

BUZZ SESSION

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HOUSEKEEPING

- Please note this information is not meant to be construed as legal advice
- Any guidance provided should not override the judge's decision and authority
- Some of the questions were answered directly via email or addressed during a different session
- If you submitted question that is not addressed, please email bridget.mauerman@wicourts.gov

POLL QUESTION

Is child welfare agency in your county telling families to file private CHIPS, JIPS, and guardianship cases more frequently than in the past?

1. Yes
2. I am seeing more private cases, but I don't know why
3. No, not that I am aware of

PRIVATE CHIPS & JIPS CASES PROCEDURES

Corporation Counsel/District Attorney

- Not a party in the case; but could make a request to intervene - s. 803.09
- If provided curtesy copy of petition/notice, enter as Notice Recipient
- Clerk under no obligation to provide notice unless directed by judge

County Agency

- Entered as Notice Recipient (like other cases)
- Judge can require them to prepare a court report under s. 48.33
- Agency would be responsible for providing dispositional services – s. 48.069

Judge can issue a summons if wants either to participate in the hearings - s. 48.27(2)

ICWA/WICWA

Do you still use the ICWA circuit court forms when the tribe does not want to be involved in the case? What if you aren't sure about tribal eligibility?

- Yes, ICWA/WICWA applies regardless of whether the tribe is involved or has intervened in the case.
- ICWA forms should be used when there is "reason to know" the child is an Indian child.
 - Reason to know is defined by ICWA regulations (25 CFR 23.107)
 - <https://www.law.cornell.edu/cfr/text/25/23.107>

POLL QUESTION

In CHIPS & JIPS cases involving youth who are 12 years or older, who is typically appointed initially at the beginning of the case in your county?

1. Adversary Counsel/Public Defender
2. GAL
3. Both

Follow-up question, does this practice differ for in-home vs. out-of-home placements?

Guardian ad Litem Required ¹	Adversary Counsel Required ²
All TPR cases	Out-of-home placement unless child is under 12 then GAL is sufficient
Contested Adoptions	Chapter 51 & 55 proceedings
Guardianships under Ch. 48	Underage parent of a child subject to a TPR
CHIPS case where out-of-home placement is ordered, requested or recommended	Underage expectant mother of a child alleged CHIPS
Alleged abused and neglected children under 12 if adversary counsel is not appointed ³	Alleged abused and neglected children unless child is under 12 then GAL is sufficient ⁴
Unborn child alleged or found CHIPS	

¹ § 48.235(1)

² § 48.23(1m)

³ § 48.23(3m) includes §§ 48.13(3), (3m), (10), (10m) and (11)

⁴ § 48.23(3m) includes §§ 48.13(3), (3m), (10), (10m) and (11)

Court always has discretion to appoint GAL, adversary counsel, or both for a child.

POLL QUESTION

How are the GALs in juvenile cases paid in your county?

1. Hourly
2. Flat fee per case
3. Flat fee per year
4. Another way

POLL QUESTION

How difficult is it to find attorneys willing to take county appointments as GAL or counsel for the parents?

1. Very difficult
2. Occasionally difficult
3. Fairly easy
4. Very easy

Follow-up discussion: What are some ideas for recruiting and retaining attorneys?

POLL QUESTION

How frequently is the Statement of Guardian ad Litem (JD-1799) filed before or at disposition in CHIPS cases in your county?

1. Routinely
2. Occasionally
3. Rarely
4. Never

POLL QUESTION

Does your court provide any additional oversight of GAL practice in your county (e.g., policies, MOU/contract, evaluations, etc.)?

1. Yes
2. No
3. Unsure

If answered yes, what does this oversight look like?

MINUTE-TAKING

What are some best practices for minute-taking in court - what to listen for in the different types of hearings to make sure you have captured all of the pertinent information?

Wis. Stat. 59.40 Clerk of court.

(2) CLERK OF COURT; TO KEEP COURT PAPERS, BOOKS AND RECORDS. The clerk of circuit court shall:

(d) Keep a minute record and, except for actions under ch. 799, write in that record a brief statement of all proceedings in open court showing motions and orders during trial, names of witnesses, jurors selected, the officer sworn to take them in charge, jury verdicts and openings and adjournments of court. The clerk, in lieu of keeping a minute record, may elect to incorporate in the appropriate court record, civil or criminal, the data which this paragraph requires to be recorded.

MINUTE-TAKING

CourtNet
WISCONSIN COURT SYSTEM

HOME EMPLOYEE SERVICES EDUCATION PEOPLE & PLACES



Add'l information

- Wis. Stat. § 59.40(2)(d)
- Examples of quick text codes

To address the variety of information clerks enter into court minutes, the Director of State Courts Office, Office of Court Operations formed a workgroup to develop guidelines aimed at bringing uniformity to county practice. The following are recommendations for what information to include and not include in court minutes. The guidelines are organized by case type and are further broken down into common proceedings within each case type. Under each proceeding, there is a list of what information is recommended to be included in the minutes, as well as what information is optional to enter, based on local practice. Additionally, examples of full entries are provided at the end of each document.

When determining what information to include in the minutes, the workgroup relied on Wis. Stat. § 59.40(2)(d) which requires the clerk to keep a minute record that includes, among other things, a brief statement of all proceedings and any motions and orders. Court minutes should not be a verbatim record of what was said in court and are not intended to replace the court transcript. Additionally, clerks and other court officials should be mindful that the information recorded in the minutes will be available online via the Wisconsin Court System Circuit Court Access (WCCA) website and widely visible.

Clerks are encouraged to use these guidelines for training both new and existing staff. Before changing any practices, it is recommended that clerks discuss potential changes with their judge(s). The following documents are in MS Word format.

- > [Court minute-taking standards-Civil](#)
- > [Court minute-taking standards-Criminal](#)
- > [Court minute-taking standards-Family](#)

MINUTE-TAKING

Ninth Judicial District Minute Sheet Recommendations: JUVENILE (Includes: JV, JC, JO, JI, TP)

RECOMMENDED TO BE INCLUDED IN JUVENILE COURT MINUTES:

REMINDER – All Juvenile Cases are CONFIDENTIAL

Temporary Physical Custody Hearing (If placed out of home.)

- Standard Info. – Time case called, Appearances, Court Reporter, and Clerk's initials
- Victim(s) rights/notification requirements complied with
- Contrary to the welfare
- Reasonable efforts to prevent removal
- Reasonable efforts to place sibling group together were made or not required
- Statement of proceedings
- Advise of Rights
 - Right to Counsel
 - Right to substitution
- Witnesses sworn and testified
- Placement – secure or non-secure and location
- Rules/conditions for in-home placement
- Out of home placement
 - Contrary to the welfare
 - Reasonable efforts to prevent removal

EXAMPLES OF QUICK TEXT CODES

Civil, Criminal, and Family Cases

Quick text codes (formerly called "standard text codes") are for fast entry of commonly-used text into the court record. To add standard text codes into CCAP, go to "Case Management" and click on View, Other, Standard Text Code. Once the text is entered, select the case types you would like it to apply to. For more information about creating, editing, and deleting quick text codes, search for "Quick text" in CCAP 3. (To get to CCAP 3, in "Case Management," click on View, Other, Standard Text Code.)

Below are examples of quick text codes. Clerks are encouraged to develop quick text codes that work best for their counties.

CIVIL CASES (CV, SC)

Event Code	Text that Displays
*Appearances: PL	Plaintiff appears by Atty.
*Appearances: DF	Defendant appears by Atty.
Contempt: CNCC	Court finds the def in contempt for failing to appear before the Court Commissioner for a scheduled supplemental hearing and appearance today. Sentenced to ____ days jail; must make arrangements to appear for supplemental hearing to purge. Body attachment only warrant issued.
Eviction: E	Court grants judgment of eviction.
Eviction: ES	Eviction stayed until:
Stipulation and Order: SO	File, signed Stipulation and Order dismissing action upon its merits and without costs.

CRIMINAL CASES

Event Code	Text that Displays
Adjournment: PLEAH	Adjourned for plea and further proceedings after pretrial.
Attorney: WWA	Def waives right to attorney.
Bail: BI	Bail judgment ordered.
Initial Appearance: INIT	Def given complaint, advised of charges, penalties and rights, and probable cause found.
Plea: GP	Guilty plea entered.
Plea: NGP	Not guilty plea entered.
Sentencing: FINE	Court imposes a fine of \$ to be paid within ____ days at a rate of \$ per month commencing ____ or judgment shall be entered for nonpayment.
Preliminary Hearing: PCPH	Probable cause found after preliminary hearing.
Preliminary Hearing: PHW	Preliminary hearing waived. Court binds over for trial and State shall file an information.

FAMILY CASES

Event Code	Text that Displays
*Appearances: PE	Petitioner appears in person with Atty.
*Appearances: RE	Respondent appears in person with Atty.
*Appearances: PEWO	Petitioner appears in person without counsel.
*Appearances: REWO	Respondent appears in person without counsel.
Divorce: DIV	Marital Settlement Agreement is approved and incorporated in Findings of Fact, Conclusions of Law, and Judgment. Spouse to resume of surname/inserts name of ____; Divorce granted.

*If a county uses the In Court Appearance Proceeding application in CCAP, the "appearance" quick text codes are not needed.

MINUTE-TAKING

What should NOT be included in minutes?

- Personally Identifiable Information
 - Social security numbers
 - Drivers license numbers
 - Date of birth
 - Bank, savings account, and charge card numbers
 - Security codes, passwords
- Victim and Witnesses in criminal and injunction cases
 - Address info
 - Names
- Options
 - use “Victim” or “Witness” instead of names
 - use initials, or first name and last initial (but only if add'l identification required beyond initials)
- Juror information (names and addresses)
 - use juror number or initials if need to identify juror

ORDER EXPIRATION

Is there a procedure for the end/expiration of a dispositional order? Or, is it just "done" and nothing further is needed?

- Under the statutes, no action is required to allow a CHIPS, JIPS, or delinquency dispositional order to expire
- Some judges have requested that the caseworker file a memo prior to the expiration date in case an extension is warranted
- Order Terminating Consent Decree/Dispositional Order (JD-1775) is only required if terminating it early

"CLOSING" CASES

- Allowing Dispositional Order to expire = No Action Needed
- Consent Decree expires = No additional documents needed, clerk will dismiss case in CCAP
- Want to Terminate Dispositional Order early = Use Order Terminating Dispositional Order – JD-1766
- Need to Modify Family Court Order = Use Case Closure Order Procedures

ORDER EXPIRATION

Do you add the Consent decree termination date or the Dispositional Order expiration date to the scheduled activities in CCAP?

- While not required, the following activity codes may be used:
 - DOED – Dispositional Order Expiration Date
 - CDTD – Consent Decree Termination Date

POLL QUESTION

In your county, which activity codes do you use?

1. Dispositional Order Expiration Date
2. Consent Decree Expiration Date
3. Both
4. Neither

PERMANENCY PLANNING – CONSENT DECREES

Is a Permanency Hearing required for a CHIPS case where a Consent Decree - Out-of-Home is entered into for a period of 6 months and the children were removed from the home 2 months prior to the Consent Decree ?

Yes, a permanency review/hearing must occur within 6 months of removal whenever the child/juvenile is under one or a combination of the following:

- Voluntary Placement Agreement
- Consent Decree
- Temporary Physical Custody , Extension Order, Dispositional Order, or Change in Placement Order

PERMANENCY PLANNING – GUARDIAN

Is permanency planning still required when a child/juvenile is placed with a guardian? Is placement with a guardian considered an in-home or out-of-home placement?

- Yes, permanency planning is required anytime the child/juvenile is “living in a home of a guardian.” See ss. 48.38(2) and 938.38(2).
- These additional statutes would also suggest a “guardian” or “relative who is not a parent” is considered an out-of-home placement: ss. 48.355(4)/938.355(4), 48.33(4)/938.33(4), and 48.335(3g)/938.335(3g) .
- If treated as in-home, could impact ability to pursue TPR.

DEBT COLLECTION

We recently turned over a debt over to SDC where the judgment was expired. What is the statutory authority that allows them to collect on this?

Great Question....

DEBT COLLECTION

Statewide Debt Collection (SDC) User Guide:

Qualifying Debts

- Debt Balance must be greater than \$50.00
- The debt must be more than 90 days past due with no active negotiations or payment plans in place
- A referral notice to the debtor is required at least 30 days prior to referral, and the debtor must be given an opportunity to be heard in regards to the obligation due

-no requirement to even obtain a judgment

<https://www.revenue.wi.gov/documents/debcoll5.pdf>

- **Is there a time restriction on when debts can be sent to SDC?**
 - not that we can find
 - can refer immediately or could wait for years

- **How long should clerks collect?**

- enforcing a debt owed to the court is important, but public relations is too

- **How long will SDC collect?**

- Typically, until paid in full or if at DOR for 5 years with no recent credit transactions
- they also do review debtors and they may stop collection before 5 years if they deem the debtor uncollectible

DEBT COLLECTION

- **If a clerk refers a debt to SDC, can the clerk also try to collect the debt?**

- The DOR does not permit “active collections” by a clerk after debt has been referred to SDC

What can a clerk do?

- convert a debt to a judgment and docket the judgment before referring to SDC
- suspend a debtor’s license before referring to SDC

What can’t a clerk do?

- refer the debt to SDC and then convert
- garnish wages after referring the debt
- send collection letters after referring the debt to SDC

CourtNet - <http://courtnet.wicourts.gov/publications/docs/collecthandbook.docx>

WI DOR - <https://www.revenue.wi.gov/documents/debcoll5.pdf>

RECOUPMENT

Our county only completes an Order for Recoupment of Costs of Legal Services (JD-1762) at the initial delinquency finding. The form also indicates other instances (e.g., requests for revision/extension/change of placement/perm plan review). Can this order be completed for those times as well?

- Yes. Section 938.275(2) does not limit recoupment to pre-disposition representation. It states, "If the state or a county provides legal counsel to a juvenile subject to a proceeding under s. 938.12 or 938.13..."

POLL QUESTION

In your county, does the court issue an Order for Recoupment of Costs of Legal Services for counsel provided to the juvenile in post-dispositional proceedings?

1. Yes, routinely
2. Yes, occasionally
3. Never
4. I don't know

RECOUPMENT

Do we send quarterly reports for juvenile recoupment (our County is "O") ? Are there other reports we should be aware of?

Yes!

CourtNet - Clerk's Financial Manual

CCAP-178 Juvenile Legal Fees Recoupment Report

- Pursuant to Wis. Stat. 48.275(2)(dm) and 938.275(2)(dm), the clerk of court shall report to the State Public Defender, within 30 days after each calendar quarter, the following information:
- The total amount of reimbursement determined or ordered for state-provided counsel during the previous calendar year.
- The total amount of reimbursement collected for state-provided counsel during the previous calendar quarter.
- This report should be completed at the end of each quarter and submitted to Sandy Duran at the Wisconsin State Public Defenders Office via email (durans@opd.wi.gov). The report lists the juvenile legal fees for a defined date range using the information from the JLF (Juvenile Legal Fees) financial account each month. For more information on this report, including the steps for completing it, in *CCAP Reports*, click "Help," "Procedures," and search for "juvenile legal fees." Select the **CCAP-178 Juvenile Legal Fees Recoupment Report** from the list.

RECOUPMENT

- **Procedure:**
 - Go to Reports
 - Click on Special
 - Click on Financial
 - Click on Juvenile Legal Fee Recoup
 - Fill in the screen
 - For "Prepared by", enter your name
 - Print, sign, send to SPD's office (terbrakw@opd.wi.gov) or follow county procedure

RECOUPMENT

Mental Health cases & Protective Placement cases:

See Informational Bulletin 08-06, <http://courtnet.wicourts.gov/bulletins/docs/ib0806.pdf>.

Wis. Stat. 51.605 Reimbursement for counsel provided by the state.

(3) REPORT. By January 31st of each year, the clerk of courts for each county shall report to the state public defender the total amount of reimbursements ordered under sub. (1) in the previous calendar year and the total amount of reimbursements paid to the clerk under sub. (2) in the previous year.

Wis. Stat. 55.107 Reimbursement of counsel provided by the state.

(3) By January 31st of each year, the clerk of courts for each county shall report to the state public defender the total amount of reimbursements ordered under sub. (1) in the previous calendar year and the total amount of reimbursements paid to the clerk under sub. (2) in the previous year.

TITLE IV-E LEGAL REPRESENTATION PROGRAM

County circuit courts can receive Title IV-E funding for county appointments of GALs for children and attorneys for parents.

- Approximately 26% for CHIPS and 40% for TPR cases
- Cannot recoup money from parents or other parties for case types claiming
- Application due Sept. 30th of each year
- Each court must have agreement with county agency (federal funding will pass through the agency to the court)
- <https://dcf.wisconsin.gov/title4e>

POLL QUESTION

Do you withdraw the parents/their attorney as a party in the case after TPR is granted?

1. Yes, right away
2. Yes, at 30 days
3. Yes, using a different time period
4. No

PARTIES POST-TPR

Should the parents and attorney be withdrawn once the TPR is granted? What if an appeal is pending?

- Yes - Even if case is being appealed, the parent is no longer entitled to notice or access to the court records relating to subsequent proceedings in the case (e.g., change in placement, permanency planning).
- Unless directed otherwise, may want to wait 30 days to allow time for the attorney to eFile the Notice of Intent, get copies of the TPR order, submit billing (if applicable), etc.
 - After that, the attorney can eFile as non-party filer if needed.

PARTIES POST-TPR

In CCAP₃, will the attorney still be able to view documents by link emailed to them if scanned in before they are removed?

- There is no change with CCAP₃.
- The attorney can view the documents using the link until the parent is withdrawn; after that, the link will not work.

FAMILY HISTORY QUESTIONNAIRES IN TPR CASES

When Family History Questionnaires are filed into the TPR case, do they need to be marked as confidential or not kept in the case at all?

- They should be filed and entered into CCAP in the TPR case. See sections 48.422(9)(a) and 48.425(1), which reference filing this information with the court.
- These documents are “confidential” within the confidential case.
 - CCAP software automatically marks as confidential when eFiled.
 - If it is filed by the DA's Office, they should mark these documents as confidential when filed through PROTECT.
 - If paper filed, clerks should mark these documents as confidential.

NOTICE OF MEDICAL/IDENTIFYING INFORMATION DISCLOSURE

On a TPR Order, when do the provisions of 48.432, 48.433 and 48.434 need to be attached? All the time or only when custody is transferred to an agency? Is it needed for a voluntary TPR with a step-parent adoption?

- The Notice of Medical Information and Birth/Adoptive Parent Identifying Information Disclosure (JC-1631) is required in all TPR cases when one or both parents' rights are terminated. See s. 48.427(6).

CHILD SUPPORT INTERFACE

During the CCAP and DCF interface pilot, it was noticed that several county CSAs were opting in to JC/JV cases and establishing child support orders within those cases.

- CSAs should not be allowed to opt in to JC/JV cases
- If a child support order needs to be established, they will file a motion within the parties' existing FA or PA case or will open a new case
- CSAs were put on corrective action plans

ADDITIONAL
QUESTIONS OR COMMENTS?