatric notes, reports or medical records shall not be released to the members of the media for viewing. Any collateral reference to such records that are found in other parts of the file may not be reported without prior court approval.
    4. Information that would be available to members of the media attending the court hearings as per Wisconsin Statute 938.299(1a), such as the minutes, petitions for delinquency that set forth the allegations, and the dispositional orders of the court, shall be made available for review. This list is not intended to be exclusive, but rather descriptive of the type of

information that would be available to members of the media had they attended the court hearing.

5. Release of Chapter 48 Records: Wisconsin State Statute 48.981 provides specific guidelines regarding the release of records under this section. Media inquiries that pertain to the release of Chapter 48 records should be directed to the Corporation Counsel or Manager of the Division of Children, Youth, and Families. The Manager will issue a statement of confidentiality to the media, and in cases involving a serious incident or death, advise the media that the Corporation Counsel will provide a summary of agency involvement to the extent permitted by the law.

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14. EXPUNGEMENT OF THE RECORD OF A DELINQUENCY ADJUDICATION

1. All petitions for expungement of a juvenile adjudication shall be scheduled for a hearing.
2. If the court grants the petition for expungement of the juvenile adjudication, the juvenile clerk shall:
   1. Follow standard CCAP procedures for removal of the adjudication from the computerized record;
   2. 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 expungement.
   3. 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.

15. DELINQUENCY PROCEEDINGS COMMENCED BY A REVERSE WAIVER

1. All delinquency proceedings following a reverse waiver from an adult court with original jurisdiction shall be commenced by filing a petition for determination of status—delinquency.
2. No intake inquiry is necessary for such proceedings.
3. Custody placements of juveniles who have been reverse waived shall be as follows:

- Any juvenile who was being held in an adult jail for failure to post bond shall be immediately transferred to a juvenile secure custody facility.
- Any juvenile (age 14 or under) who was being held in juvenile secure detention shall remain in that placement.
- Any juvenile who had been released on bond under conditions shall be deemed held in non-secure 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.

16. DUTIES OF THE JUVENILE COURT CLERK

1. The Juvenile Court Clerk may accept for filing any petition under § § 48.13, 48.14, 938.13 or 938.14 Wisconsin Statutes, presented by the counsel or guardian ad litem for a parent, relative, guardian or child. Notice must be provided to the Outagamie County Department of Health and Human Services accompanied by the petition, which may conduct an intake inquiry into the matter.
2. Judicial Assistants will notify the clerical staff of the Division of Youth and Family Services or Children, Youth and Family Services Division of any date/time changes made to court hearings.

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17. REIMBURSEMENT/PAYMENT FOR ATTORNEY FEES, PLACEMENT COSTS, AND/OR SERVICES

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

1. 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).
2. All payments on reimbursement for attorney fees shall be made to the Clerk of Court, and are enforceable under ch. 985, Wisconsin Statutes, for contempt of court.

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

1. If the court has ordered an attorney be appointed at county expense on behalf of a parent of a child involved in a CHIPS proceeding, the court shall order the parent(s) to reimburse the county for all or part of the cost of such attorney fees.
2. Reimbursement under this section shall be paid to the Clerk of Court and are enforceable under ch. 985, Wisconsin Statutes, for contempt of court.
3. Costs of custody/placement
    1. 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 Outagamie County Department of Health and Human Services for a determination of the amount the parent(s) are able to pay. Outagamie County Department of Health and Human Services shall establish a payment schedule for reimbursement.
    2. All payments on reimbursement for costs of custody/placement shall be made to Outagamie County Department of Health and Human Services.

4. Costs of services

    1. 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 Outagamie County Department of Health and Human Services for a determination of the amount the parent(s) are able to pay. Outagamie County Department of Health and Human Services shall establish a payment schedule for reimbursement.
    2. All payments on reimbursement for services shall be made to Outagamie County Department of Health and 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.

18. COURT COMMISSIONER DUTIES – ORDERING COMPETENCY EVALUATIONS ; YFS COPIES OF COMPETENCY EXAMS AFTER IN-CAMERA INSPECTION

WHEREAS the Circuit Court Judges of Outagamie County authorize the Court Commissioner of Outagamie County to order competency evaluations in juvenile court matters. Furthermore, at the request of a party, after an *in camera* review, the Court may release a doctor's competency report to YFS if it is in the interest of justice and the best interest of the child.

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SECTION 9: SMALL CLAIMS

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4. INITIAL APPEARANCES/PRETRIAL CONFERENCE
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1. SMALL CLAIMS COURT

Small Claims proceedings, including initial appearances, pretrial conferences, examining the pleadings, identifying the issues, presiding over contested hearings and entering judgments, as authorized by Chapter 799 Wis. Stats., shall be under the direction of a Court Commissioner. Initial appearances (return dates) will be held

each Monday in Courtroom "B" in the Outagamie County Government Building, 320 S. Walnut St., Appleton, WI at 9:00 A.M. and 9:30 AM for cases initiated by an attorney and at 1:30 P.M. and 2:30 P.M. for pro se plaintiffs. Alternate dates will be provided for those Mondays which are legal holidays.

2. SERVICE

Small Claims summons and complaints are served by regular mail or, if requested by certified mail for defendants living within Outagamie County. Personal service is required for out-of-county or out-of-state defendants, as well as for eviction actions and replevin actions. If, with reasonable diligence, defendants cannot be served by personal or substitute service, or mail is returned, the Clerk will issue a new return date allowing timely publication of a Class 3 notice under Chapter 985. Proof of service for out-of-county or out-of-state defendants, and for eviction and replevin actions must be filed with the Clerk of Courts **PRIOR** to the initial appearance, or the claim may be dismissed. **Proof(s) of service that are mailed, faxed or e-filed with the Clerk of Courts must be received by 4:00 p.m. on the Wednesday preceding the initial appearance. Additionally any communications to the Court must be received by 4:00 p.m. on the Wednesday preceding the initial appearance.**

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3. APPEARANCES

Commencing January 1, 2000, all parties are required to appear at the initial appearance, also known as the return date. Failure to appear by the plaintiff will result in dismissal; failure to appear by the defendant will result in the entry of a default judgment.

4. INITIAL APPEARANCES/PRETRIAL CONFERENCE

Defendants must state whether the claim is contested and the reason therefore at the initial appearance. Pretrial conferences will be held immediately for contested cases. Prior to the pretrial conference, parties will be afforded an opportunity to negotiate the claim amongst themselves and should be prepared to do so. Attorneys appearing at the pretrial **must** have authority to act on behalf of their client(s). Defendants will be expected to state the reason(s) they are contesting the claim. Judgment may be entered if the Court Commissioner deems the defense stated insufficient. A complaint or a portion of a complaint may be dismissed if it fails to state a claim upon which relief can be granted. Testimony and/or evidence are **NOT** taken at the initial appearance. Cases which are not resolved at the pretrial shall be set for a contested hearing with the Court Commissioner.

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5. COUNTERCLAIMS

Defendants alleging claims against the plaintiff will be given a deadline at the initial appearance by which they must file a written counterclaim specifying their claim(s). Counterclaims are served by mail on plaintiffs living within Outagamie County.

Personal service is required for plaintiffs living outside Outagamie County or outside the State of Wisconsin.

6. TELEPHONE APPEARANCES

Telephone appearances on the initial appearance date **will not** be accepted. Exceptions may be granted to defendants who are incarcerated at the time of the initial appearance. It is the responsibility of the incarcerated person to notify the clerk no later than **4:00 P.M. the Wednesday preceding** the return date of the telephone number where the party may be reached at the date and time of their court appearance.

7. CONTESTED CASES

On the return date in eviction and replevin actions, where any party raises valid legal grounds for a contest, the matter shall be scheduled for a hearing as soon as possible before a Circuit Court Judge. All other contested cases shall be heard by the Court Commissioner in accordance with these rules.

8. RENT AND DAMAGE HEARINGS

If an eviction is granted, a rent and damage hearing will be scheduled approximately 30 days from the granting of the eviction. A rent and damage list must be received in the Clerk of Court's office **no later than 4:00 p.m. on the Wednesday preceding** the rent and damage hearing date. This notice SHALL state the date the notice was mailed to the defendant(s).

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9. MOTIONS

Pretrial motion hearings must be scheduled with the Small Claims Clerk and may not be scheduled at the same time as the initial appearance, pretrial conference or contested hearing. All motions must be filed and served on the other party pursuant to the provisions of Chapters 801 and 802, Wis. Stats.

10. SMALL CLAIMS HEARINGS

At the contested hearing before the Court Commissioner (the "Court Trial"), the parties will be expected to present testimony, witnesses, their documentation supporting their claim or defense, and any other relevant evidence for the Court Commissioner to consider in making a decision. Permission may be granted to present brief videotape evidence if requested at the pretrial. Any party granted permission to present videotape evidence must furnish their own equipment at the time of trial.

11. APPEAL RIGHTS

Following the contested hearing before the Court Commissioner, either party may request a Trial before a Circuit Court Judge. This request must be made in writing

within ten (10) days of the Court Commissioner's decision if given orally at the time of the contested hearing, and within fifteen (15) days of a written decision of the Court Commissioner. The Decision of the Court Commissioner shall become the judgment of the Court if no demand for trial is made within the prescribed time limits.

12. JURY TRIAL

The procedure for demand for Jury Trial shall be as set forth in Chapter 799, Wisconsin Statutes.

13. CONTINUANCES

All requests for continuances of any small claims proceedings shall be made in writing, filed with the Clerk of Courts, with copies to the other parties at least five (5) business days prior to the scheduled court proceeding. If any party objects to the continuance, a telephone conference call must be arranged with the Court Commissioner at which time the request will be considered. **Contested hearings will not be rescheduled if the request is less than five (5) business days prior to the hearing without the Court Commissioner's approval and a showing of good cause.**

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14. FINANCIAL DISCLOSURE

All money judgment debtors are required to make financial disclosures to their judgment creditor within 15 days after the date of entry of judgment unless the judgment is sooner satisfied. Failure to complete the financial disclosure may result in a contempt finding and issuance of an arrest warrant.

15. CONTEMPT

At the time of executing contempt warrants for small claims, the judgment debtor will be given the option of completing the financial disclosure form or posting the bond amount. If neither is done, the judgment debtor shall be booked into jail on the contempt warrant and be brought before the Court Commissioner at the designated time.

16. COMPLAINTS AGAINST OUT-OF-STATE DEFENDANTS

Small claims actions must comply with the personal jurisdiction requirements of Section 801.05 of the Wisconsin Statutes. Accordingly, small claim complaints against out-of-state defendants must set forth a prima facie basis for personal jurisdiction under Section 801.05 of the Wisconsin Statutes. Plaintiffs who do not set forth this factual basis shall be issued a written Order to provide such a written factual basis for personal jurisdiction against the defendant, or the case will be dismissed. In order to facilitate the implementation of this rule, all small claim complaints against out-of-state defendants shall be reviewed by the Court Commissioner for compliance with this rule and the statutory requirements of

Section 801.05. The 30-day time period for setting a return date shall be stayed until the Court Commissioner has issued a decision on the personal jurisdiction issues presented by complaints against out-of-state defendants.

17. PROPER VENUE

A fundamental purpose of the small claims procedure is to permit unrepresented plaintiffs and defendants to appear in court and represent their interests in a legal dispute. When complaints are filed against defendants for disputes that do not arise in Outagamie County, the basic purpose of small claims procedures is undermined, and the potential for unfairness to defendants is significant. Accordingly, complaints against defendants who reside outside of Outagamie County shall be subject to being transferred to the county of residence of the defendant, unless the complaint provides a factual basis which establishes that the actual controversy arises from contacts or actions within Outagamie County. The Court Commissioner may review any complaints filed against defendants who do not reside in Outagamie County for compliance with this rule. If the complaint does not establish a factual basis for establishing that the dispute arose from contacts within Outagamie County, then the Court Commissioner shall transfer venue to the proper county in Wisconsin.

18. CONSOLIDATED CREDITORS ACTIONS

The attorney preparing the summons and complaint for multiple creditors shall provide information as to each creditor's individual claim(s). A separate judgment amount will be entered for each creditor and a separate docketing fee charged per creditor. Only one filing fee is charged. The check box that states: "See attached for multiple plaintiffs," must be checked and the information showing each creditor's individual claim(s) must be attached to the summons and complaint.
The individual creditor or creditors' names must be listed in the summons and complaint caption. (NOT the COLLECTION AGENCY'S NAME). A credit agency may bring a consolidated creditors action. The attorney filing the action will be required to apportion the costs between the creditors and submit a bill of costs to the court for each creditor so that the judgment can be entered.

19. SERVICE MEMBERS CIVIL RELIEF ACT:

A. An affidavit of Non-Military Service providing information on the defendant's current military service status must be filed for each defendant listed on a summons and complaint. Wisconsin State Form Number GF-175 shall be used to comply with this rule.
B. An Affidavit of Non-Military Service must also be filed when a party is proceeding with a Contempt Action in Small Claims Court.
C. Upon non-appearance by the defendant, judgment cannot be entered until the Affidavit of Non-Military Service is filed. If it is not filed **prior to or at** the initial appearance date the case will need to be continued requiring the plaintiff to make an additional court appearance.

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