

# Post-Dispositional Juvenile Proceedings

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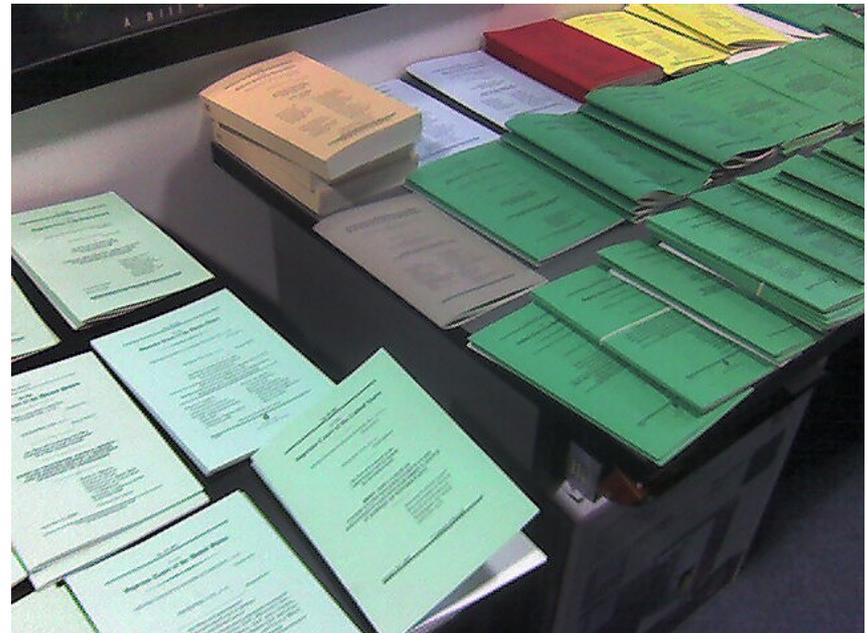
608-325-5065

# 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.

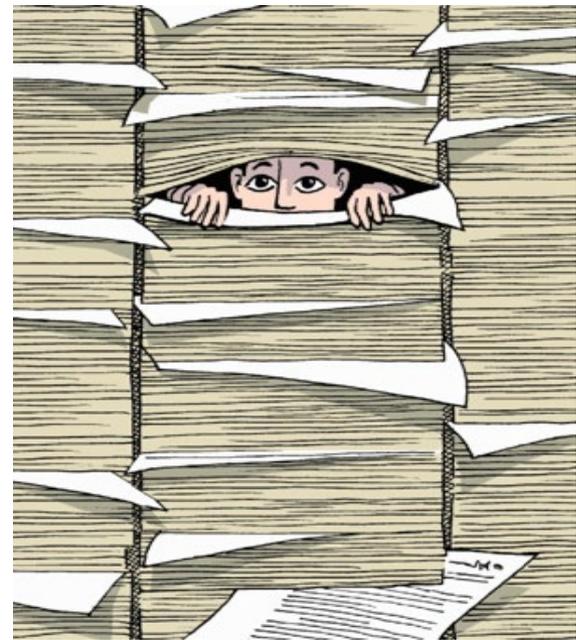
# Appellate Rights

- Juvenile attorneys must inform their client of their appeal rights and file the NOI prior to the expiration of the deadline
- **See 809.30(2)**
- *“Counsel representing the person at the time of the **final adjudication shall continue representation by filing a notice under par. (b) if the person desires to pursue postconviction or postdisposition relief unless counsel is discharged by the person or allowed to withdraw by the circuit court before the notice must be filed.**”*
- *“Within 20 days after the date of sentencing or final adjudication, the person shall file in circuit court and serve on the prosecutor and any other party a notice of intent to pursue postconviction or postdisposition relief.”*



# Sex Offender Registry

- See Wis. Stat. 301.45
- Watch out for discretionary registry
- [938.34 \(15m\) \(am\)](#)
- [938.345 \(3\)](#)
- Watch out for 980 liability
- Motion stay registration
- Also motion to exempt 301.45(1m)



# Review Hearings?



## Pros

- Can be informal venue to ask for changes or make sure Human Services or parent is doing their job
- Create team approach?



## Cons

- Lack of Due Process
- Judge tends to advocate for action and/or potentially hear inadmissible information
- Potentially unpleasant for clients
- Create team approach?

# Sanctions = *Not Punitive*

- Child must have been warned 938.355(6)(2m)
- Conditions must be in the juvenile's control and related to the objectives of supervision
- Secure detention for JIPS cases 938.355(6)(2), (6m)- only for School Truancy sub to board approval
- 938.355(6)(cm)- reasonable efforts
- Basic Due Process applies, notice of allegations, right to counsel, silence, confrontation
- Entitled to credit for time already served
- Preponderance of the Evidence
- Hearing within 15 days

# Sanctions Continued

- 10 days juvenile detention
- Suspension of Driving Privilege
- Home Detention 30 days EMP
- 25 hours community service
- Activities at a Youth Report Center
- See Ellis H- must be one sanction per volitional act
- Short term sanctions must be pre approved 938.06(1) and (2)
- *Coercing recalcitrant children since 1991*



# Motions to Change Placement

- Must object within 10 days to get a hearing\*
- Emergency changes require 48 hour notice
- Hearsay admissible if “demonstrable guarantees of trustworthiness”
- Greater weight of credible evidence
- Consider requesting expert or GAL
- \*See 938.357(1)(c)2, (3)
- You can request too!



# Revising a Dispositional Order

- Request must explain in detail the nature of the proposed revision and what new information affects the advisability of the court's disposition 938.363(1)(a)
- Greater weight of credible evidence



# Extensions

- Dispositional Order
- Hearing must be held
- Report must be filed
- Negotiate shorter length or specific goals
- Court must make findings
- No more than one year for in-home orders
- Consent Decree
- Can be extended automatically for 6 months if no objection
- Need to file objection and make sure you are receiving notices
- Sometimes extension is a good alternative to revocation

# CHIPS

- Defense Counsel may assist in filing CHIPS action on behalf of a client
- May be a good option for a juvenile client who wants services or a different placement
- Risks – could lead to unwanted placement or TPR



# Permanency Planning

Wis. Stats. 938.38:

- Required for each child living in an out-of-home placement.
- Permanency Plans are reviewed every 6 months. A hearing is required every 12 months.
- Concurrent planning
- AFSA- Adoption and Safe Families Act



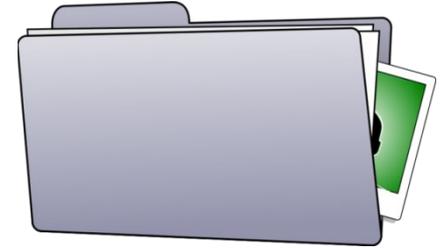
# Firearm Restriction

- See 941.29
- Juvenile must prove by preponderance of evidence that they are not likely to act in a manner dangerous to the public





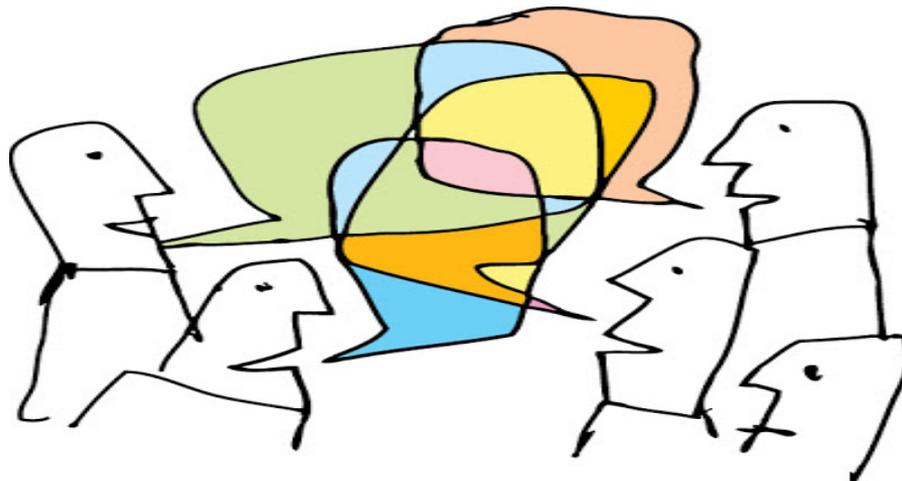
# Expungement



- 938.355(4m)
- 17 year olds can petition the court for expungement
- Court determines whether juvenile has satisfactorily complied with conditions of order, juvenile will benefit, society not harmed
- Unlike adult expungement no requirement of formal eligibility determination

# Adult Jurisdiction

- JIPS jurisdiction applies to kids up to 18 so maybe be a good option if prosecutor is willing to dismiss criminal case
- System participants who know juvenile can be good advocates when negotiating criminal case



# Charles, Post-Disposition

- 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.



- 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.



IN THE INTEREST OF

Charles Jones  
Name

**Notice of  
Change in Placement**

- Out-of-Home to Out-of-Home
- Out-of-Home to In-Home
- In-Home to In-Home

3/28/2002  
Date of Birth

Case No. 2017JV200

1. The child/juvenile is currently under a  temporary physical custody order.  dispositional order.
2.  A. The placement will be changed on [Date] 11/25/17, which is ten (10) days after the notice was filed with the court. This change  was  was not authorized in the temporary physical custody/dispositional order.

If you object to the change in placement, a written objection must be filed with the court within ten (10) 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.

Give reason for new placement, why it is preferable and how it satisfies any treatment plan ordered by the court:

Charles has been truant from his aunt's home, has not been going to school, has missed appointments with his worker and is believed to be residing with his father.

- B. The placement was changed on [Date] \_\_\_\_\_ due to emergency conditions necessitating an immediate change. *This notice was sent within 48 hours after the emergency change in placement.*

If you object to the change in placement, a written objection must be filed with the court within ten (10) 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.

Give reason for new placement, describe emergency conditions necessitating an immediate change, why it is preferable and how it satisfies any treatment plan ordered by the court:

3. 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 \_\_\_\_\_

4. Name and address of new placement: Out of County Group Home

5. If placement continues to be outside the home, the parents/guardian/legal custodian/trustee may be required to pay support for the placement.