

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.

Trempealeu County

Submitted by: Carly Sebion

The Intake Process

- ❖ How does the 40-day intake process under Wis. Stat. § 938.24 work in your county?
 - We receive the notice directly from the Juv Clerk when something has been filed and we appoint ASAP. We are not usually involved in the early screening process.

- ❖ Do you use the term probation officer or social worker or something else to describe the county representative from human services?
 - Social Worker or case worker

- ❖ Is there a specific social worker/probation officer or group of social workers/probation officers who conduct the intake inquiry?
 - There is an investigative social worker who does most intake, but by the time the petitions are filed, often an ongoing caseworker has been assigned.

- ❖ 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.?
 - Yes, but we are free to negotiate w/the DA's as well.

- ❖ Are Deferred Prosecution Agreements (DPA) often used in your county?
 - Sometimes.

- ❖ Are defense attorneys ever involved in negotiating DPAs prior to the filing of a formal petition?
 - Not normally. I have done it once, but normally it is after the petition has been filed.

- ❖ Are you ever successful at negotiating DPAs once a formal petition has been filed? Does this happen often?
 - Yes.

Temporary Physical Custody Hearings

- ❖ Do your clients appear personally at these hearings or does your jurisdiction utilize video conferencing?
 - Both.

- ❖ Are your custody hearings before a court commissioner or a judge?
 - Normally a judge

- ❖ Is a petition normally filed by the time of/at the hearing?

- No.
- ❖ Is there ever sworn testimony taken at custody hearings?
 - Rarely, but it has been done if it is a contested hearing.
- ❖ 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?
 - I would likely file Motion to reconsider placement before I appealed. The judges often agree that only a day or two in secure is enough.
- ❖ Is a request to review ongoing custody status ever made by someone other than defense counsel?
 - Yes. Parents and social workers have requested this before.
- ❖ What is the average length of stay in detention?
 - Short. 2-3 days.
- ❖ Where is the detention facility for your county?
 - We don’t have one. They go to Eau Claire or La Crosse.
- ❖ At a custody hearing, besides detention what placement options are available for kids?
 - We use family members or foster homes.
- ❖ 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?
 - The Court normally puts language in the Order that allows the Social Worker to change to a less restrictive setting when they find it appropriate. We don’t have to go back to court every time they change placement, unless contested.
- ❖ Do you have some sort of monitoring program for kids who are returned home on a custody order?
 - No.

Competency to Stand Trial

- ❖ How is the question of competency raised in your jurisdiction?
 - We just raise it w/the Court.
- ❖ 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?
 - No.
- ❖ Do parties generally stipulate to the evaluator's finding on present competency? How about on the likelihood of attaining competency within the statutory period?
 - Yes.
- ❖ Is your county good about periodically reevaluating clients after he or she has been found incompetent, but likely to attain competency?
 - Yes.
- ❖ What competency training is provided in your county?
 - None

Waiver to Adult Court

- ❖ Do the District Attorneys in your county file waiver frequently?
 - Rarely.
- ❖ Do the judges in your county often waive kids into adult court?
 - Rarely.
- ❖ 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?
 - Normally, they are serious about waiving them. The threat is used in negotiations, but once it is filed, they want it.
- ❖ How often are waivers contested?
 - Almost always.
- ❖ If a waiver is contested, how does the State typically prove prosecutive merit?
 - Testimony through social worker or evidence in the case. I have only seen it once, but it was based on the kid's unwillingness to admit to a sexual assault and refused treatment. They deemed he could not be rehabilitated in the juvenile setting.
- ❖ What sort of witnesses does the State typically call in support of waiver?
 - Social worker, law enforcement, counselors or treating physicians
- ❖ What sort of witnesses does the defense usually call?
 - Same as above, parents, expert (if needed).
- ❖ 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?
 - Pretty closely.
- ❖ 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?
 - Not frequently, but they are used. Conditions are drafted by the social workers and the consent decrees are drafted by the DA's. They are sometimes pre-plea, but most are post-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?
 - No.
- ❖ Which Residential Treatment Centers are used by your county?
 - Not a lot of juveniles. Probably, Northwest Passages or Journey. Ho-Chunk Nation also will send their members to treatment facilities.
- ❖ Does your county allow for a dispositional 365 day placement in detention?
 - Yes, but very rarely ever used.
- ❖ 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?
 - I think the Judge's in my counties definitely try to keep them in home, especially because we don't have a lot of places to put them.
- ❖ 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?

- No. Yes. No. I think that the kids that end up in corrections are the kids that have literally been through all of the other options. They do not go to corrections until they have tried foster homes, group homes, all family, etc. I don't know motivation, but I don't really think finances drive anything.
- ❖ 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?
 - Not sure.

Services in your county

- ❖ What are common treatment programs used in your county for juveniles? Anger management programs? AODA?
 - Very little. 7 challenges program, Northwest
- ❖ Is Day Treatment available in your county? If so, what are the names of the specific day treatment programs?
 - Yes. Unsure what it is called.
- ❖ 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?
 - Little to none. They have to go to La Crosse.
- ❖ What programs do you have in your county that are gender-specific?
 - None.

Sanctions

- ❖ How often is there a stipulation as to the basis for sanctions?
 - Rare. Most sanctions are contested, but sanction requests are pretty rare as well.
- ❖ If there is not a stipulation to the violations, how does the State/Department typically attempt to prove the basis?
 - The social worker normally drafts a letter or attachment to the request for sanctions.
- ❖ What sanctions are most often imposed in your county?
 - Home detention, removal of license for driving or fishing/hunting, community service.
- ❖ Does your county utilize stayed days in detention as a sanction?
 - No.

- ❖ Has a particular sanction worked well for your clients in your opinion?
 - It depends...most of the kids who end up with sanctions just simply don't care. I think it is up to the court and social worker to really craft a sanction that will get the kids attention and something they can actually enforce. Too often I see community service ordered, but no one follows up to make sure it gets done.

Miscellaneous

- ❖ What are common acronyms and their meanings in your county?
- ❖ Who are experts you have used in juvenile cases and would you recommend them?