

Collateral Consequences of Juvenile Delinquency Proceedings Multi-Disciplinary Training

Eileen Hirsch and Diane Rondini



www.wisprd.gov/juvenile-collateral-consequences/

A screenshot of the Wisconsin State Public Defenders website. The browser address bar shows 'wisprd.gov' highlighted with a red box and a red arrow pointing to it. The navigation menu includes 'Home', 'For Clients', 'Practitioners', 'Careers', and 'About SPD', with 'Practitioners' highlighted by a red box and a red arrow. A dropdown menu is open under 'Practitioners', listing 'ACD Billing', 'Appellate Division', 'Assigned Counsel Division', 'Electronic Filing resources', 'Specialty Practice Groups' (highlighted with a red box and a red arrow), and 'Training'. The main content area features the text 'Office of the Wisconsin State Public Defender' and 'Committed to treating our clients with compassion.' Below this is a painting of Lady Justice and the motto 'Protecting "Equal Justice for All" Since 1977'. At the bottom, there is a link for 'ACD Online Billing Access' and a copyright notice for 2021 Wisconsin State Public Defender.



Specialty Practice Groups

Each practice group is led by a coordinator or coordinators who stays abreast of the latest developments in the practice area and shares this expertise as an advisor, mentor, and educator. Coordinators serve as a clearinghouse of sorts as they assist others in quickly changing areas of legal practice. Staff contact them as needed when they are preparing a client's case or have a question in a new or undeveloped area of the law. The coordinators also assist private bar (PB) attorneys with their questions related to the respective practice area.

Each coordinator pulls together practice materials, including motions, briefs, transcripts, case outlines, and research/articles/studies to share with practitioners. Coordinators keep track of the legal nuances and mundane details in their practice areas and catalog them for easy dissemination to attorneys when requested. They assist with the agency's training efforts, including presenting at the annual conference. Some coordinators conduct or assist with expert examinations at motion hearings and trials.

For further information, please contact:

CHAPTER 980

FAMILY DEFENSE PRACTICE

FORENSIC SCIENCE

IMMIGRATION PRACTICE

MENTAL HEALTH PRACTICE

PRETRIAL MOTION PRACTICE

RACIAL DISPARITIES

YOUTH DEFENSE PRACTICE



Youth Defense Practice

Youth Defense is a specialized practice requiring specialized skill, and our goal is to help ensure all juveniles in Wisconsin receive competent and skilled representation. Toward that goal, we developed these Core Principles of Juvenile Practice. These principles set forth a statewide vision for juvenile defense counsel's role throughout the duration of the juvenile court process that integrates and is consistent with state and Constitutional law, the code of professional responsibility, and the science of adolescent development.

In addition to creating and disseminating these principles, the Youth Defense practice coordinator is always available to provide advice and consultation to inquiries from SPD staff members and private bar attorneys taking juvenile cases. We work hard to remain current on all legal developments in juvenile practice and identify areas where training opportunities would be beneficial. We are here to develop and maintain resources related to juvenile cases, and are connected to other juvenile system entities and stakeholders who help us to identify areas where we may improve our juvenile justice system and better serve our juvenile clients.

We hope that the Youth Defense Practice website will be a readily accessible resource for juvenile defense attorneys to find and share sample motions, ideas, research, and other resources. If you have motions, briefs, guides, etc. that you would like to contribute, please send them our way. We feel that working together is the best way to elevate the practice of juvenile law and improve the delivery of legal services to all our youthful clients.

CASE LAW

DETENTION HEARINGS

POST DISPOSITIONAL HEARINGS

RESOURCES AND PUBLICATIONS

SEXUAL ASSAULT CHARGES

SAMPLE MOTIONS

THE JUVENILE CLIENT

JUVENILE COMPETENCY

COLLATERAL CONSEQUENCES OF JUVENILE ADJUDICATIONS

WAIVERS

STEPP



CollateralConsequencesGuide x +

wispsd.gov/juvenile-collateral-consequences/

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WISCONSIN STATE PUBLIC DEFENDERS Home For Clients Practitioners Careers About SPD

COLLATERAL CONSEQUENCES OF JUVENILE DELINQUENCY PROCEEDINGS: A GUIDE FOR JUVENILE COURT PROFESSIONALS



Acknowledgements

Introduction

A. What is a Collateral Consequence?
B. The Language of the Juvenile Court
C. Public Access to Juvenile Court Hearings

1 Access to Records

A. Juvenile Court Records
B. Law Enforcement Records
C. Social Service Agency Records
D. Fingerprint Records
E. DNA Records
F. Firearm and Body Armor Records
G. Physical, Psychological, Mental or Developmental Evaluations, Drug and Alcohol Assessments, and Counseling and Treatment Records
H. Expungement

2 Consequences for Education

A. School Child in Attendance

Common Offenses

COLLATERAL CONSEQUENCES OF TOP 30 JUVENILE ADJUDICATIONS SUMMARY CHART

Statutes	Public Hearings and Record	Fingerprints	DNA	Firearm Restrictions	School	Child Welfare Job	Child Care Job	Education Job	Law Enforcement Job	Military	Housing	Driver License	Other Courts	Immigration	Foster Care, Adoption, Subsidized Guardianship or Kinship
All SO Registrant					Note 3	X	X	X	Note 6	Note 7	Note 8	Note 10			X
940.19-940.20	Note 1	F, Note 2	F	F	Note 3	F, Note 4	F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	F, Note 12
940.225	Note 1	MF, Note 2	F	F	Note 3	F, Note 4	F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	F, Note 12
941.10					Note 3				Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
941.23		MF, Note 2	F		Note 3				Note 6	Note 7	Note 8	Discretionary Disposition	Note 10	Note 11	
941.30	Note 1	F, Note 2	F	F	Note 3			F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.01	Note 1	F, Note 2	F	F	Note 3			F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.017	Note 1	F, Note 2	F	F	Note 3			F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.02-943.03	Note 1	F, Note 2	F	F	Note 3		MF	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.10	Note 1	MF, Note 2	F	F	Note 3		F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.11		F, Note 2			Note 3				Note 6	Note 7	Note 8	Discretionary Disposition	Note 10	Note 11	
943.14		F, Note 2			Note 3				Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.20	Note 1			F	Note 3			F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.23	Note 1	F, Note 2	F	F	Note 3		[1a]	F	Note 6	Note 7	Note 8	Discretionary Disposition	Note 10	Note 11	
943.32	Note 1	F, Note 2	F	F	Note 3		[2]	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.34	Note 1	MF, Note 2	F	F	Note 3		F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
943.50	Note 1	F, Note 2	F	F	Note 3		F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
944.20		MF, Note 2			Note 3				Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
946.41	Note 1	F, Note 2	F	F	Note 3			F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
947.01					Note 3				Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
947.015	Note 1	F, Note 2	F	F	Note 3			F	Note 6	Note 7	Note 8	Discretionary Disposition	Note 10	Note 11	
947.019	Note 1	F, Note 2	F	F	Note 3			F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
948.02-948.025	Note 1	MF, Note 2	F	F	Note 3	F, Note 4	F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	F, Note 12
948.05, 948.055	Note 1	MF, Note 2	F	F	Note 3	F, Note 4	F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	F, Note 12
948.09		MF, Note 2			Note 3		F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
948.11-948.12	Note 1	MF, Note 2	F	F	Note 3	F, Note 4	F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	F, Note 12
948.60-948.605	Note 1	MF, Note 2	F	F	Note 3		F, Note 5	F	Note 6	Note 7	Note 8	Note 9	Note 10	Note 11	
961.41	Note 1	MF, Note 2	F	F	Note 3		F, Note 5	F	Note 6	Note 7	Note 8	Discretionary Disposition	Note 10	MF, Note 11	
961.573	Note 1	MF, Note 2	F	F	Note 3		F, Note 5	F	Note 6	Note 7	Note 8	Discretionary Disposition	Note 10	MF, Note 11	

"Collateral consequences are often spoken of as if they're an absolute mystery"

Margaret Love
Former Director of the Inventory Center

Since most ex-offenders—millions of them—at some point will be released from custody and return to our communities, it is important that we do everything we can to encourage them to become productive, law-abiding members of society and that we not put too many impediments, in the form of excessive collateral consequences, in their way that will hinder their efforts.

John Malcolm
Heritage Foundation

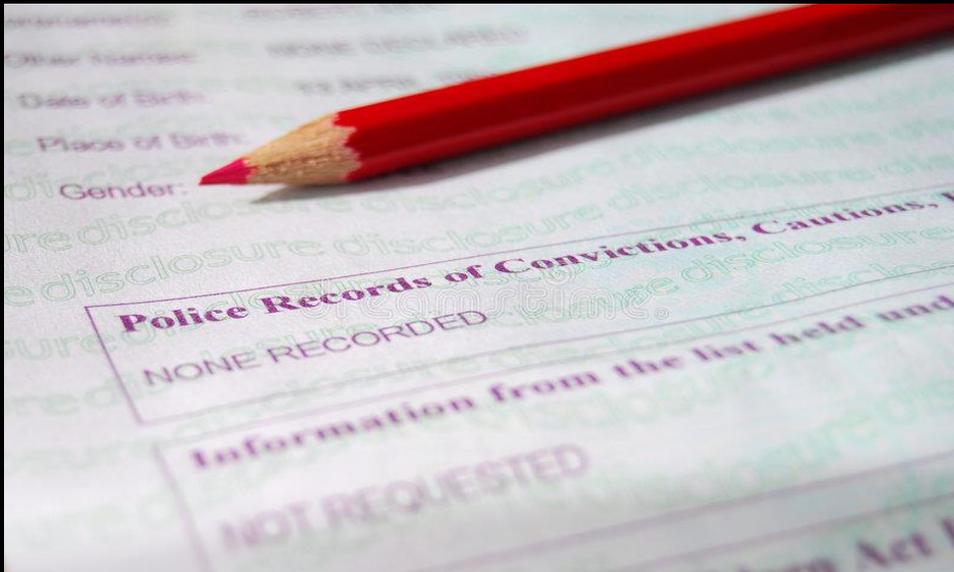


Courtesy of the Gault Center



Records





Law Enforcement Records

- Share freely with Social Services, School Districts and other Law Enforcement
- Fingerprints to DOJ
- DNA sample to DOJ
- "On request" exceptions

Centralized Criminal History

- Law Enforcement TIME system
- Firearms checks
- Background checks
 - Licensing Agencies
 - Employers
 - Landlords
 - General Public

- School has notice
- DOJ has fingerprint data





Court Records

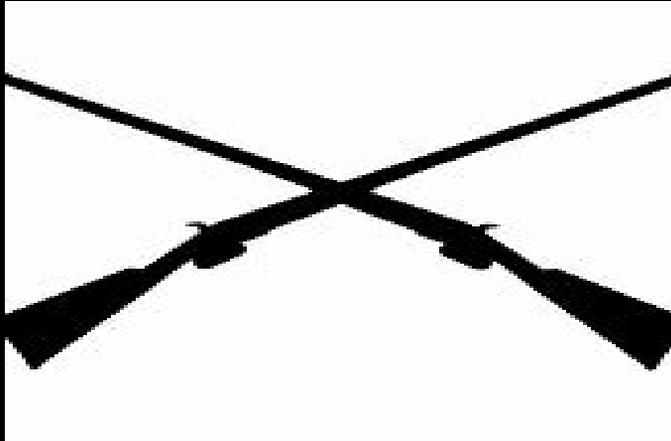
- **Exceptions to confidentiality**
- **Affirmative requirement to notify**
- **On request**
- **Evaluation records**

Expungement



Expungement of Court Record

- Age 17+
- Satisfactorily complied with dispositional order
- Standard: Youth will benefit, society won't be harmed
- Consider including as part of the dispositional order
- Court form



Expungement of Firearm Restrictions

- **Standard: Not likely to act in a manner dangerous to public safety**
- **Consider including as part of dispositional order**
- **Juvenile court form**



Expungement of DNA

- **No petition was filed alleging a violent crime within one year**
- **Petition was dismissed**
- **Was not adjudged delinquent of a violent crime**
- **Violent crime adjudication was reversed, set aside or vacated**
- **DOJ Form**



Expungement of Fingerprint Records

- **If taken at “arrest” and no charges filed**
- **Charges not prosecuted or dismissed**
 - **Requires non-prosecution/dismissal of all charges**
 - **Prosecution of lesser included offenses is insufficient**
- **Acquitted**
- **DOJ Form**

- **Court record**
- **Firearm registry**
- **Fingerprint Records**



School Child is Attending

- Notice from court clerk upon felony charge
- Notice from clerk adjudication/non-adjudication
- Grounds for suspension or expulsion
- Justice professionals contact with school
- Dispositional order



WIAA

- **Every school district required to have Code of Conduct**
- **Specific game suspension requirements for drugs/alcohol/tobacco**
- **Law Enforcement records can be the sole basis for taking action**
- **Student charged/convicted of a felony?**
- **Self reporting?**



Post Secondary Education

- **University of Wisconsin and technical college systems don't ask about criminal or delinquency backgrounds**
- **Common application**
- **Adjudication does not bar access to federal student financial aid**
- **Could affect screening for campus housing**

- **Assume school knows about the incident**
- **Can't control the decision to expel but can participate in the outcome**
- **If expelled will follow to other schools**
- **Could affect future sports involvement**
- **Resist assuming won't be college/tech school bound**





Licensing

- More than 200 professions require license
- Can't be denied based on delinquency adjudications unless exempt offense
- Application forms ask about convictions not adjudications
- Major exceptions are child welfare and child care



Employment

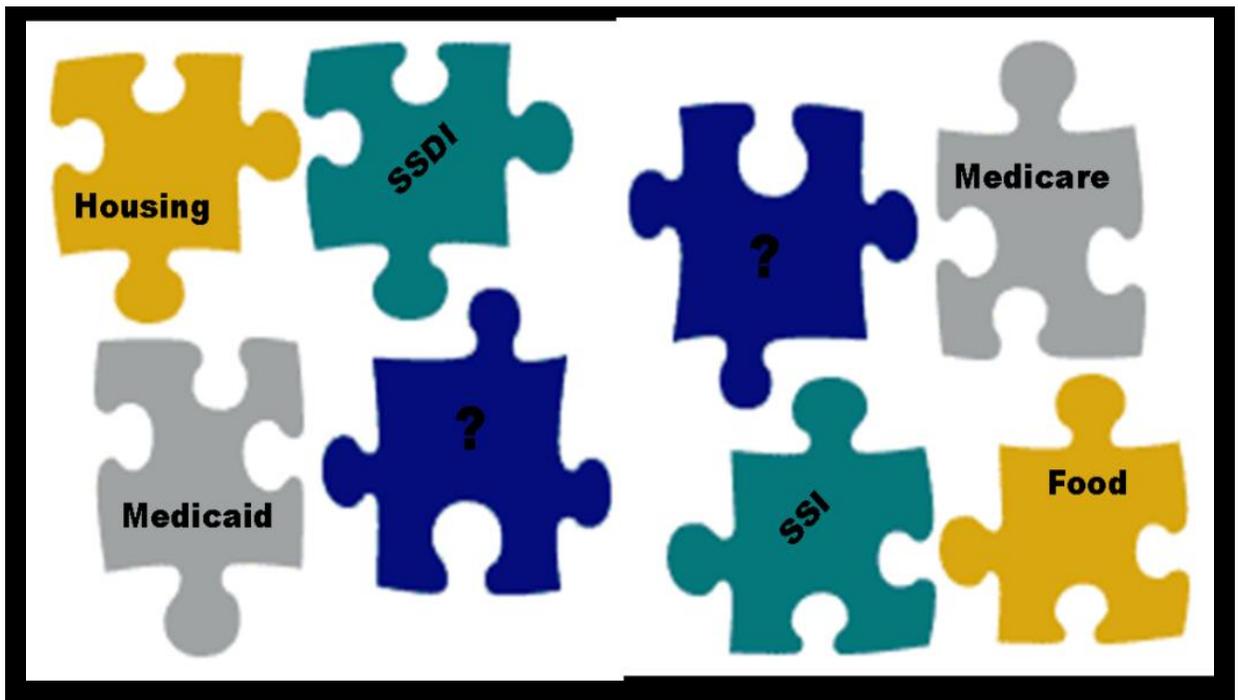
- **Illegal to discriminate on basis of conviction record, this includes adjudications**
- **Not discrimination if:**
 - **Conviction substantially related to circumstance of job**
 - **Education agencies: Felony conviction**
 - **Child welfare/child care: Serious offense convictions and adjudications**
- **Law enforcement certification**
- **Job Corps**



Military

- **Ineligible: Sex offender registry**
- **Ineligible: “Significant criminal record”, but waiver is possible**
- **“Criminal” is any adverse adjudication**
- **History of drug/alcohol use raises a medical question**

- Any felony drug adjudication precludes child care license or employment
- “Conviction” does not include “adjudication” on employment applications
- Single felony adjudication makes her ineligible for military, but waivable
- Job Corps



Housing

- **Can terminate a private lease for criminal or drug related activity**
- **LPHA determine criteria for eviction and ineligibility**
- **Emphasis is on drug activity or sex offender**
- **Need not be a formal conviction/adjudication**
- **Confidentiality and on grounds v. off grounds activity**

Other Public Benefits

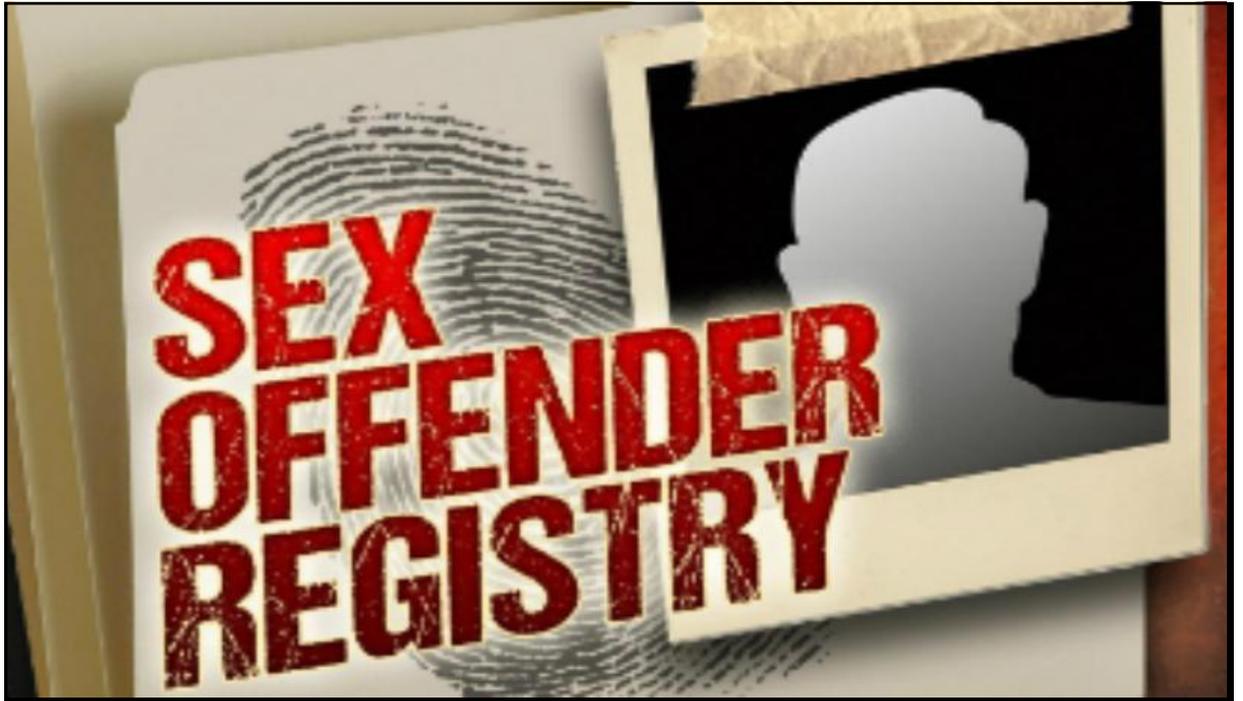
- **Badgercare: Follows child placement**
- **SSI/SS: Follows child placement, but if in public institution with 16+ people benefits are suspended**
- **TANF/Wisconsin Works: If out of home longer than 3 months must notify program**
- **SNAP/Food share: Based upon family size**

- Evidence of drug offense may be grounds for eviction
- Check LPHA rules and lease for requirements to notify public housing of adjudication
- Could affect future eligibility for public housing but rehabilitation could be shown; AODA counseling part of rehabilitation
- Confidentiality may prevent consequences off premise
- Benefits unaffected unless placed outside of home



15 minute break





Sex Offender Registration

- Discretionary in some cases
- "Romeo and Juliet" x2
- Stay of Registration



Sex Offender Registration

Onerous because:

- 15 or more years
- Required to notify registry when move, change schools, work, volunteer activities, set up email account, travel out of state
- Residency restrictions
- School grounds restrictions
- Police authorized to notify community organizations, even the public
- Moving out of state subjects to other state registration laws
- Ineligible for many jobs and the military
- DOC can impose additional rules



Best to consult with an immigration attorney!

Immigration

- **Juvenile delinquency findings are not convictions for immigration purposes but waiver to adult court as a juvenile could create a conviction**
- **Distinction between inadmissible and removal**
- **Drug trafficking makes you inadmissible**
- **Inadmissible or removal due to “bad conduct”**
- **Gang, sex offenses and violent offenses are a top priority**
- **Many decisions are discretionary**
- **Seeking expungement of juvenile record and fingerprint data may factor into discretionary decision**
- **Special Immigrant Juvenile status**

Immigration

- Determine status
- Consider prior arrest/delinquency record
- Current charges

*And then consult with an immigration attorney

- Would not face removal
- Could be denied admission if ever leaves US and wants to reenter
- Could negatively impact discretionary decision on naturalization
- Expungement may be useful

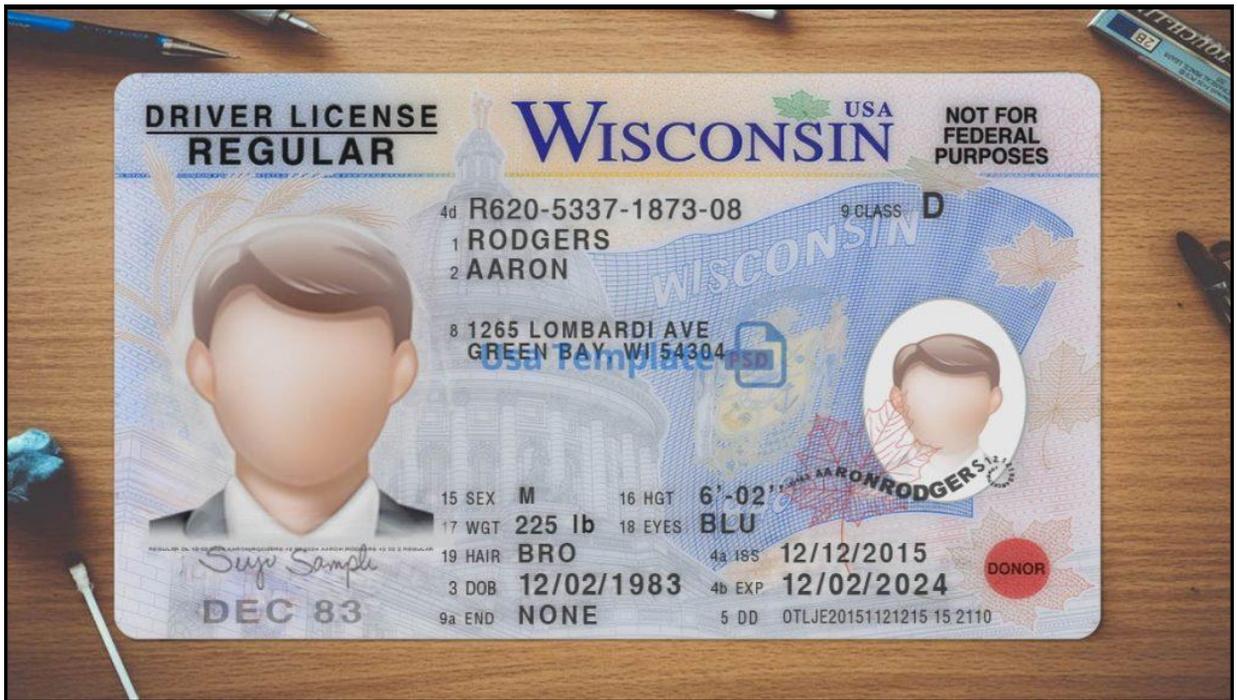


LIGHTNING ROUND



Other courts

- **Criminal court**
 - **Considered in setting bail and PSI**
 - **As a basis for subsequent criminal charges**
- **Admissible in family court**
- **Admissible in TPR court**
- **Can be used in ANY court for impeachment**
- **Civil court for damages**
- **Chapter 980 commitment**



Driver License

- **Can be suspended:**
 - **As a dispositional option**
 - **For failure to pay forfeiture or V/W surcharge**
 - **Sanction for violation of dispositional order**
- **Length of time of suspension varies from 6 months to 5 years**
- **Reinstatement may be burdensome and costly**



Hunting and Fishing License

- **Can be suspended:**
 - **Dispositional option**
 - **Failure to pay forfeiture or V/W surcharge**
 - **Sanction for violating a dispositional order**
- **Length of suspension from 30 days to 5 years**



Financial Impacts on Youth and Families

- **Cost of legal counsel**
- **Cost of pre-trial custody and services**
- **Cost of psychological evaluations and drug and alcohol abuse assessments**
- **Testing for STI/HIV and communicable diseases**
- **Restitution, forfeitures, V/W surcharge,**
- **Cost of dispositional services**



Future Family Consequences

- **Foster Care**
- **Adoption**
- **Subsidized Guardianship**
- **Kinship Care**

Additional Information

- **Voting**
- **Jury Service**

Consequences to Marisol

- Education
- DOJ has fingerprint data
- Court Record
- Firearm Registry
- Preclusion from child care license/employment for 5 yrs
- Possible bar to Air Force
- Possible eviction from housing
- Possible effect on naturalization/admission
- Possible suspend driver, hunting, fishing license
- Financial costs to family



Questions, Concerns, Comments



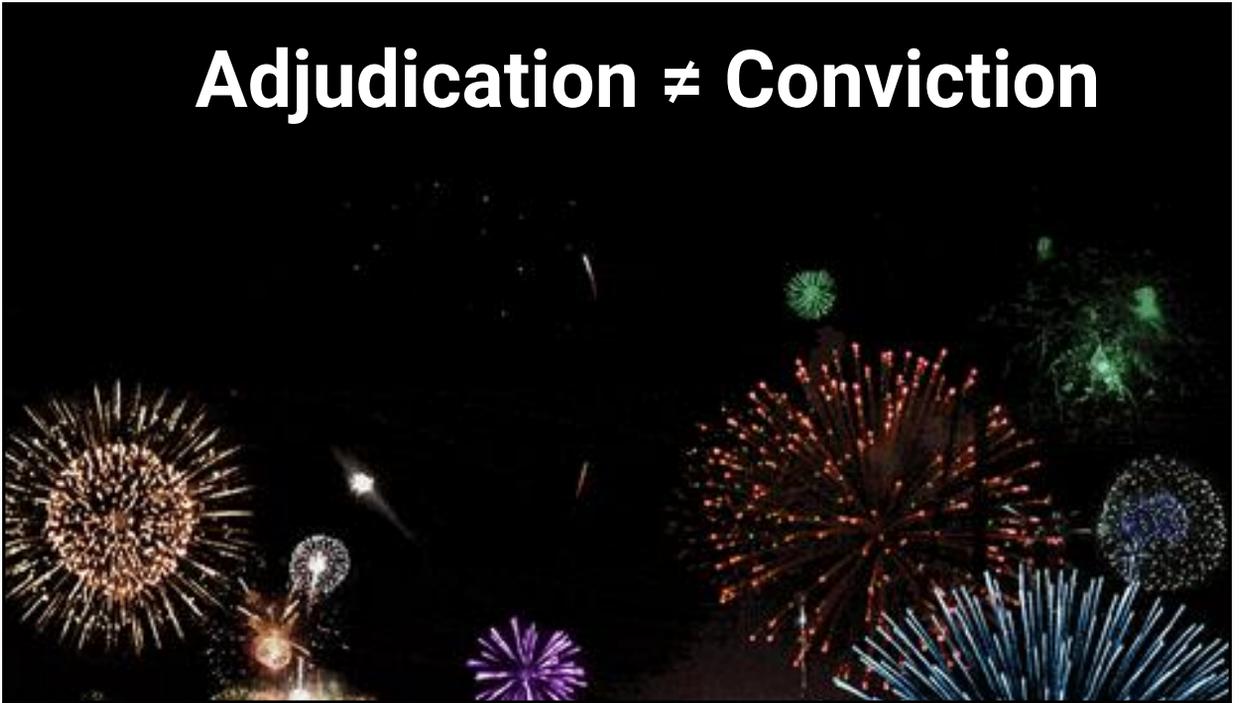
Juvenile Court > Adult Court



Misdemeanor > Felony



Adjudication \neq Conviction



**Expungement = Court Records +
Firearm Restrictions + DNA + Fingerprints**



Limiting CC = Everyone Benefits



“If promulgated and administered indiscriminately, a regime of collateral consequences may frustrate the chance of successful re-entry into the community, and thereby encourage recidivism.”

-American Bar Association