



It Isn't Over

Post-Dispositional Matters
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Primary Core Principles

- A juvenile defense attorney must be prepared to represent clients in post-disposition proceedings for changes of placement, revisions, extensions, and sanctions.
- A juvenile defense attorney must advise juvenile clients about post-dispositional relief, and should discuss appeal of any unfavorable outcome.

Appellate Duties

Must explain right to appeal to client.

- Wis. Stats. 809.30: If client wants to appeal, must file Notice of Intent to Pursue Post Conviction Relief within 20 days of final adjudication
- Must file with court and DA and send a copy to SPD Appellate Division

Juvenile Sex Offenders

- If possible, negotiate an agreement as part of disposition that the child is not required to register as a sex offender
- **ALWAYS** file a motion to Stay Sex Offender Reporting Requirements
 - See Wis. Stats. Sec. 938.34(15m) and (16)

Sanctions

Can be filed for violations of probation

- Wis. Stat. 938.355 (6)
- In the Interest of Ellis H., 2004 WI App 123
- Right to a hearing
- Short term detention (72 hour hold)
- Shall be given credit for time in detention
- Alternatives to Detention
 - Shelter Care, House Arrest, Community Service Work, revocation of DL

Revisions & Change in Placement

Wis. Stats. 938.357 (Change of Placement) and Wis. Stats. 938.363 (Revisions)

- Placement can be changed on an emergency basis
- If filed as a Notice of Change of Placement (which is typically used to avoid a hearing) objections must be made within 10 days
- Right to a hearing
- You can file on your client's behalf
- Be sure to check the statute for required elements for COP and Revisions, and file motions to dismiss

Extensions

Wis. Stats. 938.365

- Right to a hearing
- Court can extend original dispositional order 30 days without a hearing (to allow a hearing to get onto court's calendar)
- You can request on client's behalf ex. Sexual assault treatment

CHIPS

Filing a CHIPS action under Wis. Stats. 48.13

- When is it appropriate?
 - CHIPS petition instead of extension?
 - Advantages / Disadvantages?
 - Client Consent - Advocate Counsel vs. GAL
 - Forms - www.wicourts.gov

Permanency Plans

Wis. Stats. 938.38:

- Required for each child living in an out of home placement.
- Perm Plans are reviewed every 6 months. A hearing is required every 12 months.
- Concurrent planning - be sure to read the statutes because big changes were made in concurrent planning requirements in the past year

Removal of firearm restrictions

Applies to children with felony adjudications

- Wis. Stats. 938.29(8)
- Court must subsequently determine that the person is not likely to act in an manner dangerous to public safety

Expungement

Wis. Stats. 938.355(4m)

- Must be at least 17 years old
- Need to satisfactorily complied with the conditions of dispositional order and
- Juvenile will benefit from and society will not be harmed by the expungement
 - Forms for petition and order - www.wicourts.gov

Additional Facts

Eventually Charles is placed on formal supervision for one year in the home of his aunt. The conditions of probation include: No new law violations to probable cause, Daily school attendance, No possession or use of any alcohol, controlled substances or weapons, No contact with McDonalds, Supervised contact with his father, Cooperate with the Probation Department including attending all probation appointments, and No runaway behavior and complete 25 hours of community service.

Additional facts continued

Since placed on probation, Charles ran away from his aunt's home and is believed to be living with his father. He has not attended school since he ran away. He missed a probation appointment that was scheduled for the day he ran away. His probation officer filed a sanctions motion and a motion to change his placement to an out of county group home.