Taylor County Local Court Rules

Effective date: August 1, 2010.

§1 Court Practice

101: A Philosophical Rule

Effective date: November 1, 1991, originally promulgated 9/14/87 in different format.

What should be the role of attorneys:

1. Discourage litigation. Persuade your neighbors to compromise whenever you can.
2. Point out to them how the nominal winner is often a real loser--in fees, expenses, and waste of time.
3. As a peacemaker, the lawyer has a superior opportunity of being a good [person]. There will be business enough.

--Abraham Lincoln

What should not be the role of attorneys:

1. To gum up the works.
2. To get people mad at each other.
3. To make business procedures much more expensive than they need to be.
4. To now and then deep-six what had seemed a perfectly workable arrangement.

--Mark H. McCormack
The Terrible Truth About Lawyers, 1987

102: Pretrial and Scheduling Conferences

Effective date: November 1, 1991, originally promulgated 6/10/80 in different format and with different provisions.

Except as to traffic matters under chapters 341-346, small claims matters under ch. 799, and divorces filed under Sec. 767.02, the clerk of court shall, upon filing of a civil action:

1. Complete a pretrial scheduling order by inserting a date and time for a pretrial conference in a standard order.
2. Affixing the completed pretrial scheduling order and pretrial data sheet to all authenticated copies of the pleadings to be served on the defendants.
3. Transmitting a copy of the completed pretrial scheduling order and pretrial data sheet to the plaintiff.

Counsel for the parties shall comply with the pretrial scheduling order and any other subsequent scheduling orders of the court.

103: Motion and Briefing Practice

Effective date: November 1, 1991, originally promulgated 6/10/80 in different format.

All pretrial motions shall be made in writing with proper notice to all parties. The moving party shall file the original motion, affidavits, and brief with the Clerk of Circuit Court. The moving party shall mail a copy of the motion and brief to the Circuit Judge presiding over the matter so that the Circuit Judge has notice that the motion was filed.

All pretrial motions shall contain the following:

1. *The date, time, and place for the hearing on the motion.* The moving party shall obtain a date and time for each motion from the office of the circuit judge.

2. *The rule, statute, or constitutional provision forming the basis for the motion.*

3. *The factual basis--stated with particularity--for the motion.* The motion must contain a statement of the facts underlying the motion. In criminal matters, the mere assertion that a defendant's rights were or were not violated is insufficient. In civil motions (including motions for summary judgment), all affidavits necessary for consideration of the motion must be filed with the motion.

4. *A supporting brief on the law regarding the motion.* The court may consider the moving party's failure to file a supporting brief as a waiver.

Parties opposing a motion may file a brief in opposition to the motion, along with affidavits in opposition, within fourteen (14) days of receipt of the motion. The moving party may file a reply brief within ten (10) days of receipt of the brief in opposition.

Pretrial motions that do not comply with Rule 103 may be denied by the court.

The court may schedule a hearing or oral decision date on any motion. In civil matters, all motions (including motions for summary judgment), all affidavits or evidence the parties wish the court to consider must be filed at least 72 hours before the hearing date to give the court the opportunity to review them. Affidavits or evidence submitted after that time will not be considered except upon a showing of good cause.

The successful party on a motion shall prepare a written Order for the court's signature for filing.

104: Adjournments of Scheduled Proceedings

Effective date: November 1. 1991, originally promulgated 5/30/80 in different format.

When the court has scheduled a matter, that matter shall not be adjourned except under the provisions of this rule.

The court may reschedule matters without prior notice to the parties only when exigent circumstances require.

Attorneys or parties pro se may request adjournment or rescheduling of matters as follows:

1. By formal motion for good cause.

2. If the original date was scheduled by the court without prior consultation with counsel, an attorney or a party pro se may request the setting of a new date as follows:

    a. Requests must be made in writing within five days of the receipt of the notice, with copies to all other parties;

    b. The request must contain a statement setting forth the reason for the request;

    c. If the reason for the request is a conflict with other court matters, the caption of the conflicting case, the date on which the conflicting case was scheduled, and the name of the presiding judge of the conflicting case.

3. If the attorneys and parties stipulate to an adjournment, the court will consider the request on a case-by-case basis.

Failure to appear at scheduled court proceedings shall subject the parties and counsel to all sanctions allowed by law, including but not limited to costs, dismissal, the granting of relief requested, default judgment, and other sanctions.

105: Speedy Trial Demand Filing Requirements

Effective date: October 1, 2005, or when approved by the Chief Judge, whichever is later.

In all cases in which a written demand for a speedy trial under §971.10(1) or (2), Wis. Stats., is filed with the Clerk of Court for Taylor County, a copy of the written demand shall be delivered to the judicial assistant of the judge assigned to the case.

1. Delivery to the judicial assistant for the Circuit Judge of Taylor County may be made personally, by fax, or by mail. If mailed, the notice shall be posted contemporaneously with the filing whenever possible but not later than 24 hours after filing.

2. Delivery to the judicial assistant for a judge from outside Taylor County may be made by mail or by whatever policy that judge may direct.

3. If no judge has yet been assigned to the case, delivery shall be pursuant to LCR 2602(b) as soon as notice of assignment has been made.

In all cases in which a demand for a speedy trial under §971.10(1) or (2), Wis. Stats., is made on the record rather than in writing, the party making the demand shall immediately reduce the demand to writing for filing with the Clerk of Court. Notice of the demand shall be delivered to the judicial assistant of the judge assigned to the case pursuant to the provisions of LCR 2602.

Time lines shall be calculated from the date the written demand is filed or the date the demand is made on the record, whichever is earlier.

The purpose of this rule is to ensure that the individual most responsible for scheduling matters in the court is made aware that a demand for a speedy trial has been made.

BY THE COURT:

Gary L. Carlson

Circuit Judge

Chief Judge Approval:

The Honorable Dorothy Bain

107: Facsimile Transmission of Documents to the Court

Effective date: April 16, 2001, originally promulgated 8/1/1991, modified 3/22/99.

Facsimile documents transmitted directly to the courts shall be accepted for filing only at **715-748-2465** pursuant to the following provisions:

1. The document does not exceed fifteen (15) pages in length.

2. No filing fee is required.

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

4. Papers filed by facsimile transmissions completed after regular business hours of the Clerk of Circuit Court's office are considered filed *the next business day.* The regular business hours of the Taylor County Circuit Court are 8:30 a.m. to 4:30 p.m.

5. Facsimile papers are considered filed upon receipt by the clerk of circuit court and are the official record of the court and may not be substituted. The transmitting party shall send no additional copies of the facsimile transmission. The Clerk of Circuit Court shall discard any duplicate papers subsequently received by the Clerk of Circuit Court, assigned judge, or court commissioner. Parties who have transmitted documents by facsimile to the court shall retain in their own files any "original" document that was used for the facsimile transmission. In the event the authenticity of the faxed document is challenged, the party who faxed the document to the court shall have the burden to show authenticity.

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:

1. Errors of failures in transmission that result in missing or illegible documents.

2. 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. Facsimiles exceeding 15 pages in length must certify that the assigned judge or court commissioner has approved the facsimile transmission.

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.

108: Transcript Preparation

Effective date: November 1, 1991, originally promulgated 4/29/86 in different format.

All transcript requests of the official reporter shall be made in writing. Request made orally shall be confirmed in writing.

At the reporter's sole discretion, the reporter may require an advance of all or part of the estimated transcript cost before commencing the transcript or prior to delivery, except that no advance shall be required for transcripts to be paid by the county, state of Wisconsin, or state public defender's office.

If a party requests the reporter transcribe a portion of a proceeding that requires a search of the reporter's notes for the appropriate passages, the reporter may charge a reasonable search fee along with the regular transcript fees.

The reporter shall assign each transcript request to one of the following descending categories:

1. *Transcripts with specific statutory deadlines for completion.*
   Transcripts in this category include, but are not limited to, appeal transcripts, sentencings to state prison, preliminary hearings in felony cases, John Doe proceedings, and others.
2. *Transcripts without statutory deadlines but for which a need exists according to court calendar deadlines.*
   Transcripts in this category include, but are not limited to, testimony or court matters from prior proceedings in pending cases.
3. *Transcripts without statutory or court calendar deadlines.*
   Transcripts in this category include, but are not limited to, testimony, court findings of fact, court decisions or other proceedings in cases that are no longer pending, and other transcripts prepared at the convenience of the requester.

The court reporter shall complete transcripts under the following priority:

1. Transcripts from Category 1 in the order of the earliest deadline date.

2. Transcripts from Category 2 in the order of the earliest calendar deadline.

3. Transcripts from Category 3 in the order of the date of request.

The reporter shall not commence lower category transcript requests until all higher category requests are completed unless approved by the court.

§ 2 Criminal Practice

201: Felony Arraignment Procedures

Effective date: November 1, 1991, originally promulgated 8/l/81 in different format and with different provisions.

In all felony criminal matters, arraignment shall occur immediately at the conclusion of the preliminary hearing in which there has been a bind-over. The district attorney and the defense shall be prepared to proceed at that time.

In the event there is a bind-over on charges other than those found in the original complaint, the court shall set arraignment for the next available criminal appearance date.

The district attorney or defense attorney may, for good cause, request arraignment at a date later than the date or dates established by this rule.

The court may issue a pretrial order at the time of arraignment concerning motion and discovery practice, pretrial and status conferences, and trial date.

202: Victim-Witness Coordinator to be Responsible for Coordinated Victim Notifications

Effective date: June 1, 2003, or when approved by the Chief Judge, whichever is later.

Since the creation of the position of Victim-Witness Coordinator in Taylor County, it has been the policy of this court that all contacts with victims in criminal cases be coordinated through that office. This policy was created following consultations and meetings with the District Attorney, the Sheriff of Taylor County, the City of Medford Police Chief, and the police chiefs of Gilman and Rib Lake. The court determined that multiple contacts by various agencies with the same victims would be potentially confusing to the victim, duplicative and potentially contradictory in terms of information provided, and counterproductive to the purposes of the victim's rights laws. This policy was never formally reduced to writing except to the extent it is contained within the juvenile court policies, Local Court Rule ???

In 2001 Wis. Act 109, the legislature created §302.114(6), Wisconsin Statutes, effective 2-1-03. This statute provides that when an inmate petitions the court for release to extended supervision "the clerk of the circuit court ... shall send a copy of the petition and, if a hearing is scheduled, a notice of hearing to the victim of the crime committed by the inmate...." (§302.114(6)(b), Wis. Stats.). This statute imposes additional duties upon the clerk to provide address cards to the victims (§304.114(6)(e), Wis. Stats. and, by implication, to maintain a registry of those cards for potential future uses.

The court is satisfied that notwithstanding the legislative creation of §302.114, Wis. Stats., it is still preferable that all contacts with victims be coordinated through the Victim-Witness Coordinator and that such a policy can be implemented without violating the spirit, intent, or letter of the law.

The duties of maintaining a card registry and contacting victims shall be resolved as follows:

1. The Victim-Witness Coordinator shall provide to the victim the address notification cards contemplated in §302.114(6), Wis. Stats., with an envelope to return the card to the Clerk of the Circuit Court;

2. The Victim-Witness Coordinator shall provide to the Clerk of the Circuit Court a copy of the cover letter from the Victim-Witness Coordinator to victim;

3. The Clerk of the Circuit Court shall maintain the card registry;

4. All court records or portions of records that relate to mailing addresses of victims are not subject to inspection or copying under §19.35(1), Wis. Stats.;

5. If the Victim-Witness Coordinator becomes aware of a victim's change of address, the Victim-Witness Coordinator shall notify the Clerk of the Circuit Court of that change;

6. When a petition is filed under §302.114(5) or (9)(bm), Wis. Stats., the Clerk of Court shall provide the victim information and a copy of the petition to the Victim-Witness Coordinator for transmittal of a copy of the petition to the victim.

Although this rule makes specific reference to §302.114, Wis. Stats., it is the intent of this rule to confirm the general policy of Taylor County that all victim contacts are to be coordinated through the Victim-Witness Coordinator.

Rule 203: Court Authorization to Sheriff to Utilize a Community Service Program

Effective date: July 12, 2002, or when approved by the Chief Judge, whichever is later.

Section 973.03(3), Wisconsin Statutes, provides that upon sentencing a defendant to imprisonment in the county jail, the court may provide that the defendant perform community service work under sections 973.03(3)(b) and (c), Wisconsin Statutes. This provision applies to defendants who have been granted Huber privileges except for the following:

1. Defendants sentenced for a Class A or B felony,
2. Defendants sentenced for a Class C felony listed in section 969.08(10)(b), Wisconsin Statutes, but not including any crime specified in section 943.10, Wisconsin Statutes.
3. Defendants sentenced for a Class C felony specified in section 948.05, Wisconsin Statutes.

The Sheriff of Taylor County wishes to implement a community service program under the provisions and subject to the restrictions of section 973.03(3), Wisconsin Statutes.

The court believes implementation of such a program is in the interest of justice. The program will be beneficial to the public interest as well as benefit individual inmates by providing them with appropriate work activities in exchange for good time off their sentence.

The court authorizes the Sheriff of Taylor County to implement this community service program and provide to the defendants participating in the program the good time benefits set forth in section 973.03(3)(a), Wisconsin Statutes. Defendants serving time in custody as

a condition of probation may participate in the community service program under such terms as authorized by and with the consent of the probationer and probation agent.

In creating this Rule, the court authorizes the sheriff to allow any defendant to participate in the program who meets the statutory criteria and who has been sentenced to the county jail with Huber privileges. Admissions to Huber by the court upon sentencing is sufficient authorization without further order of the court to participate in the community service program, subject only to the discretion of the Sheriff to determine eligibility.

This rule does not in any manner restrict the discretion of the Sheriff to determine whether a person should or should not be released on Huber or be allowed to participate in the community service program.

Statutory modifications to section 973.03(3), Wisconsin Statutes, including modifications to the list of crimes for which participation is allowed or denied, are automatically incorporated into this rule on the effective date of the legislation without further order of the court.

§ 3: Family Law Practice

301: Procedure for Hearings on Temporary Orders in Family Court

Effective date: October 15, 1992.

Hearings on the issuance of temporary orders by the Family Court Commissioner or court in actions affecting the family are intended to be informal proceedings. Their purpose is to establish a *status quo* that will govern the affairs of the parties while the case is pending. The court believes that extended or overly-adversarial proceedings on temporary orders are detrimental to the long-term interests of the parties because they:

- Harden or "lock-in" the position of the parties
- Create unnecessary ill will and long-term animosity between participants their families, and acquaintances
- Cost great sums of money
- Encumber a great deal of valuable court time.

In matters involving child custody or placement, such proceedings are especially contrary to the best interests of the children because the adversarial process makes it less likely that the parents will be able to mediate issues concerning their children.

The initial proceeding before the Family Court Commissioner or court for a temporary order shall be used to:

1. Enter temporary orders on issues that are stipulated or agreed to by the parties.

   Either:

   a. *Render a decision on contested issues based on offers of proof and/or argument, or if in the judgment of the Family Court Commissioner that this approach is unsatisfactory:*
   b. Schedule a hearing to resolve issues that are contested.

If a hearing for a temporary order on contested issues is set by the Family Court Commissioner or court, that hearing shall be held not later than seven calendar days after the initial proceeding unless parties and their counsel, if any, agree to an extension.

At a hearing for a temporary order on the contested issues, the following evidentiary limits are established:

- Testimony is limited to the parties themselves
- Other evidentiary matters shall be presented through affidavit. All affidavits to be submitted shall be served on the opposing side not less than 2 business days before the contested hearing
- No depositions, interrogatories, or requests to admit/deny shall be allowed prior to the contested hearing

The Family Court Commissioner or court may establish a reasonable time limit to the length of such contested hearings. When a time limit is established, the time allotted is to be split equally between the parties. All direct and redirect, cross and re-cross examination, and argument shall be assessed as part of each party's time allotment.

Appeals to the Circuit Court from the decisions of the Family Court Commissioner shall be limited to the testimony of the parties and a review of the affidavits that were submitted at the contested temporary hearing. Upon a showing of good cause, the court may order additional evidence to be presented.

The Family Court Commissioner or court shall not on the basis of *ex parte* requests grant temporary physical custody of children, remove children from a home or order a party to leave the family home except under exigent circumstances. If necessary, the Family Court Commissioner or court shall refer the parties to the appropriate agencies, organizations or procedures for obtaining Domestic Abuse or Child Abuse restraining orders.

302: Mediation:

Effective date: April 28, 2006, originally promulgated August 1, 1981 in different format, revised November 1, 1991 and August 1, 1994, March 1, 2001.

1. In any action affecting the family in which the issue of child custody, physical placement, or periods of physical placement is raised, the court shall refer the parties to mediation. The mediator shall conduct such mediation services as are appropriate and required by law and report the results of the mediation to the court.
2. No fee shall be charged to the parties for the first session. If the mediation continues beyond a first session, each party shall pay a fee for mediation services in the amount of $100.
3. No guardian ad litem shall be appointed in such a case until the mediation has been concluded.

303: Guardians ad litem:

Effective date: April 28, 2006, originally promulgated August 1, 1981 in different format, revised November 1, 1991 and August 1, 1994, March 1, 2001.

1. In any action affecting the family in which the issue of child custody, physical placement, or periods of physical placement is raised, the court shall appoint an attorney to act as guardian ad litem for the children. Each party shall be required to

make to the Clerk of Court for Taylor County the following payments for the appointment and continued service of the guardian ad litem:
    a) $200 in advance of the guardian ad litem's appointment, plus a $15 fee for establishing and monitoring the payment plan;
    b) $150 per month payable no later than the 15th day of each month, commencing with the next month, and each month thereafter until that party's share of the fees has been paid.
2. Individuals who are indigent may file a request for waiver and an affidavit of indigency.
3. The Clerk of Court shall hold all payments in trust until the conclusion of the proceeding, at which time each party will be credited with the amount that party has paid toward the share of guardian ad litem fees that party has been ordered to pay by the court. The clerk shall refund any excess amounts to the party.
4. A party's failure to pay any of the amounts required shall subject that party to potential sanctions for contempt of court.
5. Until both parties have either paid the $200 advance or the court has approved an affidavit of indigency:
    a) No guardian ad litem shall be appointed, and
    b) No final hearing or trial shall be scheduled by the court.
6. Attorneys serving as guardians ad litem shall be reimbursed at the rate established in Supreme Court Rule 81.02. In the event SCR 81.02 is modified after the effective date of this rule, the payment rate shall be modified accordingly without further order of the court.
7. An attorney serving as guardian ad litem shall submit to the Clerk of Court on a monthly basis, detailed statements of the services rendered during the preceding month, including the activity conducted and the amount of time involved. The attorney shall send copies of the monthly statement to each of the parties. The request shall include an order for payment to be signed by the court. The court shall order these statements to be paid by Taylor County during the pendency of the proceeding.
8. An attorney serving as guardian ad litem shall submit a report and recommendation to the court as specified by the court, and shall provide copies to the attorneys involved in the case. The guardian ad litem report and recommendation shall be filed and sealed by the clerk, as it contains confidential information. Any unrepresented parties may review said report and recommendation at the circuit court office upon request. A copy of the report and recommendation may only be provided to unrepresented parties upon order of the court.

304: Home studies

Effective date: April 28, 2006, originally promulgated August 1, 1981 in different format, revised November 1, 1991 and August 1, 1994, March 1, 2001, January 1, 2010.

In any action affecting the family in which a home study is requested, each party shall pay to the Clerk of Court the amount of $500 as a fee for the home study.

Individuals who are indigent may file a request for waiver and an affidavit of indigency.

A party's failure to pay the amount required shall subject that party to potential sanctions for contempt of court.

No home study shall be commenced until both parties have paid the fee. At least **ninety** days advance notice before trial date is required for a home study.

Home studies within Taylor County or counties reasonably proximate to Taylor County shall be conducted by the Coordinator of Family and Juvenile Services. In the event the Coordinator cannot conduct the home study, Taylor County Human Services shall conduct home studies within Taylor County and similar agencies in other counties shall conduct studies within those counties.

In order to insure the privacy interests of the parties and participants in a home study, the following restrictions on dissemination of the home study are ordered:

1. The original copy of the home study shall be filed with the court in a sealed envelope indicating that it shall only be opened by or at the direction of the court.
2. Each attorney for a party, including the guardian ad litem, if any, shall be provided with a single copy of the home study. Counsel may review the home study with his or her client or other individuals or professionals involved in the case.
3. No attorney or party shall make any additional copies of the home study or portions of the home study for themselves or any other person.
4. Parents who are not represented by counsel may make arrangements to review the home study in the office of the Coordinator of Family and Juvenile Services during normal work hours.
5. Attorneys who receive copies of home studies shall be required to insure there is no dissemination of the home study beyond the authority of this rule during the pendency of or after the proceeding is concluded. One method by which counsel may conclusively satisfy that obligation for the period after the conclusion of the proceeding is to return their copy of the home study to the Coordinator of Family and Juvenile Services at the conclusion of the proceedings.

305: Psychological/Psychiatric examinations

Effective date: April 28, 2006, originally promulgated August 1, 1981 in different format, revised November 1, 1991 and August 1, 1994, March 1, 2001.

Any party requesting psychological or psychiatric examinations of the parties, children, or other individuals involved in an action affecting the family shall file a motion with the court.

The motion shall set forth the following:

1. The nature of the examination requested;
2. A statement as to the precise question the moving party is asking the psychologist or psychiatrist to answer in the matter;
3. A statement concerning the availability of insurance to cover the cost of the examination;
4. A recommendation with the name, address, and telephone number of the professional or provider to conduct the examination,
5. An estimate of the cost of such an examination; and,
6. A statement as to why this examination is necessary for the resolution of this case.

The court may conduct a hearing on the motion to determine whether such an examination is needed and, if ordered, make appropriate conditions for the conducting of the examination and the payment for the examination by the parties.

306: Responsibility for payment

In any matter in which a guardian ad litem has been appointed, the guardian ad litem's fees are to be shared equally by the parties unless otherwise ordered by the Court. Counsel shall

insert this provision in any final order or judgment rendered whether specifically directed by the Court or not. Failure to insert such a provision does not obviate the effect of this rule on any party.

The cost of any services ordered under rules 302-305 may be ordered paid by any or all of the parties. If Taylor County pays for or advances payment for any services, the court may require the parties to reimburse the county and may enter judgment in favor of the county and against the party in the amount of the cost assigned to that party.

307: Parents Attendance at Parenting Education Program ("SMILE" Program)

Effective date: February 1, 1998.

Section 767.401, Wisconsin Statutes permits courts to order parents involved in a divorce action to attend a parenting education program as a condition of granting a divorce. Such a program is considered beneficial in providing parents the opportunity to learn of the effects of a divorce upon the children and how parents can best meet the special needs of their children during and following the divorce. The court believes it is appropriate to establish this type of program for such parents in Taylor County.

All parents involved in an action for divorce filed in Taylor County after the effective date of this act shall attend the Taylor County "Start Making It Liveable for Everyone" (SMILE) program as a condition of granting a divorce.

1. Failure of a parent to attend the program or pay any required program fee may result in:

    a) penalties for contempt of court

    b) postponement of any scheduled court date pending completion of the program; or

    c) dismissal of the divorce proceeding if the petitioner is the party failing to comply

2. The Coordinator: Family and Juvenile Services shall coordinate the

    a) Creation of the program and curriculum;

    b) Recruitment of instructors;

    c) Preparation of materials;

    d) Notifying parents of and scheduling parents for the program;

    e) Establishing an appropriate fee for the program;

    f) Certifying attendance of parents at the program;

    g) Obtaining evaluations of the program from parents and instructors;

    h) Reporting the results of the programs to the Circuit Court; and,

i) Recommending modifications or improvements in the program to the Circuit Court.

Payments of all fees for the program shall be made to the Clerk of Court for Taylor County. Parents seeking exemption from the fee for reasons of poverty shall file an affidavit of indigency with the Clerk of Court for review by the Circuit Judge.

The Circuit Judge, Family Court Commissioner or Family Court Mediator may refer for voluntary participation in the SMILE program any parent(s) involved in an ongoing proceeding if it is believed that attendance would be beneficial to the parent(s) or their child(ren).

A parent who would not otherwise be required to attend this program or who has not been referred to the program under the previous paragraph may request voluntary attendance at the program. Such requests shall be accommodated on a space-available basis. A parent attending under the provisions of the previous paragraph this Rule, or this paragraph, shall pay the same fee required of parents required to attend under the previous paragraph of this Rule. Parents who may seek to attend under this provision include, but are not necessarily limited to:

1. Parents who were involved in a divorce action prior to the effective date of this Rule but whose case has not been resolved; and,

2. Parents who are now or were previously involved in a paternity action.

308: Standard Policy on Periods of Physical Placement in Family Court

Effective date: February 16, 1994.

Standard policies on certain issues can assist litigants and attorneys in attempting to resolve matters in an amicable and non-adversarial nature. In family court proceedings, it is especially important to attempt to reduce anger and hostility between parents when it comes to handling the continuing relationship between the parents and their children.

The attached standard policy on periods of physical placement reflects the current position of the court concerning a starting point for reasonable placement of a child with a noncustodial parent. It may be used by parties, counsel, mediators, guardians ad litem, or others in attempting to reach an agreement on the issue of physical placement.

Prior versions of the court's policy on Periods of Physical Placement, or a predecessor Standard Policy on Visitation, that have been incorporated into Orders or Judgments of this court shall remain in full force and are not affected by this or any subsequent revision.

The Standard Policy on Periods of Physical Placement may be modified at such times in the future as it appears appropriate because of changes in the law, the philosophy of the court, or conditions in society.

§4 Juvenile Practice

Effective date: March 22, 1999; original 9/1/1993, previous revisions 2/17/1994, 8/1/1994, 7/1/1996 & 1/10/97.

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

401: Definitions

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

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

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

6. JIPS: **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. These generally involve uncontrollable juveniles, habitual truants, school dropouts, juveniles under age 10 who commit a delinquent act, juveniles not responsible because of mental disease or defect, or those not competent to proceed.

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

402: General policies

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

Rationale: The statutes are the law. They must be followed. Policies and procedures are intended to fill the gaps in the law and set forth the philosophical and procedural requirements for handling matters involving chs. 48 and 938.

2. The court will not routinely waive time limits.

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

- In Delinquency and JIPS matters, remove the "cause and effect" relationship between juvenile behavior and court-ordered "consequences" in delinquency matters, and
- In CHIPS matters, place the child and parents in a limbo status concerning the various needs, rights, and responsibilities of the parties.

403: "Custody Intake"

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

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

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

Rationale: The statutes mandate training for all intake workers. The powers of the intake worker are similar to those of a judge.

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

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

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

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

5. Referrals for custody intake shall first be made to the full-time intake worker; if the full-time intake worker is not available, the backup workers shall be contacted in the order provided by the court.

Rationale: Custody intake should first be conducted by the person who is most experienced and generally familiar with the statutes, juveniles, and court processes: the full-time intake worker. If that worker is not available, referrals should be made to the backup workers in the order listed by the court so that there is uniformity in intake decisions.

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

   Rationale: A Juvenile Court Commissioner is the only court official (other than the Circuit Judge) who can conduct Custody Hearings under §§48.21 or 938.21, Wisconsin Statutes. If a Juvenile Court Commissioner makes the initial custody decision, only another court commissioner with juvenile court powers or the Circuit Judge can conduct a custody hearing. If the Circuit Judge is not available, an out-of-county judge would be required.

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

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

404: Custody intake "decision guidelines"

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

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

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

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

3. Intake shall first determine whether the court has jurisdiction over the person.
   a. In delinquency matters, the referring agency shall attempt to establish if the person is subject to original adult court jurisdiction or the juvenile court. If the person is subject to original adult court jurisdiction, the

procedures specified in section 405 of this rule and chs. 967 to 979, Wisconsin Statutes, shall apply.

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

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

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

a. Chapter 48 presumptions:

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

Rationale: In construing chapter 48, the paramount consideration is the "best interests of the child."

2. If the best interests of the child require removal, lower levels of restriction must always be considered and rejected before considering a higher level of restriction. Intake shall consider placement in the following ascending order of restriction (only if statutory criteria are met):
   a. Home placement with conditions;
   b. Home placement under home detention rules;
   c. Placement in the home of a relative;
   d. Holdover room;
   e. Placement in the home of a person not a relative;
   f. A licensed foster home;
   g. Shelter care, such as Marathon or Eau Claire County Shelter Care.

b. Chapter 938 delinquency/JIPS presumptions:

1. A juvenile shall be removed from the home and placed in custody if doing so is necessary to protect citizens from juvenile crime.

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

2. If removal from the home is not necessary to protect citizens from juvenile crime, intake shall consider whether any of the following conditions on home placement are warranted:
   - Home placement with conditions;
   - Home placement under home detention rules.

3. If protection of the public requires removal, lower levels of restriction must always be considered and rejected before

considering a higher level of restriction, except in the case of those crimes statutorily presumptive of secure detention. Intake shall consider placement in the following ascending order of restriction (only if statutory criteria are met):

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

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

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

a. 1st degree intentional homicide, 940.01
b. 1st degree reckless homicide, 940.02
c. Felony murder, 940.03
d. 2nd degree intentional homicide, 940.05
e. Class C, D & E felony Battery, 940.19 (2) to (6)
f. Mayhem, 940.21
g. 1st degree sexual assault, 940.225(1)
h. Kidnapping, 940.31
i. Discharging firearm from automobile or in parking lot under certain conditions, 941.20(3)
j. Arson to building, 943.02(1)
k. Car jacking while possessing a dangerous weapon, 943.23(1g)
l. Car jacking while possessing a dangerous weapon and causing great bodily harm, 943.23(1m)
m. Car jacking while possessing a dangerous weapon and causing death, 943.23(1r)
n. Armed robbery, 943.32(2)
o. 2d or subsequent offense of Harassment with threat of death/great bodily harm, 947.013(1t)
p. Harassment with threat of death/great bodily harm based on information obtained electronically, 947.013(1v)
q. 2d or subsequent offense of harassment based on information obtained electronically, 947.013(1x)

r. 1st or 2nd degree sexual assault of child, or repeated acts of sexual assault to same child, 948.02(1) or (2)
s. Physical abuse of child, 948.03
t. Use of handgun, short-barreled rifle/shotgun while committing a felony under ch. 940
u. Possession of a short-barreled rifle/shotgun, §941.28
v. Going armed with a handgun in violation of §948.60

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

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

6. The referral agencies' recommendation concerning either the necessity of a hold or the proper placement is not binding on the intake decision and should be considered only with caution.

Rationale: Intake must make a reasoned, independent decision on both the holding of a child/juvenile and the proper placement. Referral agencies have different constituencies and interests from intake. Intake's responsibility is to the court, not the referral agency.

7. The "holdover room" is to be used as a temporary housing of the child/juvenile only in the following circumstances:
a. When the court will be able to conduct a custody hearing within 24 hours; or,
b. As a temporary placement pending the opening of a different placement, such as a foster home, shelter care facility, or other similar placement.

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

8. The "holdover room" is a non-secure placement. It shall be located in a non-secure portion of the Taylor County Law Enforcement Center. All persons placed in the "holdover room" must be advised that
a. The holdover room is a non-secure placement;
b. He or she is free to leave and where the available exits are located;
c. A juvenile who leaves the holdover room is considered a "runaway" from a non-secure placement; and,

d. As a runaway from a non-secure placement, Wisconsin law allows the juvenile to be placed in a secure placement facility.

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

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

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

10. Intake staff shall consider the following criteria when appropriate in making a custody decision and the appropriate level of placement:

a. In delinquency situations whether the present offense is a presumptive secure custodial placement crime listed in §938.208(1)(a) (b), or (c), Wisconsin Statutes.

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

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

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

- Number, nature and consequences of prior court adjudications
- Age of initial law enforcement/court involvement compared to present age

- Whether the activity indicates an escalation in severity or dangerousness
- Whether the activity indicates an increasing lack of respect for or inclination to adhere to rules
- Other factors concerning the prior record of the juvenile

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

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

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

11. Deadline for petitions if no custody hearing is requested

a. If a child/juvenile has been taken into custody and placed in a secure or non-secure placement outside the home, but no

request for a hearing on the custody has been requested, the custody order shall automatically terminate and the person released from the custody order unless a written referral to intake pursuant to §§48.24 or 938.24, Wisconsin Statutes, has been filed within five (5) days of the date of the custody order.

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

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

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

405: Original adult court criminal defendants--secure custody

1. Defendants age 15 or over:
   a. 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.
   b. No referral to or request for intake services shall be made.

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

2. Defendants age 14 or under:

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

      1. 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.
      2. A defendant arrested without a warrant and held under this rule is entitled to a probable-cause determination within 48 hours of the arrest.

3. A defendant arrested and held under this rule is entitled to a bail/bond hearing under ch. 969.
4. A defendant arrested and held under this rule is not entitled to a juvenile court custody hearing under §938.20.

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

b. **Arrest pursuant to a warrant:** If a defendant age 14 or under is the subject of a warrant, upon arrest the defendant shall be:
   1. Immediately taken before a judge or court commissioner for a bail/bond hearing, or,
   2. Held in a juvenile secure detention facility under a bail/bond hearing can be scheduled. In holding such a defendant law enforcement shall follow the procedures in section 2a (above) for referral to intake to set up the secure placement.

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

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

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

4. Any defendant who meets all of the following criteria shall immediately be transferred to the county jail upon his or her 15th birthday:
   a. The person is subject to original adult court jurisdiction, and,
   b. The person had been placed in juvenile secure custody because the person was age 14 or under at the time the custody decision was made.

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

406: Custody hearings and petitions

1. Custody hearings, whether under §§48.21 or 938.21, shall be conducted within 24 hours after the end of the day that the decision to hold was made, excluding weekends and holidays.

   Rationale: Section 48.21 requires a custody hearing to be held within *48 hours of the time the decision to hold the child was made*, excluding Saturdays, Sundays and legal holidays. Section 938.21 requires a custody hearing to be held within *24 hours after the end of the day that the decision to hold the juvenile was made*, excluding Saturdays, Sundays and legal holidays. Although ch. 48 and 983 have differing deadlines, it is appropriate for the court to establish a common deadline so as to avoid confusion.

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

3. If a petition under either ch. 48 or ch. 938 has not been filed by the time of the custody hearing and the statutory grounds exist for an extension of time to file a petition, a petition must be filed within:
   a. Ch. 938 matters: 48 hours from the time of the hearing.
   b. Ch. 48 matters: 72 hours from the time of the hearing, excluding Saturdays, Sundays and legal holidays.

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

407: "Court Intake"

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

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

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

   Rationale: Consistency in the handling of the referral process is necessary to assure that cases are handled similarly. Coordinating all intake inquiries in the full-time intake worker assures such consistency. Because the time limits for conducting an intake

inquiry are sufficiently flexible, the full-time intake worker can accommodate all intake referrals in spite of temporary absences, vacations, or other duties.

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

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

4. Intake referrals under §§48.24(1) or 938.24(1), Wisconsin Statutes, are not required if all of the following have occurred:
   a. A custody intake decision was made pursuant to §§48.19 or 938.19, Wisconsin Statutes;
   b. A hearing on the custody has been held pursuant to §§48.21 or 938.21, Wisconsin Statutes;
   c. The person has been continued in custody (secure or non-secure); and,
   d. A petition was filed with the court at or prior to the custody hearing or the court has authorized an extension of time to file a petition.

   Rationale: The purpose of the intake referral is to allow the Juvenile Intake Worker to review the facts, meet with the child/juvenile and parents, and make a decision whether the matter should be referred for a Petition to be filed, whether the matter should be resolved through an Informal Disposition or Deferred Prosecution Agreement, or whether the matter should be dismissed. Chapters 48 and 938 require that a petition be filed at or prior to a custody hearing or allows an extension of time to file such a petition. Because of the expedited nature of the process when a child/juvenile is taken into custody, the purpose of an intake inquiry has been accomplished. It is impossible to reconcile the statutory guidelines for an intake inquiry with the statutory guidelines for processing a petition. It was the apparent intent of the legislature to circumvent the intake inquiry procedure when the intrusive step of a child/juvenile being taken into custody has occurred.

5. Intake referrals under §§48.24(1) or 938.24(1), are not required if the juvenile has been transferred to juvenile court by an adult court pursuant to a "reverse waiver" under §§970.032(2) or 971.31(13).

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

6. Except as set forth elsewhere in this rule, the intake worker shall always consider the possibility of an informal disposition agreement under ch. 48 or a deferred prosecution agreement under ch. 938 when doing so would not unduly

depreciate the seriousness of the matter referred in the eyes of the juvenile, parents, victims, and the public.

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

7. The intake worker shall consider the following factors in screening intake referrals:
   a. Seriousness of the allegations
   b. Intent
   c. Severity of personal injury
   d. Severity of property damage
   e. Prior allegations of similar activity
   f. Attitude of the public
   g. Attitude of the victim
   h. Previous contacts with law enforcement, social services, or juvenile intake
   i. Age and maturity
   j. Attitude of the person and/or parents
   k. Degree of apparent incorrigibility/uncontrollability
   l. School attendance and behavior patterns
   m. Involvement in gang-related activity
   n. Other social factors
   o. Resources available to the family and community to provide adequate care
   p. Criteria in §938.18(5), Wisconsin Statutes, concerning waiver to adult court
   q. Any other facts or circumstances available to the intake worker that impact on the referral decision consistent with the welfare and safety of the person and the protection of the public, including those factors provided in Rule 404, concerning custody decision-making.

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

8. The intake worker shall **not** enter into a deferred prosecution agreement in a ch. 938 matter in the following situations unless the district attorney has referred the matter back to the intake worker with such a recommendation.

   Rationale: The legislature, on behalf of the society it represents, has categorized crimes in terms of seriousness by creating a classification system. It is the duty of the executive branch, acting through the elected District Attorney, to determine the extent to which these crimes should be prosecuted. For those

crimes society considers most serious, the intake worker--a nonelected member of the judicial branch--should not make juvenile court deferred prosecution agreements in those cases which would appear to unduly depreciate the seriousness of the allegations. Certain criminal activity is so serious that a juvenile court deferred prosecution agreement should only be considered when the District Attorney has made that choice as the proper prosecutorial decision. The intake worker should conduct an intake conference and may recommend to the district attorney a *juvenile court* deferred prosecution agreement or an *adult criminal court* deferred prosecution agreement. If the district attorney has reviewed the matter and concludes that a juvenile court deferred prosecution agreement is appropriate, the district attorney will refer the matter back to intake for such a procedure. If the district attorney believes an *adult criminal court* deferred prosecution agreement is appropriate, the district attorney will prepare the paperwork in adult court.

a. If the intake worker is satisfied there is probable cause to believe the juvenile committed a Class A or B Felony

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

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

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

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

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

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

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

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

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

9. The juvenile intake worker may consider recommending an informal disposition agreement or deferred prosecution agreement in the following circumstances:
   a. When an informal disposition would not violate rule 8 above.
   b. In delinquency/JIPS matters when:
      1. The juvenile admits the allegations.
      2. The juvenile exhibits remorse for the acts.
      3. The juvenile's parents appear cooperative with the court.
      4. The juvenile has not previously been formally adjudicated delinquent.
   c. In CHIPS matters when:
      1. The custodial parent(s) agree that the child is in need of protection and services.
      2. The child has not previously been adjudicated CHIPS.
      3. The child is not the victim of sexual or physical abuse resulting in actual injury inflicted by an adult person currently residing in the child's home.

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

10. Deferred prosecution agreements involving Youth Village Placements

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

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

   b. Upon signing of the order, intake shall provide written copies of the agreement and order to the:
      - juvenile;
      - parent, guardian, or legal custodian;
      - agency providing services under the agreement; and,
      - juvenile court clerk.

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

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

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

12. When a matter has been presented to the intake worker by the Juvenile Court Clerk under section 416 of this local court rule, the intake worker may:
    a. Refer the matter to the appropriate agency for investigation and review. That agency shall then make a determination whether an intake referral should be made, or,
    b. Conduct an intake inquiry based on the petition presented to the juvenile court clerk for filing.

    Rationale: Section 48.25(1), Wisconsin Statutes, permits the filing of a petition under §§48.13 or 48.14 by counsel or guardian ad litem for a parent, relative, guardian or child. Presumably a parent, relative, guardian or child could also file such a petition *pro se*. Section 416 of these local court rules prohibits the Juvenile Court Clerk from accepting for filing such a petition unless an intake inquiry has been conducted. When the Juvenile Court Clerk makes such a referral to intake, the intake worker must have the ability to refer the matter to law enforcement or human services for investigation and determination whether a petition should be filed. Alternatively, the intake worker may determine that an intake inquiry should be conducted based on the materials submitted by the petitioning party.

408: Notice to victims of juvenile's acts

1. The victim-witness coordinator in the district attorney's office shall be responsible for notifying each known victim who sustained personal injury or property damage of:
    a. The policies and procedures of the court concerning their rights. The district attorney may establish policies and procedures for the victim-witness coordinator.
    b. Notices of scheduled proceedings in delinquency matters.

2. The juvenile court clerk shall send court notices of scheduled juvenile court proceedings to the victim-witness coordinator to facilitate the duties of the victim-witness coordinator.

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

1. If a custody hearing is held:

a. At the commencement of the custody hearing, the court shall advise the child/juvenile and parent(s) of their rights, obligations and possible disclosures. The court may do so by providing the child/juvenile and parent(s) who attend with the printed form JD-1716. Notice is considered properly given whether or not the recipients sign the signature block on the form.

b. If a parent does not attend the custody hearing, the juvenile court clerk shall at the conclusion of the hearing send a copy of the written form JD-1716 to the non-attending parent if the address is known.

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

2. At an intake inquiry:

a. At the commencement of the intake inquiry, the juvenile intake worker shall advise the child/juvenile and parents of their rights, obligations and possible disclosures. The juvenile intake worker may do so by providing the child/juvenile and parent(s) who attend with the printed form JD-1716. Notice is considered properly given whether or not the recipients sign the signature block on the form.

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

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

410: Plea negotiations

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

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

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

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

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

411: Dispositional activities

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

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

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

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

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

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

4. If a matter has been transferred from another county to this county for a dispositional hearing, the dispositional hearing shall be set within 30 days of the receipt of the transfer documents from the other county. If the agency preparing the court report has not had any prior experience with the juvenile, the agency may request an extension for preparation of the court report.

412: Extensions of dispositional orders

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

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

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

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

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

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

4. The court shall schedule an extension hearing in all cases in which 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 shall grant the request for a temporary thirty-day extension under §§48.365(6) or 938.365(6), Wisconsin Statutes.

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

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

Rationale: It is appropriate that there be uniformity in determining when an extended disposition is to take effect. Since chs. 48 & 983 do not specifically address this issue, dispositional orders in the past have sometimes used the hearing date as the date from which the extension is calculated rather than the date the dispositional order was to expire. Since an extension is merely

a continuation of the old order, it is logical that the extended period is simply added to the existing order. It is illogical to consider the extension to be a new order which can overlap the old dispositional order.

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

1. Local Court Rule 413, effective November 1, 1991, is repealed effective July 1, 1996.

2. All requests by victims or the insurance companies of victims for disclosure of the juvenile's identity and police records shall be referred to the law enforcement agency responsible for the investigation.

3. The insurance company of a victim shall be entitled to know the amount of restitution a court has ordered paid on behalf of the victim if a request to the juvenile court clerk is made pursuant to §938.396(2)(fm).

414: Requests to review court files involving juveniles

1. All requests for review of court records involving a juvenile shall be in writing.

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

3. If a request is made by a juvenile, parent, guardian or legal custodian under §§938.396(2)(ag) or (am), before release of any information requested the juvenile court clerk shall review the file and make an initial determination whether release of that information might result in imminent danger to anyone. If the juvenile court clerk believes such a result might occur, the juvenile court clerk shall either:
   a. Refer the matter to the judge assigned to that case for a determination as to whether a hearing shall be held on the release, or,
   b. Prepare a version of the information requested with the potentially dangerous information blocked out. The requester may bring a motion to the court if the requester believes the information should not have been blocked.

4. Requests pursuant to §938.396(2m)(a): If a request is for access to juvenile court records made by any person under §938.396(2m)(a) for juveniles alleged to have committed an offense enumerated in §938.34(4h)(a) (Serious Juvenile Offender crimes), the juvenile court clerk shall before releasing the file for inspection:
   a. Determine if the juvenile is alleged to have committed a crime specified in §938.34(4h)(a), and, if so,
   b. Remove from the file all reports under §938.295 (physical, mental, psychological, or developmental examination reports) or §938.33 (court dispositional reports) or other records that deal with sensitive personal information of the juvenile and the juvenile's family. If the juvenile court clerk has questions concerning the appropriateness of releasing any information, the matter shall be referred to the judge assigned to the that case for a determination.

5. Requests pursuant to §938.396(2m)(b): If a request is for access to juvenile court records of a juvenile alleged to be delinquent for committing a felony after a prior delinquency adjudication, the juvenile clerk shall:
   a. First, make all of the following determinations that the:
      - juvenile is currently charged with a felony,
      - juvenile was adjudicated delinquent for any crime at any time before the commencement of the felony proceeding,
      - previous adjudication remains of record and has not been reversed.
   b. Second, if all of the above have been found to exist, the juvenile clerk shall before releasing the file for inspection shall remove from the file all reports under §938.295 (physical, mental, psychological, or developmental examination reports) or §938.33 (court dispositional reports) or other records that deal with sensitive personal information of the juvenile and the juvenile's family. If the juvenile court clerk has questions concerning the appropriateness of releasing any information, the matter shall be referred to the judge assigned to the that case for a determination.

6. No copies of any court records shall be made or provided to any person requesting access to the records of a juvenile.

7. All requests for access to court records shall be responded to, in writing, within 48 hours of the request.

8. Intake files retained by the juvenile intake worker are not considered court files for the purposes of this rule.

415: Expunction of the record of a delinquency adjudication

1. All petitions for expunction of a juvenile adjudication shall be scheduled for a hearing.

2. If the court grants the petition for expunction of the juvenile adjudication, the juvenile clerk shall:
   a. Follow standard CCAP procedures for removal of the adjudication from the computerized record;
   b. Seal all documents referring to the adjudication, including but not limited to:
      1. the dispositional order,
      2. the dispositional court report,
      3. all motions and orders concerning extensions, revisions, or changes of placement,
      4. all petitions and orders for sanctions,
      5. all minute sheets referring to the adjudication or other post-adjudication proceedings,
      6. transcripts of court proceedings referring to the adjudication or other post-adjudication proceedings,
      7. the petition and order for expunction.
   c. The exterior of the sealed material shall simply state "Sealed: not to be opened except upon express order of the court." No reference shall be made that the contents are "expunged" materials.
   d. The sealed materials shall be retained in the court file.
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.

416: 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:
   a. 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.
   b. Any juvenile (age 14 or under) who was being held in juvenile secure detention shall remain in that placement.
   c. 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:
   a. Any person otherwise authorized to request custody under ch. 938,
   b. The juvenile, juvenile's parent, legal guardian, or custodian, or an attorney on behalf of such a party.

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

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

   Rationale: Section 48.24, Wisconsin Statutes, requires that information indicating that a child should be referred to the court shall first be referred to the intake worker. However, §48.25, Wisconsin Statutes, authorizes the counsel or guardian ad litem for a parent, relative, guardian or child to file a petition. In most cases, such petitions will not have been referred first to juvenile intake for an inquiry whether the court should be involved. It is important that intake be provided the opportunity to make inquiry first to ensure that there is a proper basis for the filing of a petition.

2. Upon receipt of any such petition the Juvenile Court Clerk shall refer the matter to the juvenile intake worker for an intake inquiry.

3. Any petition filed contrary to this rule may be dismissed without prejudice pending the intake inquiry.

   Rationale: Once a petition has been filed, the time limits for conducting a plea hearing and other proceedings take effect. Those time

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

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

1. Attorneys appointed by the county or state to represent a child/juvenile
   a. Unless the court has directed otherwise, at the conclusion of any proceeding under ch. 48 or 938 in which the juvenile was represented by an attorney appointed by the county or the state, the juvenile court clerk shall complete JD-1762 and mail it to the parent(s).
   b. The standard repayment schedule shall be:
      1. If there are two parent(s) residing together, not less than $150 per month.
      2. If there is only a single parent or the two parents are residing separately, not less than $100 per month from each.
   c. 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
   a. If the court has ordered an attorney be appointed at county expense on behalf of a parent of a child involved in a CHIPS proceeding, the court shall order the parent(s) to reimburse the county for all or part of the cost of such attorney fees.
   b. The court may order reimbursement to begin as of the date of the appointment. The standard repayment schedule shall be:
      1. If there are two parent(s) residing together, not less than $150 per month.
      2. If there is only a single parent or the two parents are residing separately, not less than $100 per month from each.
   c. 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
   a. If the child/juvenile is placed outside the home and the court orders the parent(s) to reimburse the county or state for the costs of such placement, the court shall either:
      1. Establish the amount of reimbursement on the record in court at the time the placement order is made, or,
      2. Refer the matter to Taylor County Human Services for a determination of the amount the parent(s) are able to pay. Taylor County Human Services shall establish a payment schedule for reimbursement.
   b. All payments on reimbursement for costs of custody/placement shall be made to Taylor County Human Services.

4. Costs of services

a. If the court has ordered services to be provided on behalf of a child/juvenile and has ordered the parent(s) to reimburse the county or state for such services, the court shall either:
    1. Establish the amount of reimbursement on the record in court at the time the placement order is made, or,
    2. Refer the matter to Taylor County Human Services for a determination of the amount the parent(s) are able to pay. Taylor County Human Services shall establish a payment schedule for reimbursement.

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

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

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

419: Short term detention

1. The juvenile intake worker shall not exercise the statutory authority found in §§938.355(6d) or 938.534(1)(b)1&2, Wis. Stats., to order short term detention of adjudicated JIPS or Delinquents.

   Rationale: The legislature has granted authority to take a juvenile adjudicated JIPS or Delinquent into custody for short-term detention. This detention can be for the purpose of holding the juvenile in order to investigate a possible violation of the rules of supervision or as a consequence for such a violation. A similar hold can be used for violations of intensive supervision (s.938.534(1), Wis. Stats.) and aftercare (s. 938.355(6d)(b), Wis. Stats.) Although the statutes indicate that the hold can be initiated by a juvenile's caseworker or any other person authorized to provide or providing intake or dispositional services for the court, this court rule specifically separates the role of juvenile intake from juvenile supervision services. Because of that separation, it is not appropriate to blur the distinction between the two by granting joint powers. The decision to hold pending investigation or hold as a consequence of a violation of the supervision should be made by the agency that is conducting the supervision and not court intake.

2. Any individual initiating a short-term detention shall notify the court of that action no later than the next business day. That notice shall include the name of the individual, the date and time of the original hold, the reason for the hold, and the place at which the juvenile is being held.

3. No short-term detention shall extend beyond 72 hours without a court hearing. The facility at which the juvenile is being held shall automatically release the juvenile at the conclusion of the 72-hour period unless the court has issued an order extending the hold.

4. If the caseworker determines that the hold should continue beyond 72 hours, the caseworker must request a hearing before the court. The request for such a hearing must be made sufficiently in advance of the termination of the 72 hour hold such that the hearing can be conducted in a timely fashion.

Dated at Medford, Wisconsin: March 22, 1999.

§5 Probate Practice

Rule 501: Access to Guardianship/Protective Placement Records by Abstractors

Effective date: November 1, 1991, originally promulgated 3/21/88 in different format.

The Register in Probate and Probate Registrar are authorized to provide access to the guardianship and protective placement records of the Circuit Court to commercial abstractors and their employees for the sole purpose of checking those records for factors that may affect the chain of title and merchantability of real estate. This limited access is permitted under Section 55.06(17), Wisconsin Statutes.

The Register in Probate and Probate Registrar shall not make nor allow to be made copies of any records.

The Register in Probate and Probate Registrar shall maintain a written registry of dates, names of abstractor/employee, and name of subject whose file was reviewed.

Rule 502: Deadline for Completion of Probates

Effective date: December 1, 1992.

It is not in the best interests of the public or the heirs in an estate for probate proceedings to continue indefinitely. Each proceeding--whether formal, informal, or summary in nature--should be resolved within an appropriate period of time. Section 863.33, Wisconsin Statutes, provides that estates are to be completed as soon as reasonably possible and without unnecessary delay.

Rule 10 of the Ninth Judicial District, which establishes time standards for case disposition, provides that 12 months from the time of filing is the appropriate period of time for disposition of estates. Section 863.35, Wisconsin Statutes, indicates that an estate becomes "dormant" after eighteen months.

In order to effectuate the 9th Judicial District time standard, the Register in Probate, Probate Registrar, or Probate Court Commissioner shall monitor the progress of estates filed within this county. For estates that are still active after ten months from filing, the Register in Probate, Probate Registrar, or Probate Court Commissioner shall be authorized to issue an Order directing the personal representative and attorney representing the estate to complete the estate within the twelve-month time standard.

If an estate is still active after twelve months from filing, the Register in Probate, Probate Registrar, or Probate Court Commissioner may issue an Order directing the personal representative and attorney representing the estate to appear before the court to explain the delay in completing the estate.

If the estate is not completed within 18 months, the Register in Probate, Probate Registrar, or Probate Court Commissioner may issue an Order directing the personal representative and attorney for the estate to appear before the court to show cause why:

1. they should not be held in contempt for failure to complete the estate timely;
2. they should not be replaced as personal representative or attorney and a new personal representative and/or attorney appointed to complete the estate.

§ 6 Small Claims Practice

Rule 601: Small Claims Procedures

Effective date: February 20, 2006, originally promulgated 4/11/80 in different format (typographical error corrected 1/25/96), revised November 1, 1991, revised in September 2008, and revised January 2012.

All small claims initial return dates shall be set by the Clerk of Circuit Court for the first and third Thursday of each month at 9:00 a.m. on days that the courthouse is open for business.

1. Service of summons in all small claims actions shall be:

    a) For Taylor County defendants (except replevin and eviction): by regular mail.
    b) For Out-of-County defendants: by personal/substituted service
    c) For all Replevin actions: by certified mail/return receipt or personal service.
    d) For all Eviction actions: by personal service.
    e) Service of contempt proceedings authorized by Wis. Stat. § 799.26(2) shall be by personal service and served upon the defendant at least 72 hours prior to the hearing time.
    f) If a party is required or elects to use personal service of a small claims complaint, amended complaint, or Notice and Motion for Contempt, proof of service shall be filed with the court prior to or at the return date or contempt hearing date.

1. Whenever attempted service by mail is returned by the U.S. Postal Service whether or not service has been accomplished shall be determined as follows:
    a) "Refused": Shall constitute a presumption of service upon the defendant since it indicates that he/she was presented with the envelope but refused to accept it under circumstances indicating that he/she had reason to know that it involved legal proceedings against him/her.
    b) "Unclaimed": shall not constitute service since there is no presumption that the defendant has reason to know that legal proceedings involving him/her have been commenced. In such cases, the Clerk shall advise the plaintiff of the failure of service and direct plaintiff to obtain personal service or service by publication within 30 days of the date of the notice or have the action dismissed for failure of service.

602: Plaintiff's Appearance on Return Date

The plaintiff shall appear on the return date to confer with the defendant about settlement. If the defendant appears and settlement is not reached, then the matter shall be set for trial at the return date. If the defendant fails to appear at the return date, then the plaintiff shall file the necessary paperwork to complete the case. Within 30 days of the return date, the plaintiff shall file the necessary paperwork if a settlement is reached, or if the defendant does not appear. Should plaintiff fail to do so, the case will be dismissed.

603: Defendant's Appearance on Return Date

The defendant shall appear on the return date to confer with the plaintiff about settlement. If the plaintiff and defendant appear, and no settlement is reached, the parties will appear before the court commissioner, who shall inquire of the defendant the nature of his/her defense. The court commissioner may grant a judgment on the pleadings if it appears that either party is entitled to judgment based upon the pleadings, and if the pleadings cannot be amended to state a proper claim for relief or a defense as appropriate. The court commissioner may in his/her discretion, require the defendant to file a written answer within a specified time, specifically setting forth his/her defense. If the matter is not settled or otherwise disposed of at the initial return date appearance, then the matter shall be scheduled for the next available trial date on the first Monday of each month. The Clerk of Court will provide the court hearing notice along with the small claims brochure to the litigants either in person or by regular mail.

If the matter is not settled at the initial return date appearance, then the matter shall be scheduled for the next available trial date (the first Monday of each month) on the small claims trial calendar. The Clerk of Court shall provide the court hearing notice along with the small claims trial brochure to the litigants either in person or by regular mail.

604: Defendant's answer

The defendant may not file a written answer in lieu of a personal appearance at the initial return date. If an attorney appears on behalf of a party, the attorney shall have settlement authority and a working knowledge of the settlement, the nature and issues in dispute, the number of witnesses and time needed for trial.

Failure to file an answer by a defendant within the time ordered by the court commissioner shall be deemed a default and judgment may be entered in favor of the plaintiff, at the court commissioner's discretion.

605: Trial

At the trial, the parties shall be prepared to proceed, and shall have their exhibits (documents and other papers) and witnesses ready and available in the courtroom. Any party who is given relief or prevails at the trial shall conclude the appropriate paperwork within 30 days of the trial, or the case will be dismissed.

606: Eviction, Garnishment, Replevin

If the matter involves an eviction, garnishment, or replevin, the commissioner shall request that the judge expedite the matter on the court calendar, at which time the judge shall place the matter on the calendar at the next available date.

Rule 607: Deadline for Demanding a Trial De Novo

Effective date: January 1, 2008.

In all cases in which there exists a right to a *de novo* review by the judge of any decision of a court commissioner for which no other statutory deadline exists, any such request for such a review must be made by mailing a copy of the demand to the court and to the other party(s) in the case within the following timeline:

1. For decisions made orally by the court commissioner, within ten business days of the day the decision was made

2. For decisions made by a written decision of the court commissioner, within fifteen calendar days of the day the decision was mailed to the parties.

Any party making a Demand for a trial *de novo* must file, at the same time as filing the Demand, proof of mailing or delivering copies of the demand on the other party(s). Proof of mailing includes, but is not limited to, a return receipt for certified or registered mail, a post office certificate of mailing, or a notarized affidavit of mailing.

Any demand that is not made within these timelines is deemed waived.

Each demand for a trial *de novo* must indicate the precise grounds or basis for disagreement with the court commissioner's decision.

§7 Traffic & Ordinances Practice

701: Criminal Traffic Violations

Effective date: November 1, 1991, originally promulgated 10/5/90 in different format and with different provisions.

The following rules apply to all persons issued citations for traffic matters or violations of state, county, or municipal ordinance violations:

Any person arrested on a criminal traffic violation shall be required to post:

1. Cash bond as established in the then-current Uniform State Traffic Deposit Schedule.
2. Guaranteed arrest bond certificate under section 345.61, Wisconsin Statutes, such as an AAA card.

The officer may release a person who signs a signature bond for twice the amount in the Uniform Misdemeanor Bail Schedule if the officer is satisfied the defendant will appear in court at the appearance date.

702: Non-Criminal Traffic Violations

Unless the Wisconsin statutes provide otherwise, any person arrested on a non-criminal traffic violation shall be released when the person:

1. Makes a deposit in the amount specified in the then-current Uniform State Traffic Deposit Schedule. At the discretion of the officer the deposit may be in the form of Cash; or, Credit card (MasterCard, VISA, etc.) if the agency is otherwise authorized to accept credit card.
2. Posts a guaranteed arrest bond certificate under section 345.61, Wisconsin Statutes, such as an AAA card.

Any person unable to post such a bond may be released after signing a signature bond for $150.

The officer may release the person without any bond if the officer is satisfied the defendant will appear for court without a bond.

Any officer issuing a citation shall inform the defendant that failure to appear or otherwise resolve the citation on the Initial Appearance date will result in a default judgment and any failure to pay the default judgment within 20 days will result in a five-year suspension of Wisconsin operating privileges.

703: Non-Traffic Ordinance (Non-Criminal) Violations

Unless the Wisconsin statutes provide otherwise, any person issued a citation for a non-traffic ordinance violation shall be given a court appearance date and released after posting:

1. Cash a bond for the amount of the standard forfeiture from the Taylor County Uniform Ordinance deposit schedule, or,
2. Signature bond for twice the amount of the standard forfeiture from the Taylor County Uniform Ordinance deposit schedule.

If the violation is one for which no standard forfeiture has been established, the bond shall be:

- Cash: $150.00, or,
- Signature: $300.00

If the defendant is unable to post a cash bond and the officer has reason to believe that the defendant will not appear for court as ordered, the officer shall immediately bring the defendant before the court for setting a bond.

If a person has been arrested without a warrant and is not released, within 48 hours of the arrest the arresting officer or agency shall:

1. Submit a probable cause affidavit and judicial determination form to a court commissioner or circuit judge for review and decision.

2. Take the person before a court commissioner or judge for a probable cause determination.

704: Transcripts of OWI/PAC Pleas By Pro Se Litigants

Effective date: November 1, 2005, or when approved by the Chief Judge, whichever is later.

In all cases in which an unrepresented defendant in a criminal case of operating while under the influence or operating with a prohibited alcohol level enters a plea of guilty or no contest to such a charge, the court reporter shall prepare an original transcript of said proceeding for retention in the court file.

The reason for this rule is that SCR Chapter 72(47) provides that court reporter notes be retained for a period of 10 years after the hearing. However, defendants charged with a 3 rd of subsequent offense of operating while under the influence or operating with a prohibited alcohol level often bring collateral challenges to prior convictions on the grounds of inadequate waiver of counsel or plea colloquies. If the court reporter's notes of said proceeding have been routinely destroyed under the retention schedule, it is not possible to accurately recreate a transcript of what occurred. It is not practical to separate from a court reporter's notes those notes that pertain to a plea in such a case and retain those specific notes for a longer period of time because such proceedings can literally occur at any point during a court day and be interspersed with other notes.

The cost for preparation of said original transcript shall be paid by the county.

§8 Jury Practice

→ New ← 801: REQUEST FOR INSTRUCTIONS

Effective date: August 1, 2010.

Requests for instructions shall be served on opposing counsel and submitted to the Court at the pretrial conference unless the trial judge otherwise permits. All instructions shall be written out in full on a separate sheet and each shall have noted thereon the citation of authorities relied upon to sustain such instruction. Any modifications to the standard instructions must be indicated.

§9 Miscellaneous

Rule 901: Standard Policy on Receipt of Dishonored Checks Issued to the Circuit Court

Effective date: July 20, 1994

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

- Filing fees;
- Fines or forfeitures, court costs, assessments and surcharges;
- Child Support or Maintenance;
- Restitution;
- Mediation or home study fees;
- Reimbursement to the county for costs expended by the county, such as attorney or guardian ad litem fees, charges for psychological or psychiatric examinations;
- Any other cost or charge payable to or through the court.

No court official on behalf of the court shall accept any post-dated check in payment of any court obligation.

Individuals, partnerships, or corporations that issue a check for a court obligation payable to the Clerk of Court, Register in Probate, or Circuit Court impliedly assures the court that said check will be honored by the financial institution upon which it is drawn.

Any individual, partnership, or corporation that issues a check to the circuit court for the payment of any court obligation that is returned by the financial institution

because of insufficient funds, closed account, or stop payment order is subject to the following:

- A $50.00 dishonored check charge,
- Sanctions for contempt of court in order to collect the dishonored check.
- A requirement that all future payments shall be in cash, cashier's check, certified check, or money order.

No court official shall accept any form of payment other than cash, cashier's check, certified check or money order to satisfy a court obligation from an individual, partnership, or corporation that submitted a check returned by a financial institution because of insufficient funds, closed account, or stop payment order.

A person, partnership, or corporation may seek relief from the provisions of Rule 2006 as follows:

1. By providing to the court a letter from the financial institution indicating that it was an error on the part of the financial institution that caused the check to be dishonored.

2. If the court obligation is of a continuing and periodic nature, such as (but not limited to) maintenance, or repayment of attorney or guardian ad litem fees:

    - The person, partnership or corporation making payments may post with the clerk of court a cash bond in an amount equal to one of the periodic payments to be made plus $25.00, said bond to be held in trust by the clerk.

    - If the court receives an additional dishonored check after the bond was posted, the clerk may apply the bond to the amount due under the dishonored check plus the dishonored check fee.

    - If the court receives no further dishonored checks for a period of one year after posting the bond, the party who posted the bond may request that the clerk return the bond and that the party be allowed to make future payments by personal, partnership, or corporate check.

Rule 902: Authorization For Court Personnel to Establish Payment Schedules for Financial Obligations

Effective date: September 1, 1997

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

- Filing fees;

- Fines or forfeitures, court costs, assessments and surcharges;

- Restitution;
- Mediation or home study fees;

Reimbursement to the county for costs expended by the county, such as attorney or guardian ad litem fees, charges for psychological or psychiatric examinations; Any other cost or charge payable to or through the court.

This rule does not apply to child support or maintenance obligations or arrearages accrued in such matters. Such obligations can only be modified by action of the court.

The Clerk of Court, any deputy of the Clerk of Court, and a court collections officer or clerk shall have the authority to establish or modify payment schedules for any financial obligation set forth in Rule 902 above.

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

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

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

Rule 903: Authorization for Clerk of Court, Register in Probate/Probate Registrar to Sign on Behalf of Court

Effective date: April 25, 2006, originally issued November 12, 1992.

It periodically becomes necessary for certain court documents to be signed when the Circuit Judge is unavailable. It is appropriate in those situations to provide limited authority to the Judicial Assistant, Clerk of Court, Register in Probate, and Probate Registrar to either use a signature stamp or sign a document on behalf of the judge.

The Judicial Assistant, Clerk of Court, Register in Probate, and Probate Registrar are authorized to sign on behalf of the court by either handwritten signature or use of a signature stamp the following documents when the circuit judge is not available:

1. Letters
2. Orders to appear for:

    a) Scheduling conferences, such as divorce or small claims/Civil Status conferences/Other court appearances
    b) Orders to show cause for contempt for:

        i. Failure to pay court-ordered fines or forfeitures

ii. Failure to complete financial disclosure of assets form in small claims case,
iii. Failure to reimburse the county for filing fees, guardian-ad-litem fees
iv. Failure to reimburse the county for dishonored checks paid to the court system
v. Failure to timely close a probate estate

c) Scheduling orders
d) Orders to show cause and affidavit for temporary order
e) Orders to complete Financial Disclosures of Assets in small claims cases
f) Occupational driver's licenses
g) Other documents the court authorizes on an individual or blanket basis.

This authority does not extend to the signing of arrest or bench warrants.

Nothing in this Order invalidates any previously-signed documents that were executed prior to the effective date of this Order. The court has previously authorized the signing of such documents on an *ad hoc* or as needed basis in the past.

Rule 904: Media Notification Rule

Effective date: November 1, 1991, originally promulgated 3/13/80 in different format.

Any party requesting that a judicial proceeding be closed to the news media shall:

(a) File a motion with the court for such an order

(b) Give notice to all other parties of the motion; and,

(c) Notify the District 9 media coordinator at least 72 hours prior to the time set to hear the motion so that legal counsel may appear on behalf of the news media.

The burden is on the moving party to show good cause why the matter should be closed.

This rule does not apply to judicial proceedings that are closed to the public by statute, such as proceedings in chapter 48 (juvenile), chapter 51 (mental), chapter 880 (guardianship), and others.

Rule 905: Policy and Procedures Regarding Threats Against the Judiciary and Security Incidents in the Courts

Effective date: September 8, 1993

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.

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.

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

1. 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.

2. 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.

3. Threat/Security Incident Report form (GF- 147)

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.

4. "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.

5. Telephone threats.

a) All court employees shall keep a copy of the Threat/Security Incident Report form immediately at hand beside all telephones on which calls from outside the courts can be received.

b) To the extent possible, while the person making the threat is still on the telephone, the report form should be completed. If not possible, the form should be completed as soon as practical while all information is still fresh in the mind.

c) The telephone on which a telephone threat was received should not be disconnected or hung up until such time as law enforcement personnel indicate that disconnecting is appropriate.

Dated at Medford, Wisconsin: September 8, 1993.

The above-stated rules as amended are adopted as the complete list of Taylor county local rules.

Dated this ____ day of February, 2012.

_____
Ann N. Knox-Bauer
Circuit Court Judge

_____
Approved by Chief Judge
Greg Grau, District 9.