

POST-DISPOSITION

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Kenosha County Circuit Court

LEARNING OBJECTIVES

- Learn how to manage your cases using these post-dispositional hearings
- Learn how to obtain quicker permanency for children by effective hearings

IMPORTANCE OF POST-DISPOSITION HEARINGS

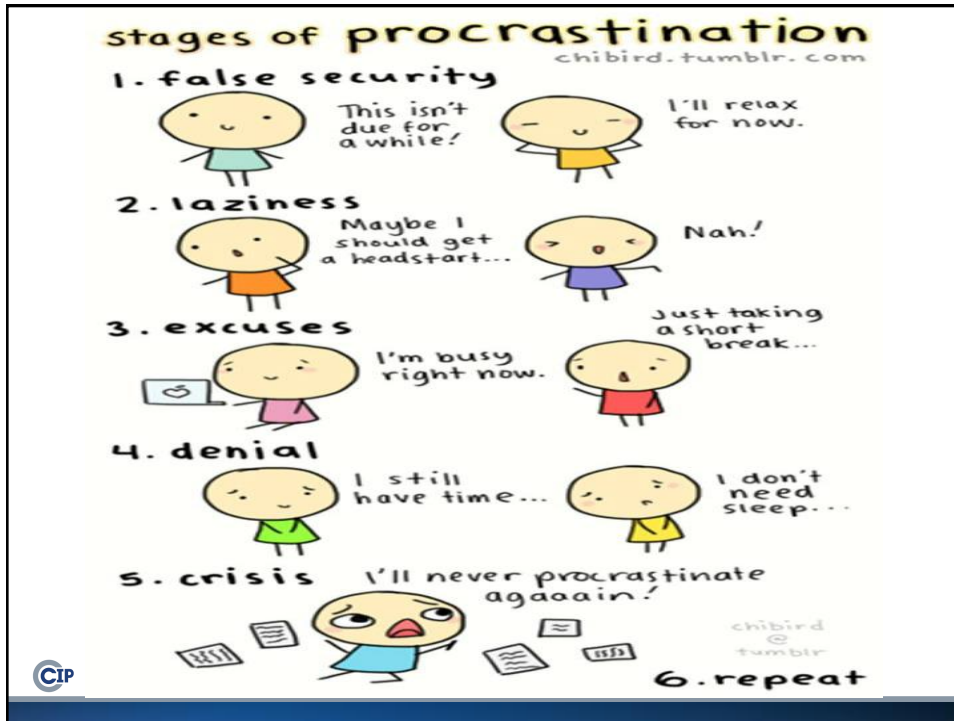
- Provide opportunity to examine case progress
- Provide opportunity for correction and revision of the case plan
- Keep cases moving toward timely and successful completion
 - **Helps a case progress by requiring the parties to set timetables, take specific action, and make decisions**



IMPORTANCE OF POST-DISPOSITIONAL HEARINGS

- **Post-Dispositional Hearings provide regular judicial oversight of children in foster care and can help judges identify strengths and inadequacies in the government's response to child abuse and neglect**





CHALLENGES TO CONDUCTING EFFECTIVE POST-DISPOSITIONAL HEARINGS

- Time
- Irregular or infrequent review
- Rubber-stamping agency or department recommendations
- Agency understanding of legal time lines

IMPORTANCE OF POST-DISPOSITIONAL HEARINGS

Periodic review is required to:

- Determine the continuing necessity for and appropriateness of the placement
- The extent of compliance with case plan
- Project a likely date by which the child may be returned home or placed for adoption or legal custody



MANAGING YOUR CASE

- Engage parents:
 - Discuss status of case & child
 - Hold parents accountable
 - Discuss progress & any need for assistance
- Engage agency:
 - Determine steps to assist the parents
 - Hold agency accountable



MANAGING YOUR CASE

- Review family interaction plan, frequency, and setting
- Stress permanency
- Promote cooperation and communication
- Circuit court forms available



EXTENSIONS, REVISIONS, & CHANGES OF PLACEMENT

VENUE – § 48.257

- Venue for these actions is in the County in which the Dispositional Order was entered unless prior to the post-dispositional hearing the Court transfers venue



EXTENSION HEARING

EXTENSION

- Purpose:
 - Give parents more time to complete conditions for supervision or safe return of the child
 - Enable agency to provide necessary services
 - Provide supervision and support for the family after the child returns home



EXTENSION REQUIREMENTS

- Must be made before dispositional order expires
- No order can be extended without a hearing



EXTENSION PROHIBITIONS

- Child's placement cannot be changed through an extension
 - § 48.357



TEMPORARY EXTENSION

- Court may grant for up to 30 days
 - § 48.365(6)
- Specified periods of delay excluded
 - § 48.315(1)
- Order granting temp. extension (JD-1765)
- Court may grant appropriate relief if hearing not timely
 - § 48.315(3)
- Failure to object waives challenge



EXTENSION HEARING COURT REPORT

- Agency required to file
- Is dispositional order meeting objectives?
- Contents of report different for in-home and out-of-home placements
 - § 48.365(2g)



CONDUCTING THE EXTENSION HEARING

- Confirm notice, request, and report
- Rules of evidence are not binding
 - § 48.299(4)(b)
- Greater weight of the credible evidence
- Child's appearance may be waived
- Foster parent or physical custodian has right to provide written or oral statement



OUT-OF-HOME PLACEMENT FINDINGS

- Reason for the extension
- Reasonable efforts to achieve the permanency goal
- Reasonable efforts to place siblings together or provide frequent interaction
- WICWA Cases: active efforts to prevent the breakup of family



EXTENSION ORDER - FORMS

- Use JD-1787 for in-home placements
- Use JD-1788 for out-of-home placements
- Use IW-1788 if WICWA applies



EXTENSION ORDER

Expiration Date – § 48.365(5)

- In-home placement, up to one year
- Out-of-home placement, up to 18th/19th/21st birthday
 - Eliminates need for future hearings
 - Perm plan reviews continue
 - Order can terminate earlier



EXTENSION ORDER

TPR Warnings – § 48.356

- Advise parents of applicable TPR grounds and conditions for return or visitation
- Remind parents of 15-month TPR timeframe
- Attach written TPR warnings and conditions to order (JD-1753)



EXTENSION ORDER

Dispositions

- Determine dispositions for extension
- Revision or change of placement may be appropriate



REVISION HEARING

REVISION HEARING

Purpose:

- Modify conditions of a dispositional order
- Restrict or increase family interaction
- Change child support
- Transfer legal custody



REVISION PROHIBITIONS

- A revision cannot extend expiration date of dispositional order
 - § 48.365
- Child's placement cannot be changed through a revision
 - § 48.357



MANAGING YOUR CASE

- Review family interaction plan, frequency, and setting
- Stress permanency
- Promote cooperation and communication
- Circuit court forms available



REVISION REQUEST

Hearing Waiver

- Hold hearing unless all parties sign waivers of objection
- Court must agree with the revision
- Reference specific revision in waiver
- Written waivers filed with the court
- Use Stipulation and Order to Revise Dispositional Order (JD-1783)



REVISION HEARING

Timing of Notice

- Notice provided 3 days prior to the hearing
- May proceed immediately with the hearing if all parties consent
- Attach the request for revision to the notice



REVISION HEARING

Conducting the Hearing

- Verify parties provided with notice and copy of the request
- Any party may present evidence relevant to the revision
- Rules of evidence are not binding
- Foster parent or physical custodian has right to be heard



REVISION HEARING

- If visitation denied or child outside of the home, advise parents:
 - Applicable TPR grounds
 - Conditions for return or visitation
 - Timeframe for filing TPR



REVISION ORDER

- Issue Order for Revision of Dispositional Order (JD-1786)
- Clarify the revision being granted
- Attach TPR warnings and conditions to the order (JD-1753)
- Determine parent's liability if child support revised



REVISION OF CONSENT DECREES

- Consent Decrees may be revised and amended using the same procedures as the original decree
- The revision may include a change of placement for the child
- Does not change length of 6 months or the one extension of 6 months
 - § 48.32(2)



CHANGE IN PLACEMENT

NOTICE OF CHANGE IN PLACEMENT

Requirements

- Only allowed for out-of-home to out-of-home, out-of-home to in-home, and in-home to in-home
- Any person receiving notice may file an objection with court within 10 days notice was sent and filed with the Court



NOTICE OF CHANGE IN PLACEMENT

Timing

- Placements may not be changed until 10 days after notice is sent to the court unless
 - All parties sign written waivers of objection
 - Change authorized in dispositional order
- If emergency change of placement, notice shall be sent within 48 hours



EMERGENCY IN-HOME TO OUT-OF-HOME CHANGE IN PLACEMENT

- Emergency in-home to out-of-home placements shall have a hearing within 48 hours excluding holidays and weekends
- At that hearing the Agency must file a Change of Placement request, if agreed to the change may approve or must proceed with a 3 day notice



CHANGE IN PLACEMENT

Hearing

- Not less than 3 days notice to the child, parent, guardian, legal custodian, CASA, Indian custodian, tribe, and all parties bound by dispositional order
- If consent, court may proceed immediately with the hearing



CHANGE IN PLACEMENT

In-Home to Out-of-Home

- Hearing required for in-home to out-of-home change of placement
- The parent, if present at hearing, shall be requested to provide the names and other identifying information of 3 relatives of the child or other adults
- Determine new expiration date



CHANGE IN PLACEMENT ORDER

In-Home to Out-of-Home

- Court shall make following findings:
 - Contrary to the welfare
 - Reasonable efforts to prevent removal
 - Reasonable efforts to place siblings together
- Court shall order:
 - Notice to relatives and other identified adults
 - Frequent sibling contact if not placed together
- TPR warnings and conditions for return



CHANGE IN PLACEMENT ORDER

Out-of-Home to Out-of-Home

- Court shall make a finding as to whether reasonable efforts have been made to place child in a placement that enables the sibling group remain together
- Expiration date remains unchanged
- TPR warnings and conditions for return



CHANGE IN PLACEMENT ORDER

Out-of-Home to In-Home

- New expiration date cannot be more than one year after the date of the change of placement order



POST-PERMANENCY REVIEWS

- If the goal continues to be family reunification, the focus will continue to be on the appropriateness of services offered to the parents and their progress on eliminating safety risks
- If goal is no longer reunification, the focus will be on the agency's efforts to finalize the concurrent plan as the new permanency plan
- If reunification is not possible, the child well-being inquiry must go beyond basic questions of safety and physical health as the child welfare system is responsible for meeting the child's educational, emotional and social needs, including preparing the child for transition to successful adulthood



CASE CLOSURE ORDERS

CASE CLOSURE ORDERS

- Allows the Juvenile Court to close a CHIPS case by entering an enforceable family court order (in same or different county)
 - § 48.355(4g)
- Must have a pending divorce/paternity case or already have a family court order deciding placement/custody/paternity
- **Any party** including the Court may move to enter an order, must give 5 days notice



WHEN AVAILABLE

1. Child is in a safe parental placement
2. Pending or existing family court order preventing juvenile case closure
3. CHIPS, JIPS, or delinquency dispositional order has been entered

Most importantly: Child's best interest



CASE CLOSURE ORDERS

- Can determine paternity using same procedures
- Can determine custody and placement
 - No need for mediation, parenting plans or studies
 - No transfer of custody to 3rd party or agency
 - Same factors as Family Court Ch. 767
- Can determine child support, visitation with others, health care and variable expenses



CASE CLOSURE ORDERS

- Closure order must be provided to all parties and filed in the family court (including other counties)
- Enforceable in the family court through contempt
- Subsequent modifications to be handled in family court. The standard revision provisions apply to the closure order
 - Presumptions, time limits, etc.



PROCEDURE

1. File the Request for Case Closure Order (JD-1814) with the court
2. Hold hearing in front of juvenile court judge
 - Evidentiary rules are non binding – § 48.299(4)(b))
3. Enter Case Closure Order (JD-1815)
 - Sealed in family court case
4. Enter Order Relating to Paternity/Legal Custody/Physical Placement/Visitation/Child Support/Health Care Expenses (FA-614)
 - Provided to family court and entered in case
5. Terminate CHIPS, JIPS or delinquency dispositional order



CASE CLOSURE ORDERS

- Orders should be well tailored to address what is best for the child
 - Not all aspect of the family case need be addressed
 - Issues can be reserved for the Family Court
 - Best practices
 - Call the other judge
 - Rules of Evidence? – § 48.299(4)(b)



APPELLATE CASE

- *In the Interest of A.R.B.*, 2018AP546 (unpublished)
- Juvenile court judge in Marathon County modified a family court order in Outagamie County under a Case Closure Order
- If legal custody or physical placement is contested, a GAL must be appointed to fulfill the responsibilities and make recommendations pursuant to § 767.407(4)



CASE CLOSURE ORDERS

- The decision to enter into a case closure order is discretionary
 - Case closure orders are a tool to allow for more efficiency where protection or services are no longer needed
 - Can be less burden on families
 - Less cost to families and counties
 - Allows for quicker time to permanency



Concluding Thoughts? Questions or comments?



"Welcome Home" –Chantal Age 6