

JUVENILE COURT
POLICY/PROCEDURE

SUBSTITUTION

POLICY

Consistent with §48/938.29 related to the substitution of judges in juvenile cases:

1. The request for substitution in **non-Waiver** cases must be made in writing to the court prior to or during the plea hearing on a form prescribed by the Court or otherwise approved by the Court.*
2. The request for substitution of a judge scheduled to conduct a waiver hearing under §938.18 shall be filed in the assigned Court before the close of the working day preceding the day the waiver hearing is scheduled unless otherwise approved by the judge on the day of the waiver hearing.*
3. For proceedings under §48.375(7) (Waiver of Parental Consent for Abortion) the minor may select the judge whom she wishes to be assigned to the proceeding
- *4. In a proceeding under §938.12 or 938.13(12) only the **juvenile** may request a substitution, and the **juvenile** may not request the substitution of a judge under a proceeding under §938/48.12 or 938/48.13(12) if the judge assigned to the proceeding has entered a dispositional order with respect to the juvenile in a previous proceeding under §938/48.13(4), (6), (6m), (7), or (12). The **child, parent, guardian, or legal custodian** may not request a substitution of judge if the assigned judge has entered a dispositional order with respect to the juvenile in a previous proceeding under §938.12 or 938/48.13(4), (6), (6m), (7), or (12) or if the juvenile or juvenile's parent, guardian, or legal custodian has requested the substitution of a judge in a previous proceeding under those same statutes.
5. Once a substitution of a judge is granted on any petition regarding a specific child that judge is forever disqualified from presiding over any subsequent juvenile court proceedings regarding that child with the exception of Petitions for Revision, Extension, and/or Change of Placement over which that judge has established and maintained jurisdiction

The Juvenile Court will maintain a process for resolving discrepancies in the number of assignments to other courts that may result from the filing/granting of substitution requests.

PROCEDURE

Upon filing of a Substitution Request the Juvenile Clerk will time/date stamp in the request, forward to the Judge/Commissioner for approval, and then process the request in a manner approved by the Court, including sending necessary information to the District Court Administrator.

EXCEPTIONS/COMMENTS

Although statutes and court rules permit filing of requests up to/at the point of a plea hearing, attorneys or other parties authorized to request a substitution should request the substitution as early as possible in the process to facilitate the reassignment and re-scheduling of a hearing in a timely manner.

In the event that due to prior substitutions no current juvenile judge is permitted to hear the matter presented, the case shall be referred to the District Court Administrator for assignment.

Subsequent petitions filed with the court related to the child shall be assigned to the judge assigned as the result of the substitution procedure outlined above. For example, if petition 1 is assigned to Judge A, but upon substitution reassigned to Judge B, petition 2 (the next) would be assigned to Judge B.

Substitution requests may be made based on Change of Placement, Revision, and/or Extension petitions filed in which a judge has not yet heard any aspect of the case may be granted by the Judge at his/her discretion. Note: this may occur following the transition of cases from a prior sitting Juvenile Judge to a new Juvenile Judge.