



Juvenile Clerks Meet-up Sanctions, Waiver, QRTP, & Case Termination

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Justin Wolff – CCIP Legal Advisor
Bridget Mauerman – CCIP Director

Please note that the information contained in this presentation is not meant to be construed as legal advice.

Any guidance provided should not override a judge's decision and authority.

Questions are welcome; however, CCIP is unable to provide input on individual cases.

Thank you!

Post-Disposition Consequences



72-Hour Holds

- Juvenile may be held up to 72 hours in secure (delinquency) or non-secure (JIPS) custody either for investigation into or as a consequence of a violation of Dispositional Order
 - May not exceed 72 hours for same course of conduct
 - Subject to intake rules and county board policies
- Hearing not required, unless exceeding 72 hours
- Court must have previously explained conditions and possible sanctions or juvenile acknowledged the same in writing prior to the violation
- Notice is to be provided using Short-Term Detention Pending Investigation/As a Consequence form (JD-1770)
 - Enter Short-Term Detention (**SHTD**) event code

Stayed Orders

- Court may stay a Dispositional Order in whole or in part, based on juvenile's compliance with specified conditions, which must also be verbally explained by the court
- If the juvenile violates condition(s), the supervising agency or district attorney may request imposition of any stayed portion of the Dispositional Order
 - Request to Impose Stayed Delinquency Dispositional Order (JD-1750A) will be filed
 - New history event code will be created (WSD will be deactivated)
 - Hearing must be held within 30 days of the request (unless the hearing is waived by the juvenile)
 - Notice of the hearing must be provided to the same individuals as the Dispositional Order at least three days prior to the hearing (unless waived)
 - Burden of proof to lift stay: preponderance of the evidence
 - Use Order to Impose Stayed Delinquency Dispositional Order (JD-1750B)
 - New history event code will be created



Sanctions

- Delinquency and JIPS-Habitual Truancy sanctions include:
 - Secure Detention (up to 10 days per violation)
 - Suspension or Limitation of Driving, Hunting, or Fishing License (up to 3 years)
 - In-home Detention
 - Community Service (up to 25 hours)
 - Youth Reporting Center
- All other JIPS sanctions include the above, *except* use of secure detention



Sanctions

- If the juvenile violates condition(s), the supervising agency or district attorney may request imposition of sanctions by filing Motion for Sanctions (JD-1773)
 - Use Affidavit and Motion for Sanction (**AMS**) court record event for motion
 - Hearing must be held (no timeframe provided in statute)
 - Burden of proof to lift stay: preponderance of the evidence
 - Use Order for Sanctions (**OFS**) court record event for order



Judgment for Victim Witness Surcharge

- Following circuit court forms and codes were modified to include surcharges (e.g., victim witness surcharge):
 - Notice of Intent to Enter Civil Judgment for Restitution, Forfeiture, or Surcharge (JD-1758)
 - New code will be created
 - Petition for Judgment Against Juvenile/Parent for Unpaid Forfeiture/Surcharge (JD-1760)
 - Event code: **PJFOR** - Pet for judgment against parent/juv unpaid forfeit
 - Judgment for Unpaid Restitution/Forfeiture (JD-1761)
 - Event code: **JFFO** - Judgment for Unpaid Restitution/Forfeiture
- See § 895.035(2m)(b)



Waiver into Adult Court



Waiver Petition

- A petition to waive a juvenile into adult court jurisdiction may occur:
 - On or after the juvenile's 14th birthday, if a felony in benefit of a criminal gang or for specified offenses under § 938.18(1)
 - On or after the juvenile's 15th birthday for ANY criminal offense
- Petition for Waiver of Jurisdiction (JD-1722) may be filed by the District Attorney or the juvenile
 - Judge may also initiate, if petition alleges offense in § 938.18(1)
 - Use the Petition for Determ of Status–Delinquency (**DELQ**) or Petition to Waive Jurisdiction (**PWJ**) court record event
- Petition must be filed prior to the delinquency plea hearing, except if the juvenile enters a denial and turns 17 prior to adjudication

Waiver Hearing

- The juvenile must be represented by counsel at a Waiver Hearing (§ 938.18(3)(a))
- Any hearing on waiver must be heard by a judge—cannot be heard by a court commissioner, even if uncontested
- If the Petition for Waiver of Jurisdiction is uncontested, the court must conduct a hearing to:
 - Perform a colloquy with the juvenile to determine whether their decision is knowing, intelligent, and voluntary
 - Consider the petition and all available evidence (testimony not required) in applying the criteria for waiver (see: § 938.18(5))
 - Decide whether to waive juvenile court jurisdiction (not automatic due to juvenile not contesting)



Waiver Hearing

- Following the court's decision:
 - Order Waiving Juvenile Court Jurisdiction (JD-1723) is prepared either granting or denying the waiver
 - Enter based upon approval/denial using: Order Waiving Juvenile Court Jurisdiction (**OWJCJ**), Waiver to Adult Court (**WADC**), Waiver (**WAIVE**), and/or Waiver and Consent (**WAC**)



Holding a Waived Juvenile in Adult Custody

- Juveniles under 15 years of age may **only** be held in secure juvenile detention
- For juveniles 15 years of age or older, federal statute requires additional findings be made by the **criminal** court in order to hold in an adult jail facility
 - Findings must be made no later than six hours after the waiver decision
 - Findings must also be reviewed by the court every 30 days
 - Additional good cause finding or waiver to hold for more than 180 days
 - New circuit court form: Findings on Confinement of Juvenile Defendant Waived into Adult Court (CR-219)
 - Violation of the federal requirements does not result in loss of jurisdiction or ability to continue adult jail placement
 - Loss of federal funds as consequence



Qualified Residential Treatment Programs (QRTP)



Qualified Residential Treatment Program (QRTP)

- As of Sept. 2021, additional requirements when child/juvenile placed in shelter home, group home, or residential treatment center certified as QRTP
- Children/juveniles placed in a QRTP setting prior to effective date are exempt from the findings requirement, including for any subsequent case activity, as long as the placement continues
 - Any change in placement to a QRTP, including to prior QRTP setting, then triggers the findings
- Applies to CHIPS, JIPS, delinquency, and post-TPR placements



QRTP Purpose and Intent

- Created by federal Family First Prevention Services Act to encourage placement in most home-like setting based on specific child or juvenile needs
 - Presumption that the placement will be providing some level of treatment for an identified need (ex.–mental health, AODA)
- State can only receive federal Title IV-E funding for placement in a non-relative, non-foster home setting (a/k/a “congregate care”) if the placement is certified as a QRTP by DCF and specific court findings are made
 - That funding, along with other revenue streams, is then passed onto counties by DCF via complex equation



QRTP Purpose and Intent

- DCF rules do not require licensed congregate care settings to become certified as QRTP
- No statutory or rules prohibition on placement in non-certified setting or requirement that QRTP findings must be made in order to place in a congregate care setting
 - Court-ordered placement options remain the same (e.g., group home, residential treatment)
 - QRTP findings necessary **only** to claim federal funding for the placement episode



QRTP Requirements - Agency

- Assessment by “qualified individual” must be provided at time of request/notice -OR- no later than 30 days from date of entry into the QRTP setting (10 days for Notice of Change in Placement, unless good cause granted)
 - Generally provided via the Permanency Plan Addendum for Placement in a Setting Certified as a Qualified Residential Treatment Program (QRTP) – DCF Form (but not required)
 - Includes Child and Adolescent Needs and Strengths (CANS) Assessment score, recommendation on placement, and information on required planning and activities by the agency regarding case planning and supports
 - Court may request full CANS Assessment be provided



QRTP Requirements - Court

- At time of ordering placement -OR- no later than 60 days from date of entry into the QRTP setting (depending on when the assessment and recommendation are received):
 - Consider the assessment and recommendation of the placing agency
 - Determine whether:
 - Needs of child can be met through placement in a foster home;
 - QRTP provides the most effective and appropriate level of care for the child in the least restrictive environment; and
 - QRTP placement is consistent with permanency plan goals
 - Approve or disapprove QRTP placement
 - May still continue placement even when QRTP findings are not made or QRTP not approved



QRTP Requirements - Court

- QRTP findings may be authorized by either a judge or court commissioner
- No statutory requirement for a hearing to make QRTP findings and no right to objection by parties
 - Court may conduct a hearing on its own motion and/or depending on circumstances
 - No change to placement procedures and requirements, generally (e.g., change in placement, notice)
- Findings are incorporated into forms that may place a child/juvenile out-of-home
 - TPC Order, Consent Decree (Out-of-Home), Dispositional Order, Order for Change in Placement



Assessment/Recommendation Not Available at Time of Placement

- If the standardized assessment and recommendation are not available at the time of the hearing or notice of change in placement:
 - Agency must submit the assessment and recommendation (using the Permanency Plan Addendum and/or CANS Assessment within the prescribed timeframes along with the Request for Qualified Residential Treatment Program Placement Findings (JD-1826)
 - Use respective court record event(s) for Request (**RQRTP**), Permanency Plan Addendum (**PPA**) and/or CANS Assessment (**CANS**)
 - Schedule a review (**REV**) date in CCAP prior to the date indicated on the request (no later than 60 days from the date the child entered the certified QRTP placement)



Assessment/Recommendation Not Available at Time of Placement

- Court then issues the findings and order using the Findings and Order for Qualified Residential Treatment Program Placement (JD-1827)
 - As with at the time of hearing/notice, no hearing is required when using this procedure
 - If a hearing is scheduled, use QRTP Placement Hearing (**QRTPH**) event code
 - Enter findings using the Findings and Order for QRTP Placement (**QRTPO**) event code



QRTP Resources

List of certified QRTP placements:

- <https://dcf.wisconsin.gov/family-first/qntp>

QRTP E-Learning Activity:

- <https://wicciptraining.com/ELearningActivities>

QRTP Resource Guide (under Judicial Resources):

- <https://wicciptraining.com/Resources>



Wrap-up

- Questions or comments
- Topics for next Juvenile Clerk Meet-up



Thank you!

- Bridget – Bridget.Mauerman@wicourts.gov
- Justin – Justin.Wolff@wicourts.gov

