

Juvenile Practice County By County (Delinquency)

In an effort to provide both a “cheat” sheet of sorts for lawyers who are new to juvenile practice in your county and with the hope that we might all get new ideas for ways to improve juvenile practice throughout the state, I came up with these questions regarding juvenile proceedings. My plan is to gather answers from each of the counties and include this information on the Juvenile Practice website for staff attorneys to use as a resource, and have handouts of the information at trainings. This information should provide a good overview of juvenile practice for staff attorneys and private bar attorneys new to juvenile law.

Kewaunee County

Submitted by: Tara Teesch

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - Kewaunee County social workers do an intake evaluation with the juvenile and refer to DA if they feel informal dispositions won't be effective. It is my impression that the County makes efforts to work with juveniles who are first time offenders, even repeat offenders, depending on the violation
- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
 - Social worker
- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
 - Kewaunee is a very small county, with three juvenile delinquency social workers.
- ❖ Do the District Attorneys in your county tend to agree with the social worker/probation officer's decision regarding whether or not to charge, whether or not to offer a Deferred Prosecution Agreement, etc.?
 - Kewaunee DA's do often follow recommendations from social workers about whether to charge or offer DPA's, but can be persuaded by defense to act otherwise.
- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Yes.
- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
 - No.
- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - Yes. There are only a handful of juvenile prosecutions each year in Kewaunee. I have been out there for one year, and have negotiated one DPA. So "often" is hard to define.

Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
 - Personal appearance
- ❖ Are your custody hearings before a court commissioner or a judge?
 - Judge
- ❖ Is a petition normally filed by the time of/at the hearing?
 - TPC's usually happen for those already on orders: most juveniles are summoned when petitions are filed.
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Yes.
- ❖ Does your jurisdiction have a “temporary release from secure custody”, furlough, or something whereby secure custody findings are made but the client is allowed to be outside of secure detention?
 - No.
- ❖ What is the process for “appealing” the initial custody determination?
 - Review hearings set before the judge.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Yes, by the County and State, usually in the interest of getting the juvenile out of custody.
- ❖ What is the average length of stay in detention?
 - Days, a week or so.
- ❖ Where is the detention facility for your county?
 - Brown County or Sheboygan County

- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - Shelter Care in Brown County
- ❖ If your client is in secure custody or in a county facility group home, what needs to happen for the custody status to be reviewed?
 - Defense or other parties can petition the court. The court frequently grants the social worker ability to change custody from secure to nonsecure if the social worker finds it appropriate based on their investigation of the home placement option.
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - Electronic monitoring is available

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - By defense
- ❖ Is it common for someone other than defense counsel to raise competency?
 - No.
- ❖ Once raised, does the Court require some sort of affirmative showing, offer of proof, other evidence before ordering an evaluation?
 - Has not yet been an issue in Kewaunee. The single time I raise competency in the past year, the State amended to a JIPS.
- ❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?
 - Unknown.
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
 - Unknown.
- ❖ What competency training is provided in your county?

- None that I know of.

Waiver to Adult Court

- ❖ Do the District Attorneys in your county file waiver frequently?
 - No.
- ❖ Do the judges in your county often waive kids into adult court?
 - Not in the past year.
- ❖ When the State files the waiver request, are they truly seeking waiver, or is it used as a bargaining chip for some sort of juvenile disposition?
 - There has been one waiver filed since I started in Kewaunee, and it was used as a bargaining chip, in my opinion.
- ❖ How often are waivers contested?
 - Request for hearing and review of juvenile court history, services offered, if any, response and progress in those services by defense to make argument at a contested hearing.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - Have not had a contested waiver.
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Not sure, but I would guess the social worker
- ❖ What sort of witnesses does the defense usually call?
 - It would depend on the case, and I have not had any litigation on this point in Kewaunee. In the past in Brown County, we call parents and direct treatment providers if appropriate.
- ❖ Is it at all common for a juvenile to initiate waiver proceedings?
 - No
- ❖ Are you aware of any instances in your jurisdiction of the Court initiating proceedings?

- No

Disposition

- ❖ How closely are the social worker's recommendations followed?
 - We frequently stipulate because worker's recommendations are not unrealistic. Judge will listen to parties arguments and often gives each party some of what they are asking for, splitting the difference. Judge in Kewaunee takes his responsibility to fashion a disposition that he feels is appropriate.
- ❖ Are cases in your county frequently resolved by consent decrees? Who drafts the consent decrees? Do the district attorneys require a plea for consent decrees?
 - A few cases have resolved this way. CD are drafted by worker, but can and have been negotiated. DA in Kewaunee does not always require a plea.
- ❖ Are there "standard rules of supervision" that are in all delinquency dispositions?
 - Yes
- ❖ Does the State typically agree with the Department's recommendations?
 - Yes
- ❖ Does your jurisdiction have an intensive supervision program?
 - No
- ❖ Does your jurisdiction have a specialized "wraparound" program?
 - No
- ❖ Does your jurisdiction have a community service/restitution program?
 - Yes
- ❖ Which Residential Treatment Centers are used by your county?
 - All such placements are out of county
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Yes, but has not been utilized in my year of practice in Kewaunee

- ❖ Do you feel your judges tend to keep kids in their homes whenever possible or are they quick to remove them to foster homes, group homes, RCCs, etc?
 - Home is much preferred if deemed appropriate
- ❖ Are kids often sent to corrections? Is it used as a last resort? Do you think your county sends kids to corrections that should not be sent? Why do you think that happens and what is the motivation? Is it financially driven?
 - I have yet to see a juvenile go to corrections, it has not been recommended in my cases
- ❖ Do your judges generally stay sex offender registration for juveniles? When do they make the decision to stay registration? Immediately or do they defer the decision?
 - Has not been an issue yet in the year I have been in Kewaunee.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - Libertas (AODA) various private counseling, county services
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - No
- ❖ What treatment is available in your county for sex offenders? Is there a specific program or a specific therapist that is often/usually used for treatment of sex offenders in your county?
 - None
- ❖ What programs do you have in your county that are gender-specific?
 - None – very small county

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?

- Yes
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - Have not encountered this scenario yet, but imagine it would be through testimony of social worker
- ❖ What sanctions are most often imposed in your county?
 - Detention and additional community service
- ❖ Does your county utilize stayed days in detention as a sanction?
 - Yes.
- ❖ Has a particular sanction worked well for your clients in your opinion?
 - No – not enough sanction situations to make a broad conclusion

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
 - None that I can think of
- ❖ Who are experts you have used in juvenile cases and would you recommend them?
 - Have not need this in Kewaunee as of this writing