

DEFINITIONS & ACRONYMS

Administration for Children and Families (ACF)

The Administration for Children and Families, within the U.S. Department of Health and Human Services (HHS), is responsible for federal programs that promote the economic and social well-being of families, children, individuals, and communities.

Adoption and Foster Care Analysis and Reporting System (AFCARS)

Federal reporting system that collects case level information on all children in out-of-home care for whom County and State child welfare agencies have responsibility for placement, care, or supervision and on children who are adopted under the auspices of the State's public child welfare agency.

Adoption and Safe Families Act (ASFA)

Federal legislation enacted in 1997 that emphasizes safety, permanence and well-being outcomes for children and families, and which established the procedure for the Title IV-E Review and the Child and Family Services Review.

Adoption Search Program

A program administered by the Wisconsin Department of Children and Families to help persons who have been adopted or whose birth parents have terminated their parental rights in Wisconsin to obtain information about themselves and their birth relatives.

Child and Family Services Review (CFSR)

A federal review process that enables the Children's Bureau to accomplish the following: (1) ensure conformity with Federal child welfare requirements; (2) determine what is actually happening to children and families as they are engaged in child welfare services; and (3) assist States to enhance their capacity to help children and families achieve positive outcomes. Ultimately, the goal of the review is to help States improve child welfare services and achieve the safety, permanence, and well-being outcomes for families and children who receive services.

Child Protective Services (CPS)

Specialized casework services to neglected, abused, or exploited children and their families. The focus of the services is the rehabilitation of the home through addressing the situations giving rise to abuse and neglect.

Children's Bureau (CB)

One of six bureaus within the federal Administration for Children and Families that works with State and local agencies to develop programs that focus on preventing the abuse and neglect of children in troubled families, protecting children from abuse and neglect, and finding permanent placements for those who cannot safely return to their homes.

Children's Court Improvement Program (CCIP)

A federal grant awarded to the Wisconsin Supreme Court, Director of State Courts Office to improve the handling of children in need of protection or services and termination of parental rights cases in the court system.

Consolidated Court Automation Programs (CCAP)

The statewide computer system used by circuit courts for case management purposes.

Coordinated Service Team (CST)

A group appointed by the agency primarily responsible for providing services to the child and the child's family to assess the child and family, define the services and any treatment to be provided, develop and implement the case plan, and evaluate the child's and his or her family's progress toward achieving established measurable and behavioral goals and objectives.

Department of Children and Families (DCF)

On July 1, 2008, the Department of Health and Family Services (DHFS) became the Department of Health Services (DHS) and the new Department of Children and Families (DCF) was created. DCF is the Wisconsin executive agency responsible for child welfare, child support, child care services and the W-2 program.

Director of State Courts Office (DSCO)

The administrative office of the Wisconsin Supreme Court responsible for the operational management of the state court system.

Family First Prevention Services Act (FFPSA)

Federal legislation enacted in 2018 that seeks to enable states to use federal funds available under Title IV-B (child welfare) and Title IV-E (see below) of the Social Security Act (see below) to provide enhanced support to children and families and prevent foster care placements through the provision of mental health and substance abuse prevention and treatment services, in-home parent skill-based programs, and kinship navigator services. The Family First Prevention Services Act also seeks to curtail the use of congregate or group care for children and instead places a new emphasis on family foster homes through the creation of certification and placement approval processes for Qualified Residential Treatment Programs (see below).

Indian Child Welfare Act (ICWA)

Federal law establishing standards for the removal of an Indian child from his or her parent or Indian custodian, and placement of Indian child in foster or adoptive homes. P.L. 95-608.

Interstate Compact on the Placement of Children (ICPC)

A statutory law (s. 48.988, Stats.) and legal contract among all fifty states, the District of Columbia, and the U.S. Virgin Islands to ensure that jurisdictional, administrative, and human rights obligations of all the parties involved in the interstate placement are protected. The ICPC establishes uniform legal and administrative procedures governing

the interstate placement of children. For youth in the juvenile justice system, there is a separate compact entitled the Interstate Compact on Juveniles (s. 938.991, Stats.).

National Child Abuse and Neglect Data System (NCANDS)

A voluntary national data collection and analysis system created in response to the requirements of the Child Abuse Prevention and Treatment Act (Public Law 93-247).

Other Planned Permanent Living Arrangement (OPPLA)

One of the permanency goals available for children/juveniles placed in out-of-home care when there is a compelling reason why one of the other permanency goals is not in best interests of the child/juvenile. It includes sustaining care and long-term foster care, but excludes independent living.

Out-of-Home Care

Generic term for relative care, foster care, treatment foster care, group care and residential care for children.

Program Improvement Plan (PIP)

The document that outlines Wisconsin's strategy, negotiated with ACF, for improving statewide child welfare practice and outcomes found to be in substantial non-conformity during the Child and Family Services Review.

Qualified Residential Treatment Program (QRTP)

Term given to a type of certification of certain non-foster home placements, including residential care centers for children and youth, group homes, or shelter care facilities, as determined by the Wisconsin Department of Children and Families. This certification was created as a part of the Family First Prevention Services Act (see above). Placement of a child or juvenile in a QRTP facility triggers an assessment and recommendation regarding placement and judicial findings and approval in order for Title IV-E reimbursement (see below), as well as additional information and analysis in permanency planning and hearings or reviews.

Social Security Act (SSA)

A federal law to provide for the general welfare by establishing a system of old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws. The Act includes Title IV-A (Temporary Assistance for Needy Families), Title IV-B (child welfare), Title IV-D (child support), and Title IV-E (see below).

Title IV-E

Title IV-E is a subpart of Title IV of the federal Social Security Act. This program provides federal reimbursement to states for the costs of children and juveniles placed in out-of-home care under a court order or voluntary placement agreement. Title IV-E benefits are an individual entitlement for qualified children and juveniles who have been removed from their homes.

Title IV-E Review

A Federal review process focusing on whether a child meets the statutory eligibility requirements for foster care maintenance payments and whether State and County agencies are in compliance with program requirements under Title IV-E.

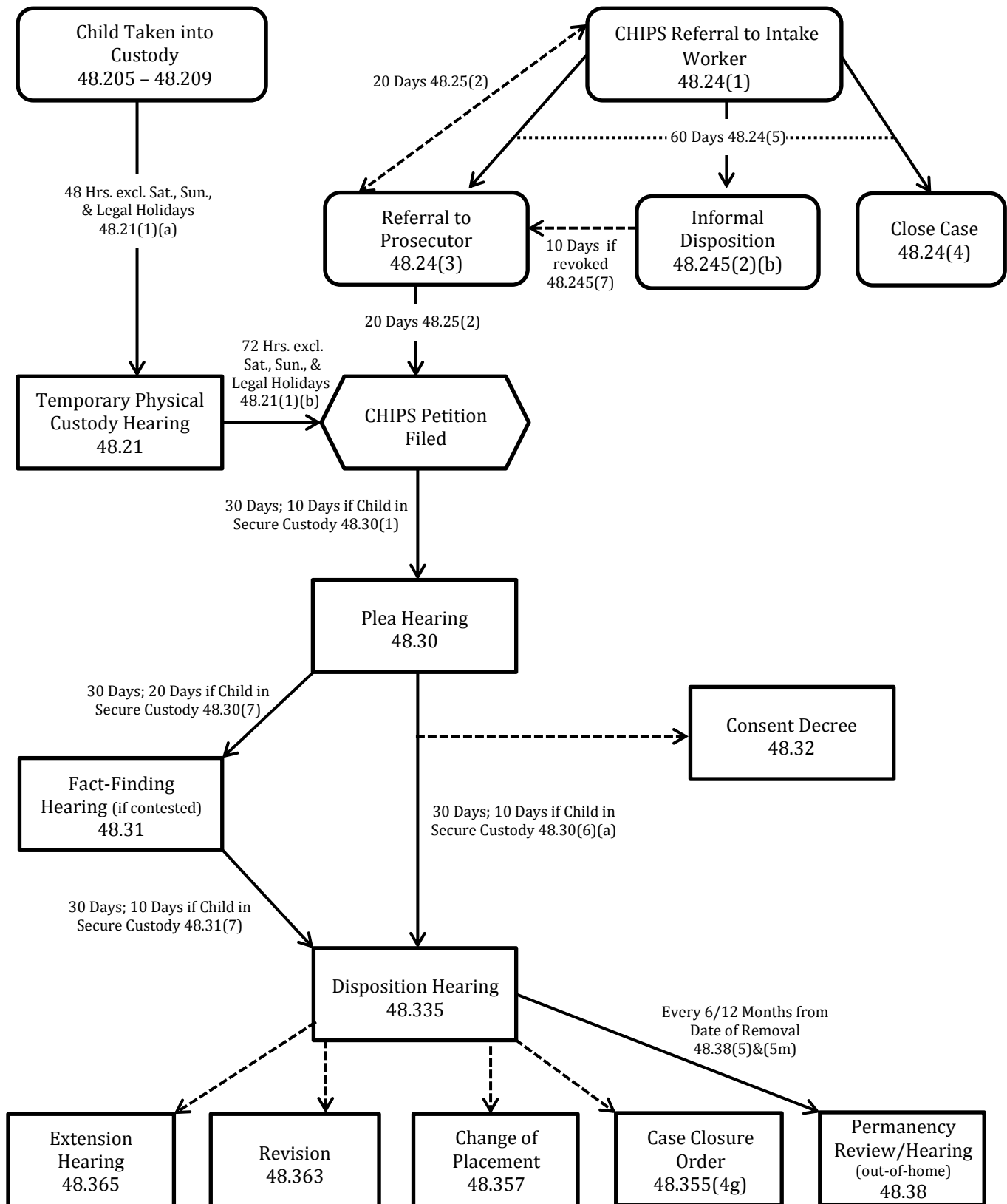
Wisconsin Indian Child Welfare Act (WICWA)

2009 Wisconsin Act 94 codified the federal Indian Child Welfare Act into Wisconsin state statutes, primarily Chapters 48 and 938. In an effort to provide greater clarification and compliance with ICWA, WICWA includes additional procedures and definitions.

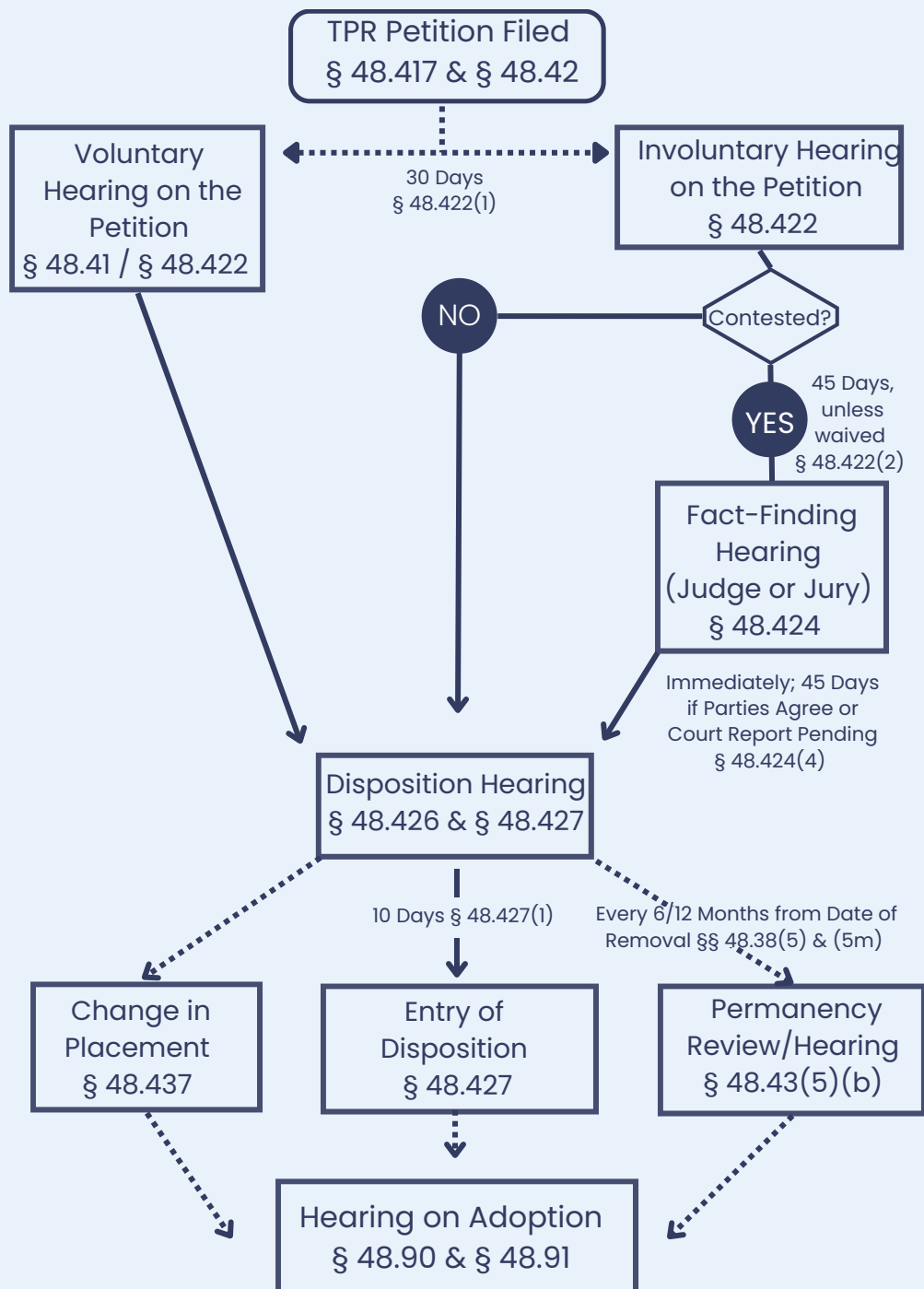
Wisconsin Statewide Automated Child Welfare Information System (WiSACWIS or eWiSACWIS)

A comprehensive automated case management system that supports caseworkers' out-of-home care and adoption assistance case management practice.

CHIPS Time Constraints Flow Chart



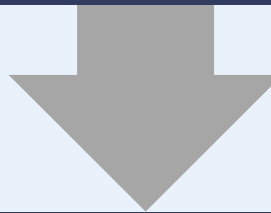
Termination of Parental Rights (TPR) Overview



Bifurcated Process

Grounds

- Voluntary Consent
- Admission/No Contest Plea to Involuntary TPR Grounds
- Default in Involuntary TPR (see next page)
- Fact-Finding Hearing in Involuntary TPR
 - Burden of clear and convincing evidence
 - Beyond a reasonable doubt for WICWA serious damage finding
 - Decision made by judge or jury



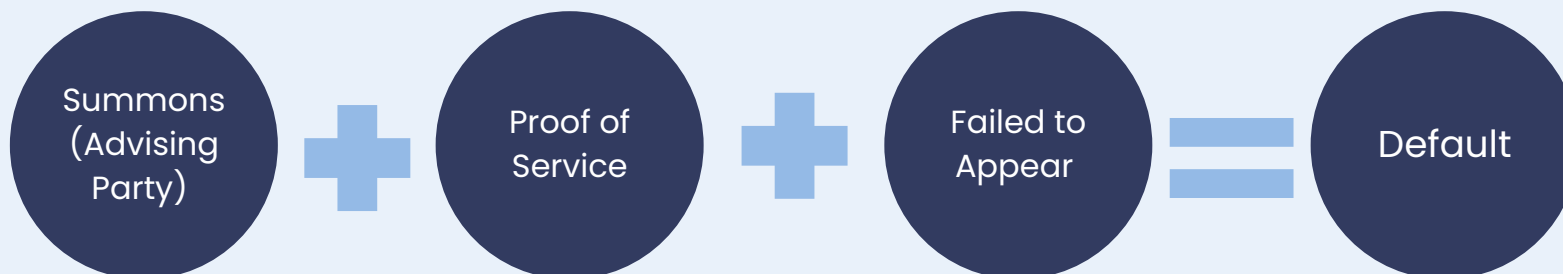
Disposition

- Child's Best Interests Governs
- Court Considers Following Factors (§ 48.426):
 - Likelihood of child's adoption after TPR,
 - Age and health of the child (at time of disposition and removal),
 - Whether substantial relationship with parent or other family members and whether harmful to sever relationships,
 - Wishes of the child,
 - Duration of the separation of the parent from the child, and
 - Whether child will enter into a more stable and permanent family relationship.

Types of Default

1

Failure to obey a summons – § 806.02(1)



2

Failure to obey a court order – § 805.03



3

Failure to appear at trial – § 806.02(5)



When a parent is found in default during the grounds phase of a TPR case, the court must proceed to an evidentiary hearing where testimony is needed to prove whether grounds exist. If grounds are found, the case will move immediately to the dispositional phase, unless the parties agree to an adjournment or a court report still needs to be filed. If the dispositional hearing is held at a later date, the parent is entitled to notice and participation in the hearing. A parent's right to counsel and the procedures for discharging an attorney based on the parent's conduct can be found in § 48.23(2).

Judicial Requirements for Out-of-Home Placements

Hearing/Order Name	Judicial Requirements ¹
Temporary Physical Custody Hearing <ul style="list-style-type: none"> • JD-1711 (Order for Temporary Physical Custody – Secure/Nonsecure) 	<ul style="list-style-type: none"> • Contrary to the Welfare • Reasonable Efforts to Prevent Removal • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction • Order Placement and Care Responsibility² • Ask Parents for Names of Three Relatives or Adults • Order Agency to Conduct Diligent Search and Notice to Relatives
Consent Decree <ul style="list-style-type: none"> • JD-1785 (Consent Decree – Out-of-Home Placement Only) 	<ul style="list-style-type: none"> • Contrary to the Welfare • Reasonable Efforts to Prevent Removal • Reasonable Efforts to Achieve the Permanency Goal (If a permanency plan has been filed.) • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction • Order Placement and Care Responsibility
Dispositional Hearing <ul style="list-style-type: none"> • JC-1611 (Dispositional Order – Protection or Services Ch. 48) • JD-1745 (Dispositional Order – Delinquent) • JD-1746 (Dispositional Order – Protection or Services Ch. 938) 	<ul style="list-style-type: none"> • Contrary to the Welfare • Reasonable Efforts to Prevent Removal • Reasonable Efforts to Achieve the Permanency Goal (If a permanency plan has been filed.) • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction • Order Placement and Care Responsibility • Ask Parents for Names of Three Relatives or Adults* • Order Agency to Conduct Diligent Search and Notice to Relatives* • TPR Warnings and Conditions of Return

¹ Please note that this is not an exhaustive list of findings, but instead this document contains some of the key findings required under statute and the Title IV-E program. In cases subject to WICWA, additional findings are required and the WICWA circuit court forms should be used.

² The order must place the child/juvenile into the placement and care responsibility of a specific county department, the Department of Children and Families, or the Bureau of Milwaukee Child Welfare.

* If not already done at a previous hearing involving the same out-of-home placement episode.

Judicial Requirements for Out-of-Home Placements

Hearing/Order Name	Judicial Requirements
Change in Placement Hearing (In-Home to Out-of-Home) <ul style="list-style-type: none"> • JD-1789 (Order for Change in Placement – In-Home to Out-of-Home) • JD-1768 (Postdisposition Emergency Change in Placement Order – In-Home to Out-of-Home) 	<ul style="list-style-type: none"> • Contrary to the Welfare • Reasonable Efforts to Prevent Removal • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction • Order Placement and Care Responsibility • Ask Parents for Names of Three Relatives or Adults* • Order Agency to Conduct Diligent Search and Notice to Relatives* • TPR Warnings and Conditions of Return
Change in Placement (Out-of-Home to Out-of-Home) <ul style="list-style-type: none"> • JD-1790 (Order for Change in Placement – Out-of-Home to Out-of-Home) 	<ul style="list-style-type: none"> • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction • TPR Warnings and Conditions of Return
Permanency Hearing <ul style="list-style-type: none"> • JD-1791 (Permanency Hearing Order) 	<ul style="list-style-type: none"> • Reasonable Efforts to Achieve the Permanency Goal • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction • TPR Warnings and Conditions of Return
Extension Hearing <ul style="list-style-type: none"> • JD-1788 (Order for Extension – Out-of-Home Placement Only) 	<ul style="list-style-type: none"> • Reasonable Efforts to Achieve the Permanency Goal • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction • TPR Warnings and Conditions of Return
Revision Hearing <ul style="list-style-type: none"> • JD-1786 (Order for Revision) 	<ul style="list-style-type: none"> • TPR Warnings and Conditions of Return
Post-TPR Change in Placement <ul style="list-style-type: none"> • JC-1665 (Order for Post-Termination of Parental Rights Change in Placement) 	<ul style="list-style-type: none"> • Reasonable Efforts to Place Siblings Together or Provide Frequent Interaction

Qualified Residential Treatment Program (QRTP) Reference Guide



**CHIPS, JIPS,
Delinquency,
or TPR Case**

+



**Shelter Care,
Group Home, or
Residential Care
Center Placement**

+



**Certified as a Qualified
Residential Treatment
Program - § 48.675**

=

**QRTP
Requirements
Apply**



*30 days, if good cause shown.

ASSESSMENT

The "standardized assessment" is a tool to determine appropriateness of the placement in a setting certified as a QRTP.

- Individual who conducted the assessment must also provide a recommendation supporting the requested court findings.
- Submitted by the agency as the "Permanency Plan Addendum for Placement in a Setting Certified as a QRTP".
- Must be provided to all case participants who are entitled to receive a copy of the petition, request, or notice.
- If the assessment is not available when the QRTP placement is ordered, the Request for QRTP Placement Findings (JD-1826) and Findings and Order for QRTP Placement (JD-1827) should be used.

FINDINGS

After receiving the assessment and recommendation, the court must make findings within 60 days of the QRTP placement as to:

1. Whether the needs of the child/juvenile can be met through placement in a foster home,
2. Whether the placement in a QRTP provides the most effective and appropriate level of care for the child/juvenile in the least restrictive environment,
3. Whether the placement is consistent with the short-term and long-term goals for the child/juvenile, as identified in the permanency plan, and
4. Whether to approve or disapprove the placement.

CONSEQUENCES

Court may order QRTP placement regardless of whether findings are made in the affirmative or negative.



Failure to make the findings timely prevents claiming of federal Title IV-E reimbursement.

RESOURCES

CCIP E-Learning:

<https://wicciptraining.com>

DCF Webpage:

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



GUARDIAN AD LITEM RESOURCES
Child Welfare Law Orientation

- I. Sample Judge's Colloquy with Guardians ad Litem**
- II. Sample Memorandum of Understanding**
- III. Sample Additional Guardian ad Litem Requirements**
- IV. Statement of Guardian ad Litem (Chapters 48 and 938)**
 - **Form JD-1799**
- V. Report of Guardian ad Litem for Guardianship of a Child (§48.9795, Wis. Stats.)**
 - **Form JN-1512**

**Sample Judge's Colloquy with Guardians ad Litem
(Chapters 48 and 938)**

- What is your recommendation (e.g., placement, conditions, services, family interaction, and treatment)?
- What is the basis of your recommendation?
- With whom did you consult (e.g., parents, caregiver, foster parent, social worker, school personnel, and medical or mental health professionals)?
- What documents or exhibits, if any, did you review?
- Did you meet personally with the child and interview the child, if the child is able to communicate? When and where did you meet with the child?
- Did you conduct a home visit?
- Is the child's environment safe and appropriate?
- Is your recommendation consistent with the child's wishes?
- If the child is subject to the Indian Child Welfare Act, did you consult the child's tribe regarding placement options and tribal services?

**GUARDIAN AD LITEM
SAMPLE MEMORANDUM OF UNDERSTANDING**

A. Preamble

All guardians ad litem are to adhere to the following standards approved by the Juvenile Judge(s) in _____ County. At a minimum, the below listed statutory expectations shall be performed by all guardians ad litem performing work in _____ County.

The guardian ad litem is to function independently in the same manner as an attorney for a party to the action, be a spokesperson for those whose voices would otherwise go unheard, and provide the court with an objective recommendation in advocating for the best interests of a child or ward that takes into account factors such as age, sense of time, level of maturity, culture and ethnicity, degree of attachment to family members and attachment to family members.

B. Minimum Statutory Expectations

Current statutes define the duties and responsibilities of a guardian ad litem. The following is a summary of those requirements:

CHIPS & JIPS

1. Be an attorney admitted to practice in this state and qualified to accept guardian ad litem appointments by meeting the qualifications of SCR 35.01. §48.235(2) and §938.235(2)
2. Advocate for the best interests of the person or child for whom the appointment is made. §48.235(3) and §938.235(3)
3. Function independently, in the same manner as an attorney for a party to the action. §48.235(3)(a) and §938.235(3)(a)
4. If the best interests of the person or child are substantially inconsistent with the wishes of that person or child, the guardian ad litem shall so inform the court. §48.235(3)(a) and §938.235(3)(a)
5. Make clear and specific recommendations to the court concerning the best interests of the child at every stage of the proceeding. §48.235(3)(b)2. and §938.235(3)(b)2.
6. Personally meet with the child unless granted leave by the court not to do so. §48.235(3)(b)1. and §938.235(3)(b)1.

7. Assess the appropriateness and safety of the environment of the child unless granted leave by the court not to do so. §48.235(3)(b)1. and §938.235(3)(b)1.
8. If the child is old enough to communicate, interview the child and determine the child's goals and concerns regarding his or her placement unless granted leave by the court not to do so. §48.235(3)(b)1. and §938.235(3)(b)1.
9. If reappointed or the appointment is continued, the guardian ad litem may do any of the following:
 - a. Participate in permanency planning under §48.38 or §938.38 and §48.43(5).
 - b. Petition for change in placement under §48.357 or §938.357.
 - c. Petition for termination of parental rights or any other matter specified under §48.14 or §938.14.
 - d. Petition for revision of dispositional orders under §48.363 or §938.363.
 - e. Petition for extension of dispositional orders under §48.365 or §938.365.
 - f. Petition for temporary restraining order and injunction under §813.122 or §813.125.
 - g. Petition for relief from a judgment terminating parental rights under §48.46.
 - h. Petition for the appointment of a guardian, the revision of a guardianship order, or the removal of a guardian under §§ 48.977 or 48.9795.
 - i. To bring an action or motion for the determination of the child's paternity under §767.80.
 - j. Perform any other duties consistent with Chapter 48 as directed by the court.
§48.235(4)(a)8. and §938.235(4)(a)8.

TPR

In matters involving a minor parent complete the following:

1. If the guardian ad litem represents a minor parent whose parental rights

are
subject to voluntary termination the guardian ad litem shall interview the
minor
parent, investigate the reason for the termination of parental rights and
assess the voluntariness of the consent. §48.235(5)

2. The guardian ad litem for a minor parent whose parental rights are the subject of a voluntary termination proceeding shall inform the minor parent of the effect of termination of parental rights. §48.235(5)

If a guardian ad litem has been appointed in a termination of parental rights proceeding to represent an incompetent parent to assist his or her adversary counsel or the court in protecting the parent's rights in the proceeding, the GAL shall provide information to the court relating to the parent's competency to participate and shall also provide assistance to the court and the parent's adversary counsel in protecting the parent's rights in the proceeding. §48.235(1)(g) and §48.235(5m)

However, the guardian ad litem of an incompetent parent may not participate in the proceeding as a party, and may not call witnesses, provide opening statements or closing arguments, or participate in any activity at trial that is required to be performed by the parent's adversary counsel. §48.235(5m)

APPEAL

If an appeal is taken by any party the guardian ad litem shall do the following:

1. If the guardian ad litem chooses not to participate in that appeal he or she shall file with the appellate court a statement of reasons for not participating. §48.235(7) and §938.235(7)
2. If the appellate court orders the guardian ad litem to participate in the appeal the guardian ad litem shall participate in that appeal. §48.235(7) and §938.235(7)

EXTENSION OF APPOINTMENT

The guardian ad litem or any party or the person for whom the appointment is made may, at any time, request in writing or on the record that the court extend or terminate the appointment or reappointment of the guardian ad litem. §48.235(7)

C. Additional Requirements

This section should include local policies and practices, including billing and compensation requirements. See examples.

GAL's Signature

Date

Judge's Signature

Date

SAMPLE Additional Guardian ad Litem Requirements

- a. Contact the child and the child's caregiver in advance of any court hearing or judicial review to ascertain what information, witnesses, or other evidence should be produced by the guardian ad litem at such hearing.
- b. Consult with the child, in a developmentally appropriate manner, with regard to the type of litigation, the child's rights, the function of the court system, the purpose of the various court proceedings, the role and function of the guardian ad litem, the role and function of the attorneys/ parties and whether the child may or may not participate in the legal process.
 1. The guardian ad litem shall accomplish this goal by meeting personally with the child at the child's residence, at a neutral place, at the child's school, at a social services agency, or pre-arranged meeting room.
 2. The guardian ad litem shall provide information to the child to allow the child to access the guardian ad litem by telephone, e-mail, and/or other reasonable means.
- c. The guardian ad litem shall gather and review information and obtain the necessary authority through releases or court orders to obtain the following information:
 1. Contact collaterals to obtain and read pertinent records which would include medical, school, daycare, police, therapy, psychological, psychiatric and other records relevant to the matter including placement records as available.
 2. Review court files of the child and family.
 3. Review case related records of the social service agency or other service providers who have provided services to the family.
 4. Contact lawyers for other parties or the parties themselves if unrepresented as well as any CASA who have had contact with the child or family.
 5. Review of evidentiary photographs, videos, or audio tapes and other evidence related to the child or family.
- d. The guardian ad litem shall personally observe every residence at which the child is placed promptly after the child is placed at that residence.
 1. The guardian ad litem shall personally observe the child's interaction with the caregiver.
 2. The guardian ad litem shall make an inspection of the home to assure the adequacy and safety of the child's living environment.
 3. The guardian ad litem shall ascertain whether other individuals are residing at the child's residence, including names, and dates of birth if possible.

4. In assessing safety, the guardian ad litem shall perform CCAP checks with regard to all individuals residing with the child.
- e. The guardian ad litem shall meaningfully participate in court hearings concerning the child.
 1. The guardian ad litem shall report to the court when, where, and for how long the guardian ad litem has met with the child unless providing such information would jeopardize the health and safety of the child.
 2. The guardian ad litem shall report to the court the appropriateness and safety of the child's current living environment.
 3. The guardian ad litem shall inform the court of the child's wishes regarding the matter.
- f. The guardian ad litem shall report to the court concerning the child's adjustment to placement, the family's compliance with prior court orders and treatment plans, the department's compliance with prior court orders and treatment plans, and the contact the child has had with either parent.
- g. The guardian ad litem shall inform the court of what temporary or final orders should be made concerning the child and what services the child or family requires that have not yet been court ordered.
- h. The guardian ad litem shall file petitions, motions, responses, participate in depositions, and participate as any attorney for a party would participate in a court proceeding.
- i. The guardian ad litem shall request orders from the court that are clear, specific, and if appropriate include a time line for assessment, evaluation, services, placement, treatment, evaluation, and return of the child to the family.
- j. The guardian ad litem shall review all written orders to insure that such orders conform with the court's verbal rendition including statutorily required findings and notices.
- k. If the appointment of the guardian ad litem is continued pursuant to §48.235(7), the guardian ad litem shall monitor the implementation of the court order and report non-compliance.
- l. If the child is required to testify, the guardian ad litem shall familiarize the child with the courtroom, court procedures, and what to expect during direct and cross-examination in an effort to insure that testifying will cause minimum harm to the child.
- m. The guardian ad litem shall attend significant staffings and meetings on a regular basis.

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN THE INTEREST OF

**Statement of Guardian ad Litem
(Chapters 48 and 938)**

Name

Case No. _____

Date of Birth

I am the court appointed guardian ad litem for the above named child/juvenile and state to the court that I have completed the following duties:

1. MET WITH THE CHILD/JUVENILE

- ☐ I personally, or through a trained designee [Name] _____, met with the child/juvenile.
The date last met with the child/juvenile was [Date] _____.
☐ I was granted leave by the court not to meet with the child/juvenile.
☐ I am requesting leave by the court not to meet with the child/juvenile for the following reason(s):

2. ASSESSED CHILD'S/JUVENILE'S ENVIRONMENT

- ☐ I personally, or through a trained designee [Name] _____, assessed the appropriateness and safety of the child's/juvenile's environment.
☐ I was granted leave by the court not to assess the appropriateness and safety of the child's/juvenile's environment.
☐ I am requesting leave by the court not to assess the child's/juvenile's environment for the following reason(s):

3. INTERVIEWED THE CHILD/JUVENILE

- ☐ The child/juvenile is not old enough to communicate.
☐ I personally, or through a trained designee [Name] _____, interviewed the child/juvenile to determine the child's/juvenile's goals and concerns regarding his or her placement.
☐ I was granted leave by the court not to interview the child/juvenile.
☐ I am requesting leave by the court not to interview the child/juvenile for the following reason(s):

4. CHILD'S/JUVENILE'S WISHES

The best interests of the child/juvenile ☐ are ☐ are not substantially inconsistent with the wishes of the child/juvenile.

5. Additional comments: _____

Guardian ad Litem

Name Printed or Typed

Address

DISTRIBUTION:

1. Court
2. Guardian ad Litem/Attorney
3. Parties

Email Address

Telephone Number

Date

State Bar No. (if any)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY

IN THE INTEREST OF

☐ Amended

Name _____

Date of Birth _____

**Report of Guardian ad Litem for
Guardianship of a Child
 (§48.9795, Wis. Stats.)**

Case No. _____

I am the court appointed Guardian ad Litem for the above-named child and report to the court that I have completed the following duties and make the following report and recommendations:

GENERAL DUTIES

1. I conducted a diligent investigation sufficient to represent the best interests of the child in court, which included the following activities: (Select all that apply)

☐ I personally met with or observed the child. The date last met with or observed the child was

[Date] _____.

☐ I personally met with or spoke to the proposed guardian.

☐ I personally met with or spoke to other interested persons, including: _____.

☐ I personally visited the home of the ☐ child and/or ☐ guardian.

☐ A trained designee [Name] _____ performed the following: _____.

☐ Additional activities: _____ ☐ See attached

- ☐ 2. I inspected the following reports and records relating to the child and, upon presentation of necessary releases, records relating to the child's family and the proposed guardian: _____

CHILD'S WISHES

3. The best interests of the child ☐ are ☐ are not substantially inconsistent with the wishes of the child.

Adversary counsel ☐ is ☐ is not requested by the minor.

Adversary counsel ☐ is ☐ is not recommended.

RECOMMENDATION

4. Based on my investigation, I recommend that the court find that:

☐ It is in the best interest of the child to appoint the proposed guardian [Name] _____ as the child's guardian.

☐ It is in the best interest of the child to appoint another person [Name] _____ as the child's guardian.

☐ It is not in the best interest of the child to grant the proposed guardianship.

5. It is my opinion that the proposed guardian [Name] _____ ☐ is ☐ is not fit, willing, and able to serve as guardian of the child based on the following information: _____

☐ See attached

- ☐ 6. It is my opinion that the proposed successor guardian [Name] _____ ☐ is ☐ is not fit, willing, and able to serve as guardian of the child based on the following information: _____

☐ See attached

7. It is my opinion that the standard for the following type of guardianship and conditions have been met:

☐ **Full Guardianship**

- All of the duties and authority specified in §48.023, Wis. Stats., the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the duty to be concerned about the child's general welfare, including but not limited to:
 - The authority to consent to marriage, enlistment in the U.S. armed forces, major medical,

- psychiatric and surgical treatment, and obtaining a motor vehicle operator's license.
- The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child but not the authority to deny the child the assistance of counsel as required by Chapter 48.
- The right and duty of reasonable visitation of the child.
- The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections under §§938.183, 938.34 (4h), (4m), or (4n), or §938.357 (3) or (4), Wis. Stats., or the supervision of a county department under §938.34 (4d), (4m), or (4n), Wis. Stats.
- Subject to an order of a court of competent jurisdiction, the authority to determine reasonable visitation with the child.
- The right to change the residence of the child from this state to another state.
- The duty to immediately notify the court that appointed the guardian of any change in the address of the guardian or child and to make an annual report to that court on the condition of the child. The report shall include the location of the child, the health condition of the child, and any recommendations regarding the child.

☐ **Limited Guardianship**

- The following duties and authority should apply to the guardian:
 - ☐ The authority to represent the child in legal actions and make other decisions of substantial legal significance concerning the child but not the authority to deny the child the assistance of counsel as required by Chapter 48.
 - ☐ The right and duty of reasonable visitation of the child.
 - ☐ The rights and responsibilities of legal custody except when legal custody has been vested in another person or when the child is under the supervision of the department of corrections under §§938.183, 938.34 (4h), (4m), or (4n), or §938.357 (3) or (4), Wis. Stats., or the supervision of a county department under §938.34 (4d), (4m), or (4n), Wis. Stats.
 - ☐ Subject to an order of a court of competent jurisdiction, the authority to determine reasonable visitation with the child.
 - ☐ The right to change the residence of the child from this state to another state.
 - ☐ The duty to immediately notify the court that appointed the guardian of any change in the address of the guardian or child and to make an annual report to that court on the condition of the child. The report shall include the location of the child, the health condition of the child, and any recommendations regarding the child.
 - ☐ Other: _____
- It is my opinion that the guardian's authority should be limited in the following manner:
 - ☐ The parent [Name] _____ retains power to make the following decisions within the parent's ability to exercise effectively: _____.
 - ☐ Other: _____.
- The Limited Guardianship should expire on: _____.

☐ **Temporary Guardianship**

- The duties and authority of the temporary guardian should include:
 - ☐ _____.
 - ☐ _____.
 - ☐ _____.
 - ☐ _____.
- The Temporary Guardianship should expire on [Date] _____. **[Not to Exceed 180 days]**

☐ **Emergency Guardianship**

- The duties and authority of the emergency guardian should include:
 - ☐ _____.
 - ☐ _____.
 - ☐ _____.
 - ☐ _____.
- The Emergency Guardianship should expire on [Date] _____. **[Not to Exceed 60 days]**

- ☐ 8. I recommend that the court establish reasonable rules of parental visitation for:
☐ Parent 1 [Name] _____. These rules include: _____.
_____. ☐ See attached
☐ Parent 2 [Name] _____. These rules include: _____.
_____. ☐ See attached
- ☐ 9. **PROTECTIVE PLACEMENT, PROTECTIVE SERVICES (if requested)**
It is my opinion that the court
☐ should ☐ should not approve protective placement.
☐ should ☐ should not approve protective services.
☐ should find the least restrictive placement consistent with the minor's needs is a:
☐ group home. ☐ foster home. ☐ community based residential facility. ☐ nursing home.
☐ intermediate care facility. ☐ Other: _____
☐ in an unlocked unit.
☐ in a locked unit because: _____
_____ ☐ See attached
☐ should find that protective placement in the intermediate facility or nursing facility is the most integrated setting appropriate to the needs of the minor with a developmental disability.
- ☐ 10. **ADDITIONAL EVALUATIONS (if requested)**
Additional medical, psychological or other evaluation ☐ is not requested ☐ is requested. Specify evaluation requested and reason: _____
☐ I advised the minor of the right to an independent medical or psychological examination (if requested).
- ☐ 11. Additional comments: _____



Guardian ad Litem Signature

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No.

DISTRIBUTION:

1. Court
2. Child
3. Child's Parents
4. Child's Guardian/Legal Custodian
5. Tribe (if any)
6. Indian Custodian (if any)
7. Additional Interested Persons (if any)

WORKING WITH INTERPRETERS IN WISCONSIN COURTS BENCHCARD FOR JUDGES

LIMITED ENGLISH PROFICIENCY

In Wisconsin, Limited English Proficiency or LEP means the inability to adequately understand or communicate effectively in English in a court proceeding because of where a person was born (national origin) or because of disability. See Wis. Stat. §885.38(1)(b)1&2.

MANDATORY APPOINTMENT

If the court determines that a person has limited English proficiency and needs an interpreter to communicate with counsel, understand English testimony, or be understood in English in **any type of case (criminal or civil)**, the court must provide an interpreter. The court must provide an interpreter for a Deaf member of a jury panel in any type of case.

EVALUATE NEED FOR AN INTERPRETER

The determination as to whether an interpreter is needed must be made by the court. Evaluate the need for an interpreter as early as possible and before any substantive hearing. A voir dire of the litigant can be done by asking open-ended questions in English. The questioning does not require an elaborate hearing.

SUGGESTED QUESTIONS TO ESTABLISH NEED FOR AN INTERPRETER AND TO DETERMINE LEP

- *How did you come to court today?*
- *How did you learn English, and what is most difficult about communicating in English?*
- *Please tell me about your native country.*
- *Describe what you see in this courtroom.*
- *What is the purpose of your court hearing today?*

At the end of the evaluation, make a finding as to the need for an interpreter and limited English proficiency. When in doubt, appoint an interpreter.

WHO IS ENTITLED TO AN INTERPRETER?

The circuit court will pay for an interpreter if the person is a party, a witness (while testifying), alleged victim, parent/legal guardian, legal guardian of a party in interest, or any other person affected by the proceedings, as well as a Deaf member of a jury panel.

DISCRETIONARY APPOINTMENT

If a person needs assistance at the clerks' counter regarding a legal matter or if a person needs interpreter services outside the courtroom (such as for court-ordered psychiatric or medical exams, or mediation), the court may provide an interpreter.

INTERPRETER QUALIFICATIONS

Always use a certified or qualified interpreter either in-person or remotely.

Establish an interpreter's qualifications on the record with questions to assess skills and experience, to determine if any conflicts exist, and to demonstrate understanding of the Code of Ethics for Court Interpreters.

SUGGESTED QUESTIONS TO ESTABLISH INTERPRETER QUALIFICATIONS FOR SPOKEN AND SIGN LANGUAGE INTERPRETERS

[Spoken Language]: *Are you certified as a court interpreter by this state or any other state or federal court?*

[Sign Language]: *Do you hold legal certification from the Registry of Interpreters for the Deaf (RID)? If not, do you hold an interpreter license from the State of Wisconsin's Department of Safety and Professional Services?*

Do you have any formal training in interpreting, specifically legal interpreting? Please describe your formal schooling.

Are you able to interpret simultaneously and consecutively? Do you understand that you must interpret everything said on the record?

Have you read Wisconsin's Code of Ethics for Court Interpreters and do you understand each canon?

Are you aware of any conflict of interest you might have in this case? Have you interpreted in any incident related to this case?

Have you talked with the person briefly? Are there any communication problems?

SWEAR IN THE INTERPRETER

Before the interpreter assumes his/her duties, administer an oath on the record.

SAMPLE OATH

"Do you solemnly swear [or affirm] that you will interpret truly, accurately, completely, and impartially, in accordance with the standards prescribed by law and the code of ethics for court interpreters?"

OATH FOR SIGN INTERPRETERS FOR DEAF JURORS

Use this additional oath for sign language interpreters and real time reporters who are appointed for an LEP juror with a disability:

"Do you also swear [or affirm] that you will not participate personally in the jury's deliberations, nor make any comment about your personal recollections of the evidence or your opinions about the outcome of this case and that you will not disclose or comment upon anything you hear in jury deliberations unless ordered to do so by the court?"

COLLOQUY BEFORE THE HEARING

At the start of the hearing, use the following introduction to explain the role of the interpreter:

"We will have an interpreter assist us through these proceedings. The interpreter is here only to interpret the proceedings and to enable us to communicate with each other. The interpreter is not a party in this case, has no interest in this case, does not take sides and is not allowed to give legal advice or any other assistance."

EXPECTATIONS OF THE INTERPRETER

The interpreter is a language expert whose goal is to put the LEP litigant/witness on the same level as an English-speaking litigant/witness (not better or worse). The court can expect an interpreter to:

- Talk briefly with the LEP individual to confirm effective communication is possible
- Suggest best positioning within the courtroom
- Speak from the perspective of the original speaker
- Refer to himself/herself as "the interpreter"
- Ask clarifying questions
- Correct misinterpretations

- Take notes and consult a dictionary or glossary (hard copy or on an electronic device)

HELPFUL TIPS

- Don't use friends, relatives (especially children), social workers, victim advocates, law enforcement officers or attorneys as interpreters during court proceedings.
- Use the roster to locate the most qualified interpreter.
<http://www.wicourts.gov/services/interpreter/search.htm>
- Consider using technology to assist with interpreting when available.
- Use a team of interpreters during trials and proceedings expected to last 2 or more hours.
- Allow the interpreter to review the court file and potential exhibits prior to the hearing.
- Speak clearly, directing statements and questions to the litigant and not to the interpreter.
- Make sure only one person talks at a time.
- Monitor interpretation at all times.
- Provide rest breaks as needed, at least one for every 30 minutes of continuous interpreting.
- Distribute jury instructions and verdict forms to the interpreter.
- Contact the Court Interpreter Program for assistance or to report problems regarding interpreting and translation.

Check List

DID YOU...?

- ✓ Make a finding as to limited English proficiency and for interpreter need.
- ✓ Establish interpreter qualifications and determine whether any conflicts exist.
- ✓ Swear in the interpreter.
- ✓ Use the colloquy to explain the role of the interpreter.
- ✓ Use a certified or qualified interpreter.

Interpreter Code of Ethics SCR 63

Applicable to:

- ♦ Spoken language interpreters
- ♦ Sign language interpreters
- ♦ Real-time court reporters when providing access for deaf and hard of hearing court users

Interpretation must be complete and accurate

- ♦ Must not alter, omit, or add to meaning of what is said or written
- ♦ Must not explain purpose of hearings or forms
- ♦ Will need to prepare for court by reviewing file and relevant documents

Interpreter must accurately disclose qualifications and experience

- ♦ Interpreter's qualifications should be verified by the court if the interpreter works in a language that does not offer a certification exam

Interpreter must be impartial and unbiased

- ♦ Real or perceived appearance of conflicts of interest must be reported to court

Confidentiality and restriction on public comment

- ♦ Interpreter must protect all privileged and confidential information
- ♦ Interpreter may review confidential parts of file if relevant to proceeding
- ♦ Interpreter must not publicly discuss or offer opinion on any matter, even when matter is not privileged or confidential

Scope of Practice

- ♦ Interpreter shall not give legal advice or other advice
- ♦ Interpreter shall not express personal opinions to persons using their services
- ♦ Interpreters shall not engage in other services while serving as interpreter

Interpreters must:

- ♦ Maintain a professional demeanor
- ♦ Report to the court any reservations about ability to perform as interpreter
- ♦ Report to court any ethical violations or efforts to impede interpreter's compliance with laws, code or court policies
- ♦ Improve skills through professional education and training

The Court Interpreter Code of Ethics is SCR Ch. 63. The full text of the code can be found at <http://www.wicourts.gov/services/interpreter/ethics.htm>

Wisconsin's Code of Ethics for Court Interpreters

SCR Chapter 63

Interpreters, judges, and attorneys are often unaware of the proper role of the court interpreter and the professional responsibilities it demands. The purpose of a code of ethics is to articulate a core set of principles to guide the conduct of a court interpreter and to educate judges in the level of conduct expected. The code addresses accuracy and completeness, representation of interpreter qualifications, impartiality and conflict of interest, professional demeanor, confidentiality and restriction of public comment, limitations on giving legal and other advice, communicating interpreter limitations to the judge, reporting ethical violations, and professional skills development.

This code of ethics has been adopted by the Wisconsin Supreme Court to guide interpreter conduct while working in the courts of Wisconsin and to serve as a basis for interpreter education. In keeping with its general practice, the court has adopted the black letter provisions; the accompanying comments are published for information purposes. This code is effective on July 1, 2002.

63.001 Citation of rules; definitions

1. SCR 63.001 to 63.10 may be cited as the "Code of Ethics for Court Interpreters."
2. In this chapter "code" means the Code of Ethics for Court Interpreters.
3. "Shall" is used in the code to define principles to which adherence is required.

63.002 Preamble

Many persons are partially or completely excluded from participation in court proceedings due to limited proficiency in the English language, as described in ss. 885.37 (1) (b) and 885.38 (1) (b), stats. Communication barriers must be removed as much as is reasonably possible so that these persons may enjoy equal access to justice. Qualified interpreters are highly skilled professionals who help judges conduct hearings justly and efficiently when communication barriers exist.

63.003 Applicability

The code governs the delivery of services by foreign language and sign language interpreters working in the courts of the State of Wisconsin. Its purpose is to define the duties of interpreters and thereby enhance the administration of justice and promote public confidence in the courts. The code also applies to real time reporters when functioning in the capacity of providing access to court users.

63.004 Interpretation

The comments accompanying this code are not adopted. The comments are intended as guides to interpretation, but the text of each rule is authoritative. If a court policy or routine practice appears to conflict with any provision of the code the policy or practice should be reviewed for modification.

63.01 Accuracy and completeness

Interpreters shall render a complete and accurate interpretation or sight translation by reproducing in the target language the closest natural equivalent of the source language message, without altering, omitting, or adding anything to the meaning of what is stated or written, and without explanation.

Comment

Interpreters have a twofold role: 1. to ensure that court proceedings reflect, in English, precisely what was said by persons of limited English proficiency; and 2. to place persons of limited English proficiency on an equal footing with persons who understand English. This creates an obligation to conserve every element of information contained in a source language communication when it is rendered in the target language.

Therefore, interpreters are required to apply their best skills and judgment to preserve, as faithfully as is reasonably possible and without editing, the meaning of what is said, including the style or register of speech, the ambiguities and nuances of the speaker, and the level of language that best conveys the original meaning of the source language. Verbatim, "word for word," or literal oral interpretations are inappropriate when they distort the meaning of what was said in the source language. However, every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent should be interpreted. This includes apparent misstatements.

Interpreters should not interject any statement or elaboration of their own. If the need arises to explain an interpreting problem, such as a term or phrase with no direct equivalent in the target language or a misunderstanding that only the interpreter can clarify, the interpreter should ask the court's permission to provide an explanation.

Spoken language interpreters should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions, or dramatic gestures. Sign language interpreters, however, must employ all of the visual cues that the language they are interpreting for requires—including facial expressions, body language, and hand gestures. Judges should ensure that court participants do not confuse these essential elements of the interpreted language with inappropriate interpreter conduct. Any challenge to the interpreter's conduct should be directed to the judge.

The obligation to preserve accuracy includes the interpreter's duty to correct any errors of interpretation discovered during the proceeding. Interpreters should demonstrate their professionalism by objectively analyzing any challenge to their performance.

The ethical responsibility to interpret accurately and completely includes the responsibility of being properly prepared for interpreting assignments. Interpreters are encouraged to obtain documents and other information necessary to familiarize themselves with the nature and purpose of a proceeding. Prior preparation is generally described below, and is especially important when testimony or documents include highly specialized terminology and subject matter.

In order to avoid any impropriety or appearance of impropriety, interpreters should seek leave of the court before conducting any preparation other than the review of public documents in the court file. Courts should in their discretion freely grant such leave in order to assist interpreters to discharge their professional responsibilities.

Preparation might include but is not limited to:

1. review of public documents in the court file, such as motions and supporting affidavits, witness lists and jury instructions; the criminal complaint, information, and preliminary hearing transcript in a criminal case; and the summons, complaint, and answer in a civil case
2. review of documents in the possession of counsel, such as police reports, witness summaries, deposition transcripts, and presentence investigation reports
3. contacting previous interpreters involved in the case for information on language use/style
4. contacting attorneys involved in the case for additional information on anticipated testimony or exhibits
5. anticipating and discussing interpreting issues related to the case with the judge, but only in the presence of counsel unless the court directs otherwise.

63.02 Representation of qualifications

Interpreters shall accurately and completely represent their certifications, training, and experience.

Comment

Acceptance of a case by an interpreter conveys linguistic competency in legal settings. Withdrawing, or being asked to withdraw, after a court proceeding has begun is disruptive and wasteful of scarce public resources. It is therefore essential that interpreters present a complete and truthful account of their training, certifications, and experience prior to appointment so the court can fairly evaluate their qualifications for delivering interpreting services.

63.03 Impartiality and avoidance of conflict of interest

Interpreters shall be impartial and unbiased, and shall refrain from conduct that may give an appearance of bias. Interpreters shall disclose any real or perceived conflict of interest to the judge and the parties.

Comment

Interpreters serve as officers of the court. Their duties in a court proceeding are to serve the court and the public regardless of whether publicly or privately retained.

Interpreters should avoid any conduct or behavior that presents the appearance of favoritism toward anyone. Interpreters should maintain professional relationships with persons using their services, discourage personal dependence on the interpreter, and avoid participation in the proceedings other than as an interpreter.

During the course of the proceedings, interpreters of record should not converse with parties, witnesses, jurors, attorneys, or with friends or relatives of any party, except in the discharge of their official functions. Official functions may include an informal pre-appearance assessment to include the following:

1. culturally appropriate introductions
2. a determination of variety, mode, or level of communication
3. a determination of potential conflicts of interest
4. a description of the interpreter's role and function.

Interpreters should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions must be avoided at all times.

Interpreters shall not solicit or accept any payment, gift, or gratuities in addition to compensation from the court.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest and must be disclosed to the judge. Interpreters should only divulge necessary information when disclosing the conflict of interest. The disclosure shall not include privileged or confidential information. The following circumstances create potential conflicts of interest that must be disclosed:

1. the interpreter is a friend, associate, or relative of a party, counsel for a party, a witness, or a victim (in a criminal case) involved in the proceedings
2. the interpreter or the interpreter's friend, associate, or relative has a financial interest in the subject matter in controversy, a shared financial interest with a party to the proceeding, or any other interest that might be affected by the outcome of the case
3. the interpreter has served in an investigative capacity for any party involved in the case
4. the interpreter has previously been retained by a law enforcement agency to assist in the preparation of the criminal case at issue
5. the interpreter is an attorney in the case at issue
6. the interpreter has previously been retained for employment by one of the parties

7. for any other reason, the interpreter's independence of judgment would be compromised in the course of providing services

The existence of any one of the above-mentioned circumstances must be carefully evaluated by the court, but does not alone disqualify an interpreter from providing services if the interpreter is able to render services objectively. The interpreter should disclose to the court any indication that the recipient of interpreting services views the interpreter as being biased. If an actual or apparent conflict of interest exists, the court must decide whether removal is appropriate based upon the totality of the circumstances.

63.04 Professional demeanor

Interpreters shall conduct themselves in a manner consistent with the dignity of the court.

Comment

Interpreters should know and observe the established protocol, rules, and procedures for delivering interpreting services. When speaking in English, interpreters should speak at a rate and volume that enables them to be heard and understood throughout the courtroom. Interpreters should be as unobtrusive as possible and should not seek to draw inappropriate attention to themselves while performing their professional duties. This includes any time the interpreter is present, even though not actively interpreting.

Interpreters should avoid obstructing the view of anyone involved in the proceedings, but should be appropriately positioned to facilitate communication. Interpreters who use sign language or other visual modes of communication must be positioned so that signs, facial expressions, and whole body movements are visible to the person for whom they are interpreting and be repositioned to accommodate visual access to exhibits as necessary.

Interpreters are encouraged to avoid personal or professional conduct that could discredit the court.

Interpreters should support other interpreters by sharing knowledge and expertise with them to the extent practicable in the interests of the court.

63.05 Confidentiality

Interpreters shall protect the confidentiality of all privileged and other confidential information.

Comment

Interpreters must protect and uphold the confidentiality of all privileged information obtained during the course of their duties. It is especially important that interpreters understand and uphold the attorney-client privilege that requires confidentiality with respect to any communications between attorney and client. This rule also applies to other types of privileged communications. Interpreters must also refrain from repeating or disclosing information obtained by them in the course of their employment that may be relevant to the legal proceeding.

In the event that an interpreter becomes aware of information that indicates probable imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should immediately disclose the information to the presiding judge. In an emergency, the interpreter should disclose the information to an appropriate authority.

Interpreters shall never take advantage of knowledge obtained in the performance of duties, or by their access to court records, facilities, or privileges, for their own or another's personal gain.

63.06 Restriction on public comment

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have

been engaged, even when that information is not privileged or required by law to be confidential, except to facilitate training and education.

Comment

Generally, interpreters should not discuss interpreter assignments with anyone other than persons who have a formal duty associated with the case. However, interpreters may share information for training and education purposes, divulging only so much information as is required to accomplish this purpose. Unless so ordered by a court, interpreters must never reveal privileged or confidential information for any purpose,

63.07 Scope of practice

Interpreters shall limit themselves to interpreting or translating and shall not give legal or other advice, express personal opinions to persons using their services, or engage in any other activities that may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Comment

Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting or translating only, including official functions as described in the commentary to Rule 63.03. Interpreters, however, may be required to initiate communications during a proceeding when they find it necessary to seek direction from the court in performing their duties. Examples of such circumstances include seeking direction for the court when unable to understand or express a word or thought, requesting speakers to adjust their rate of speech, repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. In such instances, interpreters should make it clear that they are speaking for themselves.

Interpreters may convey legal advice from an attorney to a person only while that attorney is giving it. Interpreters should not explain the purpose or contents of forms, services, or otherwise act as counselors or advisors unless they are interpreting for someone who is acting in that official capacity. Interpreters may translate language on a form for a person who is filling out the form, but should not explain the form or its purpose for such a person.

While engaged in the function of interpreting, interpreters should not personally perform official acts that are the official responsibility of other court officials.

63.08 Assessing and reporting impediments to performance

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, the interpreters shall immediately convey that reservation to the appropriate judicial authority.

Comment

If the communication mode, dialect, or speech of the person of limited English proficiency cannot be readily interpreted, the interpreter should notify the appropriate judicial authority, such as a supervisory interpreter, a judge, or another official with jurisdiction over interpreter matters.

Interpreters should notify the appropriate judicial authority of any circumstances (environmental or physical limitations) that impede the ability to deliver interpreting services adequately. These circumstances may include that the courtroom is not quiet enough for the interpreter to hear or be heard by the person of limited English proficiency, more than one person is speaking at the same time, or the speaker is speaking too quickly for the interpreter to adequately interpret. Sign language interpreters must make sure that they can both see and convey the full range of visual language elements that are necessary for communication, including facial expressions and body movements, as well as hand gestures.

Interpreters should notify the judge of the need to take periodic breaks in order to maintain mental and physical alertness and prevent interpreter fatigue. Interpreters should inform the court when the use of team interpreting is necessary.

Even competent and experienced interpreters may encounter situations where routine proceedings suddenly involve slang, idiomatic expressions, regional dialect, or technical or specialized terminology unfamiliar to the interpreter such as the unscheduled testimony of an expert witness. When such situations occur, interpreters should request a brief recess in order to familiarize themselves with the subject matter. If familiarity with the terminology requires extensive time or more intensive research, interpreters should inform the judge.

Interpreters should refrain from accepting a case if they believe its language and subject matter is likely to exceed their capacities. Interpreters should also notify the judge if, during the course of a proceeding they conclude that they are unable to perform adequately for any reason.

63.09 Duty to report ethical violations

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of this code, or any other official policy governing court interpreting and translating.

Comment

Because the users of interpreting services frequently misunderstand the proper role of interpreters, they may ask or expect the interpreters to perform duties or engage in activities that run counter to the provisions of the code or other law, rules, regulations, or policies governing court interpreters. It is incumbent upon the interpreters to explain their professional obligations to the user. If, having been apprised of these obligations, the person persists in demanding that the interpreters violate them, the interpreters should turn to a supervisory interpreter, a judge, or another official with jurisdiction over interpreter matters to resolve the situation.

63.10 Professional development

Interpreters shall improve their skills and knowledge and advance the profession through activities such as professional training and education and interaction with colleagues and specialists in related fields.

Comment

Interpreters must improve their interpreting skills and increase their knowledge of the languages they work in professionally, including past and current trends in slang, idiomatic expression, changes in dialect, technical terminology, and social and regional dialects, as well as their applicability within court proceedings.

Interpreters should keep informed of all statutes, rules of court, and policies of the judiciary that govern the performance of their professional duties.

Interpreters should seek to elevate the standards of the profession through participation in workshops, professional meetings, interaction with colleagues, and reading current literature in the field.

Wisconsin Court Interpreter Program

Guidelines for Recorded Evidence in a Non-English Language -

RECORDED EVIDENCE IN A NON-ENGLISH LANGUAGE

At times, one side will attempt to introduce audio or video-taped evidence during a court proceeding involving a Limited English Proficient (LEP) speaker that is in a non-English language without the benefit of a translation. Examples may include 911 emergency calls, voice messages, or video-taped police interrogations conducted by bilingual officers. The proponent of the evidence may ask the court to direct the onsite interpreter to interpret the non-English recording into English for the record instantaneously instead of producing a translation.

WHAT ARE THE PROBLEMS WITH THIS PRACTICE?

Interpreting on the spot or extemporizing in court is different from interpreting for a live speaker. Due to certain qualities associated with this form of evidence and the lack of opportunity to prepare adequately, it is difficult for the interpreter who is asked to produce an instantaneous interpretation to carry out his/her duties.

Format of the evidence

Common characteristics with this type of evidence that may prevent an interpreter from rendering an accurate and complete interpretation instantaneously include:

- Poor quality of the recording
- Overlapping voices and sounds
- Unintelligible portions of the recording or high level of background noise
- Lack of opportunity to request clarification of a word or ambiguity

Without access to tools used to enhance the sound quality or the time to research an ambiguous word or phrase, the interpreter may be forced to produce mediocre results thereby compromising his/her duty to render an accurate and complete interpretation.

Replaying the recording in front of fact-finder

Often when a translator transcribes a source, he/she must re-play sections repeatedly in order to understand the message. If an interpreter does this in front of a jury, it could be confusing to the jurors. Ordinarily, the standard unit of measure to produce a quality transcript/translation (T/T) is one hour of work per minute of sound.

Neutrality of the interpreter is compromised

The interpreter works for the court and should be seen as an extension of the court. Requiring the interpreter to provide an interpretation of evidence introduced by a particular side aligns him/her to that particular side.

Interpreter as potential witness

The interpreter who is asked to provide an instantaneous interpretation may be called as a witness to explain or defend the interpretation therefore compromising his/her duty to be objective.

WHAT IS THE RECOMMENDED PRACTICE?

The court should not ask an interpreter to render an instantaneous interpretation and should explain to the attorney(s) and/or parties why this task is inappropriate for the court interpreter to carry out. The recommended practice is for the moving party to produce a forensic T/T of the non-

English recorded evidence prior to submitting it to the court in accordance with Wis. Stat. §901.09.¹ Transcription/translation is a specialized discipline which employs knowledge of the T/T process, access to the proper tools, and the time to produce a quality product. A sample T/T is provided below so the court is familiar with the general format and items it would include.

If the situation involves an emergency circumstance such as a Temporary Restraining Order (TRO), the court may require the LEP party to testify as to what is said being said on the recording and have the testimony interpreted by the court interpreter for the record.

SAMPLE TRANSCRIPT – SPANISH (THREE-COLUMN FORMAT)

FILE NAME.doc

Tape No.:

Call No.:

Date:

Time:

Participants: [Information filled in by DA]

Abbreviations

MV1 = Male voice 1 [voz masculina 1]

MV2 = Male voice 2 [voz masculina 2]

FV = Female voice [voz femenina]

[U/I] = Unintelligible [I/I] = Ininteligible

[PH] – Phonetic [F] = Fonético

[xx] Translator's notes [Anotaciones del traductor]

Italics = Originally spoken in English [En inglés en la versión original]

	Speaker	Transcription	Translation
		[principio de la grabación]	[beginning of recording]
		[suena el teléfono]	[telephone rings]
1	MV1:	Bueno, ¿Pancho?	Hello. Pancho?
2	MV2:	Ey, soy yo. Vente rápido a Nolasvil [F] y	Yeah, it's me. Come quick to Nolasveel [PH]
3		tráete al Burro contigo. [I/I]	and bring Burro/the donkey with you [U/I]
4	MV1:	Ándale, pues. <i>Hurry up.</i>	Okay, then. <i>Hurry up.</i>
5	FV:	[Al fondo] Está loco Juan [I/I]	[In background] Juan is crazy [U/I]
6	MV2:	[I/I] <i>Bye</i>	[U/I] <i>Bye</i>
		[Fin de la grabación]	[End of recording]

Certification

I, [Translator's Name] certified by _____ for Spanish-English court interpreting {No. XX-XXX} [or licensed by _____ {No. XXX}] hereby declare that the _____ page document identified as [File Name] is a true and correct transcript and Spanish to English translation of the original recording provided to me. The transcript and translation are accurate to the best of my knowledge and belief. I further certify that I am neither counsel for, related to, nor employed by any of the parties. I have no financial or other interest in the outcome of any action related to this translation.
[Translator's Name]

¹Wis. Stat. §901.09 Submission of writings; languages other than English, Comment Section.

The better practice when offering such evidence is for a party to offer a written transcript of the recording, to aid the jury or the court in understanding the recording. Sometimes the transcript is received as evidence, but not always, and in any event the recording is considered primary and the transcript merely an aid. If a party offers in evidence a recording accompanied by a transcript, this rule governs the transcript.

Resources:

"General Guidelines and Minimum Requirements for Transcript Translation in any Legal Setting," NAJIT Position Paper (2009)

"Onsite Translation of a Sound File is not Recommended" NAJIT Position Paper (2006)

State, County

BEST PRACTICE:

Court Interpreters assigned to interpret during a given proceeding **shall not** be used as expert witnesses to evaluate, during that proceeding, the quality of a previously completed interpretation or translation provided for audio, video or written material originally in a language other than English. The party wishing to question or evaluate the quality of an interpretation or translation for the record shall arrange for a qualified individual to serve as an expert witness during the proceeding.

RECORDED EVIDENCE IN ENGLISH

Audio and video files recorded in English that will be played in open court for a case involving a Limited English Proficiency (LEP) party or juror should be reviewed by the interpreter(s) who will be providing language services for that hearing prior to the proceeding. Court interpreters assigned to a given proceeding shall inform the judge if they are unable to provide an on-site interpretation of audio or video recordings, or sight translations of written documents in English. This can be due to:

- Length of material
- Quality of recording or legibility of written document
- Number of speakers or signers
- Variety of accents or regional variations
- Sufficiency of contextual information
- Degree of deviation from standard forms of language
- Level of audio or video intrusions and distractions
- Degree of technicality or specialization of vocabulary and content

BEST PRACTICE:

Allow the interpreter to become familiar with recorded evidence or provide a transcript of the recording to the interpreter.

SIGHT TRANSLATION OF TEXT MESSAGES OR SOCIAL MEDIA POSTS

Sight translation is a hybrid mode that requires the interpreter to render the contents of a written document orally. Usually, interpreters are required to use this mode of interpretation when dealing with legal documents written in English or the non-English language that are generally long and formal in nature. Interpreters are advised to take some time to read and understand the written document first and then interpret it. In addition, interpreters may be required to sight translate letters written in the non-English language into English. However, a new level of complexity is introduced when an interpreter is asked to sight translate text messages or social media posts. These messages pose a real challenge because they often lack context, are frequently interspersed with sarcasm, foul language, disguised threats, and do not conform to standard syntax. They are regularly misspelled, and they contain a lot of acronyms that require a solid knowledge of the culture of the individuals involved in the communication.

BEST PRACTICE:

Text messages and social media posts are extremely difficult to sight translate despite their apparent simplicity. Therefore, the court interpreter should not be asked to sight translate them; instead, the party introducing the texts and media posts on the record should provide a certified translation.

Resources and Reference Links

Adoption Records Search - Wisconsin Department of Children and Families:

<https://dcf.wisconsin.gov/adoption/search>

- Adoption records search assists for adult adoptees, adoptees whose birth parent(s) terminated parental rights when they were minors, adoptive parents, and birth parents.

Bureau of Youth Justice – Wisconsin Department of Children and Families:

<https://dcf.wisconsin.gov/yj>

- Provides reports and links of interest regarding juveniles in community-based corrections.
- Includes information on available services and interventions.
- Provides updates on the Secretary's Advisory Council on Youth Justice, Youth Leadership Teams, innovative practices, and training opportunities.

Children's Court Improvement Program (CCIP)

<https://www.wicourts.gov/courts/offices/ccip.htm>

- Provides information regarding CCIP's various projects and programs.

CCIP E-learning Project:

<http://www.wicciptraining.com/>

- Access to E-learning activities related to court proceedings in Chapter 48 cases.
- Provides interactive training modules on child in need of protection or services and termination of parental rights court case processing.
- Provides training on other child welfare specialty topics.
- Provides links to resources, materials and websites.
- Answers to frequently asked questions.
- Access to CCIP training calendar and contact information.

Circuit Court Forms:

<http://www.wicourts.gov/forms1/circuit/index.htm>

- Access to all state mandatory and pro se forms in downloadable and printable versions.

Consolidated Court Automation Programs (CCAP):

<http://www.wicourts.gov/courts/offices/ccap.htm>

- CCAP Training Materials:
<http://courtnet.wicourts.gov/education/ccap/materials.htm>
- eFiling User Guides and Training Materials:
<https://www.wicourts.gov/ecourts/efilecircuit/train.htm>

- In-Court Appearance Processing Procedures:
<http://intranet/education/ccap/docs/incourtappearanceprocessing.pdf>
- CCAP Application Help:
<http://help.wicourts.gov/cc/index.htm>

Code of Federal Regulation (Electronic Version):

<https://ecfr.federalregister.gov/>

- Provides free electronic access to a wealth of important information produced by the Federal Government.
- Information provided on this site is the official published version.
- Information retrieved from *GPO Access* is available without restriction, unless specifically noted.
- This site provides an A to Z resource list and other information concerning the three branches of government.

Court System Web Sites:

Wicourts:

<http://www.wicourts.gov>

- The public internet site for the State of Wisconsin Court System.
- Access to recent Supreme Court opinions, news and events,
- Provides information about the courts, employment, court rules and other important WI court information.
 - Directories and contact information for judges, court staff, Administrative Districts, Clerks of Court, Registers in Probate:
<http://www.wicourts.gov/contact/directories.htm>

Courtnet:

<http://courtnet.wicourts.gov/>

- The WI court system's intranet site.
- Provides information concerning budgeting and finance, education and training, policies and procedures, publications and manuals, and travel.

First Gov – The U.S. Government's Official Web Portal:

<http://www.usa.gov/>

- Provides a rich treasure of online information, services and resources about the US Government.

Government Agencies and Elected Officials:

<https://www.usa.gov/state-government/wisconsin>

- Provides primary contact information along with key agencies and offices for the government of Wisconsin.

Handgun Hotline – Wisconsin Department of Justice – Crime Information Bureau:
<https://firearms.doj.wi.gov/welcome.do>

- Provides information on the Handgun Hotline, NICS (National Instant Checks System), Wisconsin Statutes related to firearms and disqualifying offenses.

Interpreters Roster:

<http://www.wicourts.gov/services/interpreter/search.htm>

- A directory of Wisconsin certified interpreters in 24 languages (including American Sign Language).

Legal Dictionary:

<http://dictionary.law.com/>

- Provides legal terms and definitions.

Legal Topics A-Z – Wisconsin Law Library:

<http://wilawlibrary.gov/topics/wisconsinlaw.php>

- Provides basic information and definitions for most legal topics.
- Provides links to other legal research sites and resources.

Model Recordkeeping Procedures Manuals:

<http://courtnet.wicourts.gov/policies/modelrecord.htm>

- Provides standardized case scheduling, record keeping, forms, and procedures.

General:

<http://courtnet.wicourts.gov/policies/docs/mrkgeneral.docx>

Juvenile - Children's Code – Chapter 48:

<http://courtnet.wicourts.gov/policies/docs/mrkjuvenilech48.docx>

Juvenile – Juvenile Justice Code – Chapter 938:

<http://courtnet.wicourts.gov/policies/docs/mrkjuvenilech938.docx>

Juvenile – Indian Child Welfare Act (ICWA):

<http://courtnet.wicourts.gov/policies/docs/mrkicwa.docx>

National Association of Professional Process Servers (NAPPS)

<https://napps.org/FindServer.aspx>

- Search for a process server nationwide.

Native American Rights Fund – A Practical Guide to ICWA:

<http://www.narf.org/nill/documents/icwa/index.html>

Office of Lawyer Regulation (OLR):

<http://www.wicourts.gov/courts/offices/olr.htm>

- Provides reports, information on the grievance process, and contact information.

Sex Offenders Registry – Wisconsin Department of Corrections (DOC):

<https://appsdoc.wi.gov/public/offenders>

- Provides the public with names and location of offenders, and victim services. Also provides answers to frequently asked questions and related websites.

State Bar of Wisconsin:

<http://www.wisbar.org/>

- Search bar members and contact information for attorneys.
- Source for legal research, forms, and lawyer directory.
- Provides links to free Wisconsin case law, statutes, court rules and other public resources.

State of Wisconsin:

<http://www.wisconsin.gov/>

- State of Wisconsin Government Home page.
- Provides information on government programs, agencies, legislation, and state officials.
- Provides links and information concerning such subjects as law enforcement, the courts, court forms, and federal, state and local government.

State of Wisconsin Blue Book / 2021-2022:

<https://legis.wisconsin.gov/LRB/blue-book/>

- Contains biographies and photographs of Wisconsin's elected public officials.
- Contains the text of the Wisconsin Constitution.
- Contains a detailed description of the organization and functions of state government.

State of Wisconsin Self Help Law Center:

<http://www.wicourts.gov/services/public/selfhelp/index.htm>

- Provides statewide information and resource for people representing themselves in court.

The Wheeler Report:

<http://thewheelerreport.com/>

- A daily summarization of statewide news stories and editorials concerning state government.
- Provides information concerning capitol calendars, State Senate and Assembly in-sessions, legislative links, State agencies and WI court system, lobbying information and newspaper links.

Wisconsin Association of Mediators-(WAM):

<http://wamediators.org/>

- A non-profit association of professional mediators, volunteer mediators, and individuals who promote and develop the use and practice of cooperative conflict resolution through mediation.

Wisconsin Circuit Court Access:

<http://wcca.wicourts.gov/>

- Provides access to certain public records of the Wisconsin circuit courts.

Wisconsin Department of Children and Families (DCF) – Home page:

<http://dcf.wisconsin.gov/>

- Provides information on programs and services available for children and families within our state.
- Provides information on issues such as Interstate Compact on Placement of Children (ICPC), Indian Child Welfare, Title IV-E, Child Protective Services, Adoption and etc.

DCF Forms:

<https://dcf.wisconsin.gov/forms>

WICWA Information:

<https://dcf.wisconsin.gov/wicwa>

Interstate Compact on the Placement of Children (ICPC):

<https://dcf.wisconsin.gov/icpc>

Title IV-E Program:

<https://dcf.wisconsin.gov/title4e>

Wisconsin Department of Corrections:

<https://doc.wi.gov/Pages/AboutDOC/default.aspx>

Offender Locator

<https://appsdoc.wi.gov/lop/>

- Provides the public with names and location of offenders, and victim services.

Division of Juvenile Corrections (DJC)

<https://doc.wi.gov/Pages/AboutDOC/JuvenileCorrections/DivisionOfJuvenileCorrections.aspx>

- Provides information on what is new at DJC, programs and services.
- Information concerning Interstate Compact for Juveniles along with Reports and Best Practice Recommendation Toolkits.

Wisconsin Department of Health Services (DHS) – Forms Library:

<http://www.dhs.wisconsin.gov/forms/index.htm>

- Forms produced by the Wisconsin Department of Health Services (DHS) are available for downloading and printing from this site.
- Instructions provided for requesting paper copies of forms not available electronically.

Wisconsin Department of Justice:

<https://www.doj.state.wi.us/>

- Provides information about Office of Open Government, Office of Crime Victim Services (OCVS), Division of Legal Services (DLS), and Division of Criminal Investigation (DCI).
- Provides information about the Handgun Hotline, National Instant Checks System (NICS), and Wisconsin Statutes related to Firearms and disqualifying offenses.

Wisconsin Department of Transportation:

<http://wisconsindot.gov/>

- Provides information on DMV services, travel information, and forms.
- Provides a resource to check license status of an individual.
 - <https://trust.dot.state.wi.us/occsin/occsinservlet?whoami=statusp1>

Wisconsin State Law Library:

<http://wilawlibrary.gov/>

- Provides access to the online catalogs, and links to Wisconsin, federal and tribal jurisdiction.
- Provides secondary resource to legal forms and legal topic pages to informational website and the law on over 400 topics along with a comprehensive collection of legal materials and a variety of reference and research services.

Wisconsin State Legislature:

<https://legis.wisconsin.gov/>

- Provides a searchable database of bills and amendments, statutes and other legislative documents.
- Provides help finding your state and federal representatives.
- Provides help to track legislative activities on proposals, committees, authors, and subjects.

Wisconsin State Statutes – All:

<http://docs.legis.wisconsin.gov/statutes>

- Provides access to latest state version of Any State Statute.

Wisconsin Vital Records -The Wisconsin Department of Health Services:

<http://dhs.wisconsin.gov/vitalrecords/index.htm>

- Provides information concerning birth, death, marriage and divorce records.
- Provides information concerning genealogy services, local vital records services and vital statistics.

CCIP Contact Information

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