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CHIEF JUDGE DIRECTIVE 19-15

DATE: October 2, 2019

TO: All Judges, All Court Commissioners, District Court Administrator, County Executive, Clerk of Circuit Court, Corporation Counsel, Sheriff, District Attorney, City Attorney, Public Defender, DAS, Fiscal Affairs, Court Coordinators, Delinquency and Court Services Division, Division of Milwaukee Child Protective Services, Legal Aid Society, JusticePoint, WCS, Managing Court Reporter, IMSD, Legal Resource Center, CCAP, Facilities Management, Press

FROM: Chief Judge Maxine Aldridge White

RE: REVISION OF LOCAL RULES

Wis. Stat. § 753.35(1), SCR 70.19(3), SCR 70.21(15e) and SCR 70.34 vests authority in the Chief Judge to prescribe local rules governing practices in the circuit court. Pursuant to this authority, the local rules are revised as follows:

IT IS HEREBY DIRECTED that, effective immediately, the following numbered and attached Milwaukee County Circuit Court Local Rules are adopted, including:

Rules Applicable to the Felony and Misdemeanor Divisions

Local Rule 4.17 Postconviction Motions

Rules Applicable to the Family and Children's Divisions

Local Rule 5.37 Assignment of Petitions for Temporary Restraining Orders and Injunctions under Wis. Stat. Chapter 813; Assignment of Child Abuse and Juvenile Harassment Injunctions as between the Family Division and the Children's Division

Local Rule 5.4 Designation and Assignment of Cases

Rules Applicable to the Children's Division

Local Rule 6.1	Responsibility
Local Rule 6.2	Case Processing Goals
Local Rule 6.3	Duties of Presiding Judge
Local Rule 6.4	Assignment of Cases
Local Rule 6.5	Discovery
Local Rule 6.6	Filing of Papers
Local Rule 6.7	Good Faith Effort to Resolve Disputes
Local Rule 6.8	Proposed Orders
Local Rule 6.9	Rescheduling
Local Rule 6.10	Duty Judge
Local Rule 6.11	Request for Jury
Local Rule 6.12	Consent Decrees

IT IS FURTHER DIRECTED that, these rules shall be filed with the Clerk of Circuit Court.

IT IS FURTHER DIRECTED that, the Clerk of Circuit Court shall send a copy of these rules to the secretary of the Milwaukee Bar Association, the District Court Administrator for the First Judicial District, the State Bar of Wisconsin, the state law library, and the office of the Director of State Courts.

IT IS FURTHER ORDERED that, these rules and the appendices referenced in the rules shall be published on the Chief Judge page of the Milwaukee County website and on the website of the State Bar of Wisconsin.

Dated at Milwaukee, Wisconsin, this 2nd day of October, 2019.



Hon. Maxine Aldridge White
Chief Judge

MAW: dla

(Attachments)

4.17 POSTCONVICTION MOTIONS

A. The following rules apply to all postconviction motions, including without limitation those brought pursuant to Wis. Stat. §§ 809.30, 973.19, 974.02 and 974.06, as well as motions to modify or adjust sentence, to withdraw a guilty plea, for sentence credit and for new trial, as well as petitions for writs of certiorari, for conditional release or re-examination or to administer medication involuntarily.

B. The motion, including any accompanying brief, shall not exceed 20 double-spaced pages in length and shall comply with Rule 1.10 regarding format. Responsive briefs shall not exceed 20 pages in length. Reply briefs shall not exceed 10 pages. Motions and briefs exceeding these page limits may be disregarded. Upon a showing of good cause made at or before filing a motion or brief, the court may permit the filing of a motion or brief exceeding these page limits, except that in no event may a motion brought pursuant to Wis. Stat. § 974.06 exceed 20 pages in length. All submissions (motion and briefs) must use at least a 12-point font size in the body and at least a 10-point font size for block quotations and footnotes and must have at least a one inch margin on all sides.

C. All motions, except petitions for writs of certiorari, shall be filed with the appellate section of the criminal division of the Clerk of Court (Room 117, Safety Building). Before filing, a copy of the motion shall be served upon the State. A petition for a writ of certiorari shall be filed in the civil division.

5.37 ASSIGNMENT OF PETITIONS FOR TEMPORARY RESTRAINING ORDERS AND INJUNCTIONS UNDER WIS. STAT. CHAPTER 813; ASSIGNMENT OF CHILD ABUSE AND JUVENILE HARASSMENT INJUNCTIONS AS BETWEEN THE FAMILY DIVISION AND THE CHILDREN'S DIVISION

A. All petitions for temporary restraining orders under Wis. Stat. §§ 813.12, 813.122, and 813.125 initially shall be heard by the Family Court Commissioner. The assignment of subsequent proceedings among branches of the Family Division is governed by Rules 5.4 (designation and assignment of cases), 5.31 (review of decisions of family court commissioners in Chapter 813 harassment and domestic abuse actions) and this rule.

B. All hearings on the issuance of an injunction sought on behalf of a child, by a child, or against a child, including child abuse and harassment injunctions ("JI injunction"), shall be conducted by a judge or judicial court commissioner in the Children's Division, except as provided in Rule 5.37.C.

C. All hearings on petitions seeking a JI injunction shall be conducted by a judge or family court commissioner in the Family Division (and shall be assigned according the rules for assigning Family Division cases in Rule 5.4) if:

- a. both parties to the petition are adults who are parties to a pending FA or PA case; or
- b. both of the parents of the child are parties to the same pending FA or PA case and the respondent named in the petition is married to one of the parents or is in a dating relationship, as defined in Wis. Stat. § 813.12(1), with one of the parents;
- c. except that if the child named in the petition is the subject of a CHIPS action in which future proceedings are scheduled in the Children's Division, the hearing shall be conducted by a judge or judicial court commissioner in the Children's Division;
- d. for purposes of Rule 5.37.C. a case is "pending" during any period of time during which:
 1. any proceeding is scheduled to be heard;
 2. a bench warrant issued by the court is outstanding; or
 3. any proceeding was heard by the court within the previous twelve months.

5.4 DESIGNATION AND ASSIGNMENT OF CASES

A. All cases assigned to the Family Division shall be designated "FA" except for

1. Cases in which the court is asked to determine paternity, which shall be designated "PA;"
2. Cases in which a party seeks a harassment injunction, which shall be designated "CV;" and
3. Cases in which an injunction is sought on behalf of a child, by a child or against a child and which cases are assigned to the Family Division under Rule 5.37.C., which shall be designated "JI."

B. All FA cases shall be assigned electronically by lot among the branches of the division, except

1. as provided in Rule 5.4.D., 5.4.E. and 5.4.G.; and
2. de novo motions in certain FA cases shall be assigned for a hearing in a branch of the Criminal Division if all of the following criteria apply:
 - a. a domestic abuse injunction is issued under Wis. Stat. § 813.12; and
 - b. the respondent in the FA case is a defendant in a case pending in the Criminal Division, and
 - c. the claim against the defendant in the Criminal Division case arises from the same facts and circumstances that give rise to claim in the FA case.

C. All Harassment injunction CV cases are assigned according to Rule 1.6 (daytime duty judge).

D. Assignment of PA cases shall rotate from branch to branch within the division each month. All PA cases filed in a given month shall be assigned to a single branch.

E. When more than one case involves one or more of the same parties, the cases may be reassigned as follows:

1. For purposes of Rule 5.4 a case is "pending" during any period of time during which any proceeding is scheduled to be heard before the court or during which a bench warrant issued by the court is outstanding.
2. Purposes of this rule:
 - a. to consolidate multiple cases involving the child support obligations of a single family unit (consisting of the father and mother of the same child or children) for the administrative convenience of the Department of Child Support Enforcement; and

b. to assign multiple cases involving one or more of the same parties to the branch in which, by virtue of previous proceedings, the judge may have become familiar with the parties and the issues their cases present; and

c. to assign multiple cases involving one or more of the same parties to one branch for hearing on a common issue.

3. Except as provided in Rule 5.4.B., such cases shall be assigned to the same branch to which any pending FA or PA case involving the same parties is assigned.

4. PA cases involving children presumed to be of a marriage shall be reassigned to the same branch to which is assigned any pending divorce case involving that marriage.

5. All FA and PA cases which have in common the same family unit and in which a custody, placement or child support issue has been raised shall be reassigned to the branch to which the most recently filed case is assigned, unless a case involving the same parties is already pending before or has been heard by another judge currently in the division, in which situation, all cases shall be reassigned to the judge with the pending case or who previously heard the case most recently.

6. All FA and PA cases which have in common the same payor and in which a child support issue has been raised shall be reassigned to the branch to which the most recently filed case is assigned, unless a case involving the same payor is already pending before or has been heard by another judge currently in the division, in which situation, all cases shall be reassigned to the judge with the pending case or who previously heard the case most recently.

7. This rule does not affect the policy of consolidating financial orders into the most recently filed case on motion of the Department of Child Support Enforcement.

F. Cases in which a petition for a temporary restraining order and/or an injunction under Wis. Stat. Chapter 813 is filed on behalf of a child, by a child or against a child are assigned as provided in Rule 5.37.

G. The Chief Judge or the Presiding Judge of the division may order the transfer of cases from branch to branch to facilitate the fair and efficient operation of the division.

PART 6. RULES FOR THE CHILDREN'S DIVISION

6.1 RESPONSIBILITY

The Children's Division is responsible for hearing a variety of matters involving persons under the age of 18, and occasionally age 21. Cases heard in the Children's Division are governed by Chapters 48, 938, 54, and 813 of the Wisconsin Statutes and include juvenile delinquency cases, juveniles in need of protection or services (JIPS), children in need of protection or services (CHIPS), termination of parental rights (TPR), adoptions of minors, guardianship of minor persons, county ordinance violations, and certain injunctions involving minor respondents.

6.2 CASE PROCESSING GOALS

1. Termination of Parental Rights: Ninety-five percent (95%) of all cases classified as voluntary TPR cases shall be disposed of within 120 days. Ninety-five percent (95%) of all cases classified as involuntary TPR cases shall be disposed within 180 days.
2. CHIPS: Eighty-five percent (85%) of all cases shall be disposed of within 90 days.
3. Delinquency: Ninety-five percent (95%) of all cases shall be disposed of within 90 days.

6.3 DUTIES OF THE PRESIDING JUDGE

In lieu of a regular or specialty calendar assignment, the Presiding Judge of the Children's Division is assigned to administer the division, hear specialty case assignments pursuant to Chief Judge Directives and assist in relieving calendar congestion.

6.4 ASSIGNMENT OF CASES

1. Petitions filed by, on behalf of, against, or in the interest of a child, and authorized in Wis. Stat. Chapter 48, 938, or authorized in Wis. Stat. Chapter 54, 767, as indicated by Wis. Stat. §801.18(3)(a), shall be eFiled by attorneys or eFiled or paper filed by non-legal party/pro se litigant filers in the office of the Clerk of Circuit Court Children's Division ("Clerk's Office").
2. When more than one case involving one or more of the same parties is scheduled for proceedings in the Children's Division, the cases may be reassigned according to the "One Family/One Judge" model of decision making so that, to the greatest degree reasonably possible, cases involving maternal siblings may be heard together.
3. Except as stated in this rule, all petitions filed in the Children's Division shall be assigned on a weekly rotating basis except "daily delinquencies". Daily delinquencies shall be assigned to one of the five general courts on a rotating basis. The Presiding Judge and the Children's Court Judicial Operations Manager shall devise a weekly intake schedule. All requests for temporary physical custody by the Division of Milwaukee Child Protective Services (DMCPS), for emergency changes of placement in CHIPS cases, for emergency transfer of temporary guardianship and for pick-up orders shall be assigned to the intake branch without regard to the pendency of other CHIPS cases unless the assigned court wants to handle the matter.
4. Active CHIPS, delinquency, and Ch. 54 guardianship cases:

- A. A CHIPS, delinquency, or Ch. 54 guardianship case is active if no dispositional order or transfer of guardianship has been made, an unexpired dispositional order is in effect, or Ch. 54 guardianship has been transferred.
- B. If at the time of filing a CHIPS, delinquency, or guardianship petition there is an active CHIPS, delinquency, or guardianship case involving the child or his or her sibling, then the petition shall be assigned to the branch to which the active case is assigned.
- C. This rule takes precedence over all other assignment rules except rules regarding substitution, assignment of termination of parental rights cases, and specialty courts.

5. TPR cases:

- A. Petitions seeking termination of parental rights ("TPR") shall be assigned to the branch to which the District Attorney team filing the petition is assigned.
- B. A TPR case is open if a TPR order is sought but has not yet been granted or denied, if termination of parental rights has been ordered but the child has not been adopted, guardianship has not been transferred, and the child has not attained 18 years of age or 21 years of age as permitted under Wis. Stat. 48.355(4)(b)4.
- C. If at the time of filing there is an open TPR case involving a sibling, the petition shall be assigned to the branch to which the sibling's open TPR case is assigned.
- D. If at the time of filing there is an active CHIPS case involving the same child:
 - I. Except for hearings scheduled prior to the initial hearing on petition of the TPR, all scheduled CHIPS proceedings shall be re-scheduled and heard by the judge presiding in the branch to which the TPR petition is assigned. If the case is assigned to the Family Drug Treatment Court (FDTC), all team meetings will remain in the FDTC.
 - II. If termination of parental rights is ordered, all remaining proceedings in the CHIPS case shall be heard in the branch to which the TPR petition is assigned.
 - III. If the TPR petition is dismissed, further proceedings in the CHIPS case shall be heard in the branch to which the CHIPS case was assigned at the time of the filing of the petition, or the successor branch unless the TPR court agrees to keep the CHIPS case through entry of the next CHIPS related order.
- E. If at the time of filing of a Ch. 54 guardianship petition there is an open TPR case involving the same child, the guardianship case shall be assigned to the branch to which the open TPR case is assigned.

6. Initial Delinquency Hearings:

- A. Delinquency detention hearings pursuant to Wis. Stat. §938.21 shall be conducted before the delinquency intake court commissioner. The commissioner court shall schedule the plea hearing before the assigned judge within 21 days if the juvenile is not held in secure detention and within 10 days if the juvenile is held in secure detention.
- B. In cases where a juvenile is not detained pursuant to Wis. Stat. §938.19 before a petition is filed, the plea hearing shall be conducted before the delinquency intake court commissioner within 21 days after the petition is filed. But for 6(C), further proceedings shall be scheduled before the assigned judge.

- C. At the detention and plea hearings pursuant to 6(A) and 6(B), further proceedings in uncontested misdemeanor delinquency cases (not sexual assault or gun related cases) may be scheduled before the delinquency intake court commissioner for resolution with the consent of all parties.
7. Child abuse and harassment petitions:
 - A. A petition for a temporary restraining order and/or an injunction filed on behalf of a child, by a child or against a child shall be assigned as provided in Local Rule 5.37.
 - B. Except as provided in this rule, petitions are assigned according to the weekly intake schedule to the branch whose intake week falls on the date the injunction hearing is first scheduled.
 - C. All child abuse injunction hearings shall be heard by a judge.
 - D. All harassment injunction hearings shall be heard initially by a judicial court commissioner.
8. Parental Consent Waivers: A petition filed pursuant to Wis. Stat. §48.375(7) shall be assigned to the judge selected by the petitioning minor.

6.5 DISCOVERY

1. Discovery in proceedings under Wis. Stat. Chapter. 48 are governed by Local Rules 3.19 through 3.22.
2. In all original jurisdiction CHIPS proceedings, immediately after the temporary physical custody (TPC) hearing, the Assistant District Attorney shall provide to counsel for all parties copies of all available Division of Milwaukee Child Protective Services intake notes, records, and documents relied upon by the petitioning Assistant District Attorney in preparing the request for a TPC order, together with copies of all available relevant medical records and police reports without need of a discovery demand. Copies of subsequent discovery materials shall be made available upon demand.
3. In all contested TPR cases, immediately after the plea hearing, the Assistant District Attorney shall provide to counsel for all parties copies of all available Division of Milwaukee Child Protective Services intake notes, records, and documents relied upon by the petitioning Assistant District Attorney in preparing the TPR petition, together with copies of all available relevant medical records and police reports without need of a discovery demand. Copies of subsequent discovery materials shall be made available upon demand.
4. Copies of materials required by this rule that are not immediately available to the Assistant District Attorney after the TPC hearing or TPR plea hearing shall be provided without need of a discovery demand as soon as available, but no later than 10 days after the hearing unless additional time is granted by the court.

6.6 FILING OF PAPERS

1. All attorneys shall file papers via e-Filing pursuant to Wis. Stat. §801.18.
2. All petitions, motions, or requests which by statute require the Clerk's Office to give notice to an interested party shall be eFiled or paper filed with the Clerk's Office (if a non-legal party/pro se litigant filer opts to not eFile), which will designate a hearing date. The party or entity filing the petition, motion, or request shall provide the Clerk's Office with the names and addresses of all persons to whom notice must be given. The Clerk's Office shall provide notice to such persons at the addresses provided by the party, as well as to any possible alternative addresses.

3. All other petitions, motions, or requests shall be eFiled or filed (if a non-legal party/pro se litigant filer opts to not eFile), in the branch to which the case is assigned, which will designate a hearing date. If the assigned branch is unavailable to accept the filing, the non-legal party/pro se litigant filer may file in the Clerk's Office, which will designate a hearing date.
4. Any petition, motion or request may be filed by a non-legal party/pro se litigant filer in court during or immediately before a hearing, provided that all parties are present and are served in court. All attorneys must eFile prior to the hearing.

6.7 GOOD FAITH EFFORT TO RESOLVE DISPUTES

1. In all cases under Chapter 48, the parties and representatives of the Division of Milwaukee Child Protective Services (DMCPS) shall strive to resolve any disputed issues before the first hearing date on any motion, petition, request, or objection to notice. Counsel shall be prepared at the first hearing date on any motion or petition to inform the court what efforts were made to resolve any issues that are presented to the court for resolution.
2. If there is no dispute regarding a request to revise a dispositional order pursuant to Wis. Stat. §48.363, the parties and a representative of DMCPS are encouraged to file/eFile a stipulation and proposed order in advance of any scheduled hearing date, to eliminate the need for a hearing.
3. Regarding any other motion, petition, or objection to notice that has been scheduled for hearing, if there is no dispute the parties and a representative of the DMCPS are encouraged to file/eFile a stipulation and proposed order.

6.8 PROPOSED ORDERS

1. If an order is not reduced to writing at the time the court makes an oral ruling, then within five (5) days of the hearing, or within such time as the court orders, the attorney for the prevailing party shall eFile with the court and serve all parties a proposed written order.
2. Local Rule 1.21 (the "five-day rule") applies to all such proposed orders, except temporary guardianship orders, pick-up orders, temporary physical custody orders, orders agreed to in writing by all parties, and orders for guardianship or termination of parental rights submitted on Supreme Court forms without any addenda.

6.9 RESCHEDULING

1. Scheduled proceedings may not be re-scheduled or canceled except by the court. The person or party requesting the rescheduling or cancellation shall provide notice in advance as soon as reasonably possible to all interested parties, including, without limitation, attorneys, Division of Milwaukee Child Protective Services (DMCPS) representatives, Division of Youth and Family Services (DYFS) human service workers and witnesses.
2. If all issues in dispute in a contested proceeding are resolved in advance by agreement, the parties may request, after notice to all interested parties, that the agreement be scheduled for the court's consideration at an earlier date.

6.10 DUTY JUDGE

1. For one month on a rotating basis, pursuant to a schedule approved by the Presiding Judge, each judge assigned to the Children's Division shall serve as

duty judge on evenings, weekends, holidays and at all other hours the court is not in operation pursuant to Local Rule 1.8.

2. The duty judge shall hear all emergency requests made by the DMCPs, DYFS, and the District Attorney Juvenile Division.
3. A party making an emergency request to the duty judge shall contact the duty judge first. If the duty judge is not available, the party shall contact the Presiding Judge of the Children's Division. If the Presiding Judge is not available, the party shall contact the other judges assigned to the Children's Division in reverse order on the Duty Judge schedule starting with the most recently assigned judge.

6.11 REQUEST FOR JURY

The deputy court clerk shall schedule or cancel jury panels. Jurors may be ordered for TPR trials on the morning or afternoon of the first day of the week, however morning panels shall be ordered only if necessary to accommodate the trial schedule. Jurors may be ordered for non-TPR cases on the afternoon of the first day of the week or the morning of the second day, however panels shall be ordered on the first day of the week only if necessary to accommodate the trial schedule. No more than two courts may order jurors for any one morning or afternoon, with preference to be given to TPR trials. Exceptions may be taken to this rule in extraordinary circumstances with the approval of the Presiding Judge Children's Division.

6.12 CONSENT DECREES

1. No consent decree in a Chapter 938 case shall be approved by the court until the human service worker assigned to the case approves, or has been provided the opportunity to object and be heard.
2. No consent decree in a Chapter 48 case, shall be approved by the court until the case manager assigned to the case approves, or has been provided the opportunity to object and be heard.