



Post-Disposition Activities

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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/permanency
 - ▶ **Helps a case progress by requiring the parties to set timetables, take specific action, and make decisions**

Challenges to Conducting Effective Post-Dispositional Hearings

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

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 - § 48.185(4)

- 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

Transfer of Venue - § 48.185

- Venue may be transferred for post-disposition actions if it is determined that proper venue is in a different county
 - ▶ Change of residence of child or parent; good cause shown
- Revision of the dispositional order should be done in conjunction with change of venue to modify:
 - ▶ County agency that is providing supervision and/or has placement and care responsibility of the child
 - ▶ Any change in the conditions or services that will be provided by the agency in the receiving county

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 & Prohibitions

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

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-1788T 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
- If a consent decree was for 6 months or less, it can be extended for 6 months by motion § 48.32(2) (c).

Extension Order

- TPR Warnings – § 48.365
 - ▶ 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
 - ▶ Use JD-1788T (includes TPR warnings)

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

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 or JD-1786T)
- Clarify the revision being granted
- Attach conditions to the order and TPR warnings (JD-1753/JD-1786T)
- 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

Circuit Court Form Changes

OLD

NEW

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY		
IN THE INTEREST OF		
Name _____	Request to <input type="checkbox"/> Change Placement <input type="checkbox"/> Revise Dispositional Order <input type="checkbox"/> Extend Dispositional Order <input type="checkbox"/> Review Permanency Plan <input type="checkbox"/> Terminate Consent Decree/ Dispositional Order	
Date of Birth _____		
Case No. _____		
Child/Juvenile's Street and City Address		
Parent 1's Name	Parent 1's Address	
Parent 2's Name	Parent 2's Address	
Guardian, Legal/Physical Custodian	Guardian, Legal/Physical Custodian's Address	
Other	Address	
I REQUEST THE COURT: (Check all that apply in 1-6)		
1. I am interested as <input type="checkbox"/> Child/Juvenile or Counsel <input type="checkbox"/> Parent <input type="checkbox"/> Case Worker <input type="checkbox"/> District Attorney/Corporation Counsel <input type="checkbox"/> Guardian ad Litem <input type="checkbox"/> Expectant Mother <input type="checkbox"/> Other: _____		

- JD-1764 – Request to Extend Dispositional Order
- JD-1766 – Request to Change Placement / Revise Dispositional Order
- JD-1769 – Request for Permanency Hearing
- JD-1776 – Request to Terminate Consent Decree / Dispositional Order

Types of Change in Placement

- In-Home to Out-of-Home
 - ▶ Always requires a hearing (to make findings)
 - ▶ Will change the expiration date of the Dispositional Order, unless judge directs otherwise
 - ▶ Separate revision necessary to establish conditions for return
- Out-of-Home to Out-of-Home
- Out-of-Home to In-Home
 - ▶ Expiration date will change if order was set to expire more than one year from change in placement order
- In-Home to In-Home

Change in Placement – Notice vs. Request

Notice of Change in Placement (JD-1754)

- In-Home to In-Home, Out-of-Home to Out-of-Home, or Out-of-Home to In-Home
AND
 - Filed by prosecutor or county agency
- *Hearing only required if objection

Request for Change in Placement (JD-1766)

- In-home to Out-of-Home
OR
 - Requests made by other parties,
OR
 - Local practice/directive (e.g., judge require hearing before returning the child home)
- *Hearing required

JD-1754 – Notice of Change in Placement

- Agency/prosecutor must provide the notice to case participants
 - See § 48.357(1)(am)1.a. and distribution list
 - Must be filed with the court on the same day notice is sent
- Participants have 10 days to object
 - Including current placement provider
 - Excludes weekends and holidays - § 801.15(1)(b)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE INTEREST OF	Notice of Change in Placement
Name _____	Case No. _____
Date of Birth _____	

1. I am interested as: ☐ Caseworker. ☐ District Attorney/Corporation Counsel.
Other parties use JD-1766 – Request to Change Placement.
2. The child/juvenile is currently under a ☐ temporary physical custody order. ☐ dispositional order.
3. The Indian Child Welfare Act does not apply. For an Indian child, use the ICWA version of this form (IW-1754).
4. This notice of change in placement is
☐ out-of-home to out-of-home.
☐ out-of-home to in-home.
☐ in-home to in-home.
For In-Home to Out-of-Home, use JD-1766 – Request to Change Placement.
5. Name and address of new/proposed placement: _____
- ☐ 6. Emergency conditions necessitated an immediate change in placement on (date) _____.
 A. This notice was sent within 48 hours after the emergency change in placement.
 B. Describe the reasons for the new placement, the emergency conditions that necessitated an immediate change, why it is preferable, and how it satisfies any treatment plan or permanency plan: _____
 C. If you object to the change in placement, a written objection must be filed with the court within 10 business days after filing of this notice. If you file a written objection, the court will schedule a hearing. Copies of the request for a hearing should be sent to all parties.
- ☐ 7. The placement will be changed on (date) _____.
 A. The proposed placement
☐ will be changed at least 10 business days after this notice was filed with the court.
☐ was authorized in ☐ temporary physical custody order ☐ dispositional order.
The 10 business day waiting period is not required.
 B. Describe the reasons for the new placement, why it is preferable, and how it satisfies any treatment plan or permanency plan: _____
 C. If you object to the change in placement, a written objection must be filed with the court within 10 business days after filing of this notice. If you file a written objection, the court will schedule a hearing. Copies of the objection should be sent to all parties.
If this change in placement was authorized in the current order, your objection must state new information that affects the advisability of the order.
8. Reasonable efforts to place the child/juvenile in a placement that enables the sibling group to remain together were
☐ made by _____
☐ not required because the child/juvenile does not have siblings in out-of-home care.
☐ not required because it would be contrary to the safety or well being of the child/juvenile or any of the siblings because _____
- ☐ 9. The proposed placement is certified as a Qualified Residential Treatment Program.

JD-1754, 02/23 Notice of Change in Placement 5548.217, 48.357, 801.15(1)(b), 938.217, and 938.357, Wisconsin Statutes
This form shall not be modified. It may be supplemented with additional material.
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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 (default is 18/19/21)

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

Case Closure Orders

Case Closure Orders

- Allows the Juvenile Court to close a CHIPS, JIPS, or delinquency case by entering an enforceable family court order (in same or different county)
 - ▶ § 48.355(4g) & § 938.355(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

Rationale

- Juvenile court jurisdiction is paramount in cases
 - ▶ See § 48.15 & § 938.15
- Juvenile court judge is in a good position to determine placement and custody
 - ▶ Familiar with current family situation, reports, evaluations, etc.

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.

Modifying/Entering Family Court Order

- Can be a modification or original order
- Parenting plans, legal custody and physical placement studies, and mediation not required
- Court must follow the guidelines of Ch. 767
- Family court retains jurisdiction for enforcement and future modifications
 - ▶ Including all requirements and presumptions for modification in Ch. 767 (e.g., time limits, change in circumstances, etc.)

Issues That May Be Addressed

- Paternity
- Legal custody
- Physical placement
- Visitation with others
- Child support & dependency exemption
- Health care expenses

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

Who May Request

- ▶ Juvenile court
- ▶ Child
- ▶ Child's counsel or GAL
- ▶ Parent
- ▶ Guardian or custodian
- ▶ Agency responsible under dispositional order
- ▶ District attorney/corporation counsel

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)

Juvenile Law vs. Family Law

Juvenile Cases

- Paramount interest is always the “Best Interests of the Child”
- Dispositional orders drafted with intention of continued involvement of DHS and oversight by the Court
- DHS resources/services available to family

Family Cases

- Paramount interest is BIOC but Court guided by specific factors that must be addressed
- Orders drafted to avoid continued litigation- finality, more “hands off”
- Limited resources/services available to family

Practice Tip

- Consider implementing a Pretrial or Settlement Conference procedure for these requests when appropriate
- Have parents complete parenting plan (FA-4147) to facilitate discussion and highlight important issues

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

Resources

- Case Closure E-Learning Activity
 - ▶ www.wiccciptraining.com
- Circuit Court Forms
 - ▶ JD-1814, JD-1815 & FA-614
 - ▶ www.wicourts.gov/forms1/circuit/index.htm
- Divorce & Family Law Self-Help Resources
 - ▶ www.wicourts.gov/services/public/selfhelp/divorce.htm
- DCF Child Support Tools
 - ▶ <https://dcf.wisconsin.gov/cs/order/tools>