

JUVENILE COURT
POLICY/PROCEDURE

VENUE TRANSFERS

INTRODUCTION

A number of counties in Wisconsin have entered into an Inter-County Agreement related to Jurisdiction and Venue on Delinquency and CHIPS matters. While the Agreement entered into by the Department is not binding on either the Court or the District Attorney, it does provide guidelines which will generally be followed relative to the handling of these cases.

The general underlying principle is that the county where the child resides with parents is the most appropriate place for a case to be handled.

The Policies/Procedures incorporated in this manual are relevant parts of that agreement. The entire agreement includes other guidelines related to custody intake, court intake, and inter-county communications related to solving problems with inter-county cases.

POLICY

As a general rule, venue for any juvenile court proceeding under 48.12, 938.12, 48.13, 938.13 and 938.18 shall be in the county where the child resides with parents. If a child is residing outside of the county of the parents residence, venue will be in the county of the parents residence if the child has been placed outside of the parental home under a court order or under a voluntary agreement. If the parents were not living together at the time of the court ordered or voluntary placement, venue will be in the county where the parent having physical custody at the time of the child's placement now resides.

For a child living with relatives (including "non-legal" custodial parent), venue will be determined on a case by case basis.

If the District Attorney files a petition contrary to these guidelines, the department will immediately contact the home county department to discuss the status of the case and work toward a mutually agreeable dispositional recommendation. The home county will assist by providing information, reports, and/or possibly testifying at any dispositional hearing in the petitioning county.

If parents of a child move to another county after the filing of a petition which results in an out of home placement, the county of the juvenile court making the dispositional order for placement will retain liability for the costs of such care. If the parents of a child in placement move and maintain residence in another county for at least six months before the time revision of a court order is needed to provide supervision of a child

in the parental home (i.e. child returning to parental home), the court making the original order may transfer jurisdiction of the case to the county where the parents now reside for hearing on the revision matter.

In situations where a matter resulting in placement is heard in a county other than the home county, based on a decision of a District Attorney to petition in that county, jurisdiction and the attendant liability for costs of care will be transferred back to the home county at the time of disposition **as long as the home county** has been involved in the development of a court recommendation **and concurs** with the need for placement.

In addition, Sec. 938.185(1)(c) provides for a transfer of proceedings from one county to another (where the juvenile resides) after adjudication and prior to disposition if the court of the county of residence agrees to that transfer.

PROCEDURE

Receiving Venue Transfers from Other Counties:

In cases in which a Change of Venue order from another county is received, the the Juvenile Court Commissioner Clerk will send a copy of the findings and order changing venue to the Assistant Corporation Counsel for Human Services, 4th Floor Northport. The accompanying files documents will be placed in a newly opened juvenile file and entered into the CCAP computer system.

HSD will check the current service status, if any, of the child in Dane County and review the order and findings as needed to confirm that the change was made in compliance with the Inter-Agency Agreement. If some immediate service is necessary, the Assistant Corporation Counsel will refer the case immediately to an HSD unit. If the venue change does not appear to meet the criteria in the Inter-Agency Agreement, the Assistant Corporation Counsel will prepare a letter, with a copy to the Juvenile Court Commissioner Clerk, to the referring county explaining the reasons that the change does not appear proper. The Court will file that letter in the juvenile's court file and retain the records until such time as there is a change in the Venue Order, if any occurs.

Additionally, the Clerk will send a copy of the underlying petition and the change of venue order to the Deputy District Attorney for Juvenile cases.

Sending Venue Transfers to Other Counties:

In cases in which a Dane County Juvenile Court Judge transfers venue to another county, the proper documents and records will be sent to the new county by staff in the Clerk of Courts office. Copies of the order transferring venue will be retained in the juvenile's Dane County file in accordance with procedures established by the Clerk of Courts.

Accepting Venue Changes Between Adjudication and Disposition

In the event the court receives a notice related to a venue change between the time of adjudication and disposition (e.g. notice of hearing, order for venue change, etc.) the Juvenile Court Commissioner Clerk will proceed as above but immediately FAX a copy of the motion/order to the HSD Corporation Counsel and provide a copy to the Juvenile Court Intake Coordinator, Public Defender's office, and the District Attorney's Office. Concurrently, the clerk will draw a judge for assignment, create a court file, and set the matter for disposition in 21-30 days. Within 10 working days, the Human Services Department, Public Defender, and the District Attorney will provide a written recommendation to the assigned judge related to "accepting venue". If there is no objection to accepting jurisdiction, the court shall notify the originating county of that and proceed with disposition as scheduled. If, upon reviewing the recommendations of the parties, the court decides not to agree to the venue transfer, the court will notify the originating county of that fact and cancel the dispositional hearing scheduled here. If there is not an agreement among the parties, the court may, at its discretion, schedule a conference to review this decision. If the conference cannot be scheduled prior to the sending county's action related to transfer, the court branch will send notice to the sending county that venue is not accepted until further notice..

If a hearing on the venue change in the originating county is scheduled in the originating county within 14 days of receipt of the notice, the Clerk shall send a notice to the originating county that the matter is under advisement and that the venue transfer is not accepted until further notice.