

STATE OF WISCONSIN  
Department of Health and Family Services  
Division of Children and Family Services

DCFS Memo Series 2007 -13  
November 8, 2007  
Re: Placement and Care  
Responsibility Language in  
Court Orders

To: Area Administrators/ Human Services Area Coordinators  
Bureau Directors  
Child Placing Agency Directors  
Child Welfare Agency Directors  
County Departments of Community Programs Directors  
County Departments of Developmental Disabilities  
Services Directors  
County Departments of Human Services Directors  
County Departments of Social Services Directors  
Indian Child Welfare Directors  
Licensing Chiefs/Section Chiefs  
Tribal Chairpersons/Human Services Facilitators

From: Reggie Bicha   
Administrator

The purpose of this memo is to notify agencies of technical changes in court orders that place a child in out-of-home care. During Wisconsin's last Title IV-E audit, the federal review team from the Administration for Children and Families (ACF) raised a concern that it was not clear under Wisconsin's law and policy that a child removed from his or her home by a county or state department because the child was in need of protection or services, was a juvenile in need of protection or services, or was a juvenile delinquent that the governmental agency had placement and care responsibility as required under federal Title IV-E statutes and regulations.

The Division of Children and Family Services, the Director of State Courts Office, and the Wisconsin Department of Justice vigorously contested the position of ACF, pointing out that Wisconsin statutes provided equivalent authority to the Department and county departments that removed children under Chapter 48 or Chapter 938, although the exact placement and care term was not used in Wisconsin statutes or orders. Placement and care responsibility is described in federal law as including "the development of an individual case plan for the child, including periodic review of the appropriateness and suitability of the plan and the foster care placement, to ensure that proper care and services are provided to facilitate return to the child's own home, or to make an alternative permanent placement". [Ref. *Child Welfare Policy Manual*, Sec. 8.3A.12.] ACF agreed to withhold any penalty if the state would seek statutory change that would support the placement and care responsibility language in court orders.

The Division has requested legislation in both 2007 Senate Bill 40 (the budget) and in a separate bill that requires that the relevant court orders identify the public agency with placement and care responsibility for the child. The Director of State Courts Office has modified the following court orders to include language identifying the public agency with placement and care responsibility for a child removed from his or her home.

- JD 1611, Dispositional Order – Protection or Services (Chapter 48)
- JD 1638, Order Concerning Termination of Parental Rights (Voluntary)
- JD 1639, Order Concerning Termination of Parental Rights (Involuntary)

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#### Document Summary

The purpose of the memo is to notify agencies of technical changes in court orders. The forms and court orders clarify the existing authority and responsibility of public child welfare agencies for children placed in out-of-home care. The changes are intended to meet a technical specification of the federal government and do not have any substantive impact.

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- JD 1711, Order for Temporary Physical Custody
- JD 1745, Dispositional Order - Delinquent
- JD 1746, Dispositional Order – Protection or Services (Chapter 938)
- JD 1774, Order for Sanctions
- JD 1785, Consent Decree (Out of Home Placement Only)
- JD 1789, Order for Change of Placement (In Home to Out of Home Placement Only)

The new forms are located on the Wisconsin Supreme Court website at:

[http://www.wicourts.gov/circuit/ccform.jsp?FormName=&FormNumber=&beg\\_date=&end\\_date=&StatuteCite=&Category=21](http://www.wicourts.gov/circuit/ccform.jsp?FormName=&FormNumber=&beg_date=&end_date=&StatuteCite=&Category=21) Notice of all revised forms is sent by the Director of State Courts Office to circuit court judges and court clerks. Please note that although the Microsoft Word fillable forms are currently available on the Internet, the CCAP-generated forms that some counties use will not be updated until 2009 due to the time needed to program, pilot, and release the changes. You are strongly encouraged to meet with the individuals responsible for preparing the previously listed court orders to ensure that they are aware of the placement and care language requirement and that they are using the forms available on the court system's website.

In filling out the new court orders, on the line designating the agency having placement and care responsibility, **the box must be checked, the name of the county agency or department must be filled in, and the organization listed must be a public agency.** Neither private child placing agencies nor individuals may have placement and care responsibility under the federal definition.

**This is a technical change in language and should not change practice.** This change does not alter the authority or responsibility of the department or counties that existed under prior law or court orders. Any authority the department or county human services or social services agency needed or did not need to act for or on behalf of a child under prior statutes or orders (e.g., legal custody or guardianship) continues.

The Department will issue a policy memorandum in the near future on the use of placement and care responsibility language in Voluntary Placement Agreements.

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