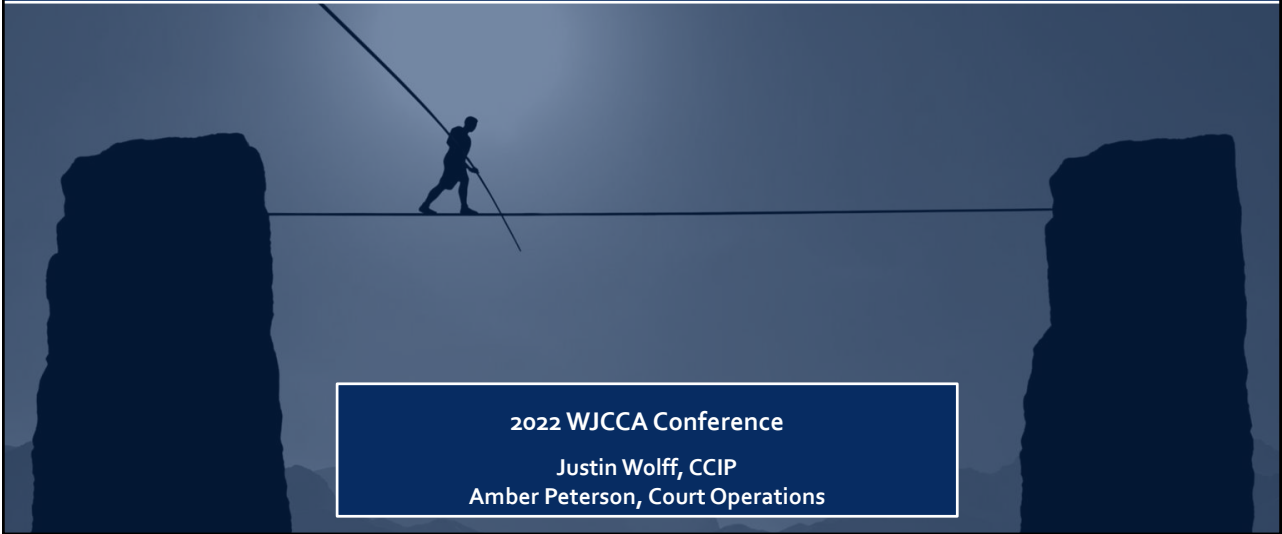


Providing Legal Information vs. Advice



2022 WJCCA Conference
Justin Wolff, CCIP
Amber Peterson, Court Operations

THE BALANCING ACT FOR JUVENILE CLERKS



"I can't answer any questions because I can't give legal advice."

VS.



"Here's what you should do in your case to win!"

MADE MORE DIFFICULT IN JUVENILE MATTERS



Sensitive and emotional nature of child-focused cases increases desire to assist



High caseworker turnover
Agency filing responsibilities



High number of pro se parties



Confidentiality
Strict Statutory Timelines

Legal Information or Legal Advice?

“Can you tell me if there is a fee to file a juvenile guardianship case?”

A. Legal Information

B. Legal Advice



Legal Information or Legal Advice?

“Can you tell me where to find the form to file for guardianship of my grandchild?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“I want to get guardianship of my grandchild for the next six months. Can you tell me which of the § 48.9795 guardianship options I should choose?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“Can you tell me the difference between a § 48.977 guardianship and a § 48.9795 guardianship?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“What happens at a Disposition hearing?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“I live in this county, but my ex-husband has custody of our son in another county. Where should I file this JIPS petition?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“I’m a new caseworker and I just had to move a juvenile to secure detention. Do I need to file a TPC Request or a Notice of Change in Placement?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“I’m a new caseworker and I need to know how many days before the Permanency Hearing I need to file the Plan.”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“Is that five business days or calendar days before the Permanency Hearing?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“The county just filed a CHIPS case against me. Do I have the right to an attorney?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“The county just filed a TPR case against me. How do I go about getting an attorney?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“Can you give me the name of the best TPR attorney in town?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“My child was just removed. Can you tell me what a ‘TPC Hearing’ is?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

“At the TPC hearing should I show the court these text messages from my mom?”

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

You receive a Statement by Proposed Guardian form for filing and notice it has not been notarized. You tell the filer that it will need to be notarized before it can be filed.

- A. Legal Information
- B. Legal Advice



Legal Information or Legal Advice?

You receive a CHIPS petition. You notice that there is no statute listed for the grounds being alleged, but the narrative is obviously related to neglect. You tell the filer they need to write in "48.13(10)".

- A. Legal Information
- B. Legal Advice



SCR 70.41 ASSISTANCE TO COURT USERS; COURT STAFF GUIDELINES

What Clerks SHALL Do



- Remain impartial
- Provide information in calendars or case files
- Provide a copy of or recite:
 - Common, routinely employed state/local court rules, procedures, or fees
 - Where to find statutes or forms
- Define terms commonly used in court processes
- Provide lawyer referral resources, including local attorney rosters

Wisconsin Bar – Lawyer Referral and
Information Services (LRIS)

What Clerks SHALL NOT Do



- Provide or withhold assistance for the purpose of giving one party an advantage
- Advise whether a particular statute or rule applies to a particular case
- Recommend specific course of action or predict outcomes
- Recommend questions to ask or techniques for presenting evidence
- Advise how to phrase contents in forms

“This American Life” interview with
Sharon Snyder, former criminal court deputy,
Kansas City, Missouri

Episode #503, aired August 16, 2013



Legal Information or Legal Advice?

Is Sharon giving a copy of the
motion providing legal
information or legal advice?

- A. Legal Information
- B. Legal Advice



SO WHAT HAPPENED?



HELPFUL GUIDELINES

Legal Information

- Provides answers for “How do something?”
 - Forms
 - Procedures
 - Statutes
 - General info for attorneys or local resources
- Responses phrased as “Here is where you would find [fill in the resource].”
- Generalized information / assistance

Legal Advice

- Provides answers for “What should I do?”
 - Applying information to the specific facts of a case in a way that could influence the person’s choices or results
- Responses phrased as “You should [fill in the next step.]”
- Particularized information for cases

RESOURCES ON COURTNET

(UNDER RESOURCES – PUBLICATIONS & TOOLKITS)

Pro Se Assistance Resource Materials

- SCR 70.71
- Guide for Court Staff
- Signage for office
- Materials for:
 - Family law
 - Small Claims
 - Restraining Order
 - Appeals

Pro se assistance resource materials

Home / Publications & toolkits / Pro se assistance resource materials

This page provides court staff with resource material models that have been developed by court personnel throughout the state for the purpose of more effectively assisting self-represented litigants. Be advised that some of these materials may not be accurate due to recent changes in the law or differing practices from county to county. Therefore, you may want a judge or court commissioner to review any materials before you use them.

The materials in MS Word format [\[PDF\]](#) can be adapted for use in your specific county. (Adobe PDF [\[PDF\]](#) documents cannot be changed.) When adapting these materials, please give credit to the originator of the document. For example, if a clerk in Chippewa County adapts a brochure originally developed in Taylor County, the adapted brochure should reflect this by stating something to the effect of "Adapted from Taylor County for use in Chippewa County."

Please contact the web administrator using the form at the bottom of the page with any questions, suggestions, or comments that you may have. Additions to this page are welcome.

Supreme Court Rule 70.41 and related materials

- > [Legal advice guidelines for court staff \[PDF\]](#)
- > [Legal advice guidelines for probate court staff \[PDF\]](#)
- > [Pro se office signage \(general\) \[PDF\]](#)
- > [Pro se office signage \(probate\) \[PDF\]](#)
- > [SCR 70.41 \[PDF\]](#)

Do I need a lawyer?

- > [Need help with a legal problem? \[PDF\]](#) (brochure)
- > [Do I need a lawyer or should I represent myself? \[PDF\]](#) (brochure)

Family law and related materials

- > [Contentnet or enforcement \[PDF\]](#) (brochure)
- > [Post judgement motion legal, physical, child support and maintenance \[PDF\]](#) (brochure)

RESOURCES ON COURTNET

(UNDER EDUCATION – WALKING THE LINE)

Walking the Line Training

- Self-guided training for clerk staff
- 1.5 hours-ish



Walking the Line:

Walking the Line:

**Legal Advice and Customer Service -
Providing Help without Practicing Law**



To begin the course, click the **Next** button.

Log Out

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Next >

CHILDREN'S COURT IMPROVEMENT PROGRAM RESOURCES

www.wiccuptraining.com

E-Learning Activities

- 21 interactive modules on CHIPS, TPR, guardianship, adoption, and more
- Embedded links to forms and statutes

Webinars and Resources

- Links under "Training Calendar" for recordings from past webinars
 - Audience varies; generally for professional stakeholders
- Training materials from webinars and resource guides

CCIP CHILDREN'S COURT IMPROVEMENT PROGRAM
WISCONSIN

Welcome | E-Learning Activities | Training Calendar | Resources | Contact | FAQ

Welcome

Welcome to the Wisconsin Children's Court Improvement Program (CCIP) website for the CCIP E-Learning Project. To access training modules on child in need of protection or services and termination of parental rights court case processing, as well as other child welfare specialty topics, click on or hover over the E-Learning Activities icon.

About CCIP

The Children's Court Improvement Program (CCIP) is a federal grant awarded to the Wisconsin Supreme Court, Director of State Courts Office to enhance the processing of child welfare cases in the court system. The CCIP E-Learning Project is one of several activities supported by CCIP funding. Visit the [CCIP page](#) on the court system's website for more information.

Announcements

New Qualified Residential Treatment Program (QRTF) E-Learning Activity and Resource

2021 Wis Act 42 codified requirements for the placement of children and juveniles in certain placements certified as a Qualified Residential Treatment Program (QRTF), which went into effect on September 29, 2021. CCIP has developed resources to assist stakeholders in complying with these important requirements, including a new QRTF e-learning activity, a pre-recorded webinar, and a QRTF Resource Guide. [CLICK HERE FOR THE E-LEARNING ACTIVITY](#) [CLICK HERE FOR THE WEBINAR](#) [CLICK HERE FOR THE RESOURCE GUIDE](#)

Judicial Education Credits for CCIP E-Learning

Wisconsin judicial officers may earn 2.5 Judicial Education Credits during each six-year reporting period for viewing all 21 of the CCIP E-Learning activities.

CHILDREN'S COURT IMPROVEMENT PROGRAM RESOURCES

www.wiccuptraining.com

§ 48.9795 Guardianship Filing Guide

"Filing a Minor Guardianship of the Person Case"

- Found under the "Resources" tab
 - Training Materials > Juvenile Clerks Meet Up
- Includes explanations of each type of guardianship and step-by-step instructions for filing, with reference to forms and statutes

FILING A MINOR GUARDIANSHIP OF THE PERSON CASE

This document provides general information about Minor Guardianships of the Person and is not legal advice.

1 Which type of guardianship are you requesting?

FULL GUARDIANSHIP

- A full guardianship requires the Petitioner to prove facts and circumstances establishing that the child's parents are unfit, unwilling, or unable to provide for the care, custody, and control of the child or other compelling facts and circumstances demonstrating that a full guardianship is necessary.
- A full guardian's duties and authority include:
 - All of the duties and authority specified in 48.023, Wis. Stats., the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:
 - The authority to consent to marriage, enlistment in the U.S. armed forces, major medical, psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.
 - The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child.
 - Reasonable visitation of the child.
 - The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections or a county department.
 - The right to change the residence of the child from Wisconsin to another state.
 - The guardian must immediately notify the court of any change in the address of the guardian or child.

DEPARTMENT OF CHILDREN AND FAMILIES (DCF) RESOURCES

dcf.wisconsin.gov

Numerous links, publications, guides, and training resources related to child welfare

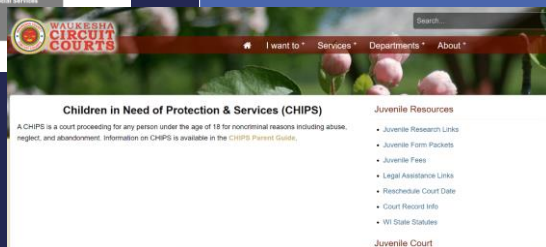
- "I Am" tab organizes topics by background (parent, foster parent, teen, etc.)



COUNTY-SPECIFIC RESOURCES AND GUIDES



A number of counties, via the courts and/or child welfare agency, have developed pamphlets, guides, and websites to assist parents, children, and others in juvenile court cases



Dispositional Hearing

This is the hearing where the judge decides what will happen with your child. The judge needs to hear your views to help a child have a safe home. If a child resides in out-of-home care, the judge will provide parents with "Guidelines of Parenting." These are the things you will have to do in order to have your child safely returned to you.

This brochure was prepared to help parents gain a better understanding of what to expect in CHIPS cases.

Parents: it is important to understand this information so that everyone can work together to ensure children are safe.

This brochure is NOT intended as legal advice. This brochure is NOT intended to take the place of an attorney.

If you would like an attorney, you have the right to hire an attorney on your own, or you can ask the court for a court-appointed lawyer to help you.

If the court appoints an attorney for you, you may be required to repay the attorney's fees to the County.

This brochure is general information and does not cover everything that can happen in court.

A PARENT'S GUIDE TO CHIPS CASES

CHIPS stands for "Child in Need of Protection or Services."

These cases come about when there is a concern that a child may not be receiving proper care or protection.

THIS IS NOT A CRIMINAL CASE.

PARENT GUIDE TO THE JUVENILE COURT CHIPS PROCESS



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