

JUVENILE COURT
POLICY/PROCEDURE

PARENTAL SUPPORT FOR CHILDREN PLACED IN SUBSTITUTE CARE

POLICY

Pursuant to statute §938.275(1) or §48.275(1) the Juvenile Court will order that parents provide support payments to the department for children placed in substitute care (foster home, group home, child caring institutions) or in a non-secure or secure facility by the court. Pursuant to §46.10(14)(b), a support order issued for this purpose constitutes a wage assignment of all commissions, earnings, salaries, wages, pension benefits and other money due or to be due in the future to the county department, depending on the placement of the child and rules developed by the department.

Orders for parental support entered under these provisions shall supersede any other court ordered payment for child support for the period during which the child is placed out of the home and/or an amount of liability remains outstanding.

PROCEDURE

Roles of Clerk of Courts and Department of Human Services

Responsibility for determining the amount of parental support to be ordered lies with the Department of Children and Families based on information provided to the department by the parent(s) and percentage guidelines established by the Wisconsin Department of Children and Families in DCF 150. The Clerk of Courts is responsible for providing notice to the parent(s) related to their obligations under these statutes and the necessary forms and other materials on which they will provide a statement of income/assets to the department. The Clerk of Courts is also responsible for processes related to filing of these orders with the necessary parties to ensure proper payment. The Court (Judge or Commissioner) is responsible for approving or modifying the recommended support payment and entering an order for payment. In this regard, the Court may modify the amount of support recommended by the department pursuant to criteria provided by statute (§46.10(14)(c)).

Procedural Steps to Determine Amount and Enter the Support Order

To accomplish this process, including the required prior notice to parent(s) of potential liability for cost of care, the following general procedures will be in place:

1. At the time of either a physical custody hearing or plea hearing or any other hearing at which it becomes apparent that out of home placement may be a possibility, the Court (Judge or Commissioner) will inquire if out of home placement is a possible or likely outcome of the eventual proceedings. If so, or in other cases at the

discretion of the Court, the Clerk will provide to the parent(s) present both notice of this liability and a packet of forms and other information necessary for the parent to provide a proper statement of income/assets to the department upon which the amount of liability will be determined. Prior to distribution of the order and form(s), the Clerk will complete the Order for the Judge/Commissioner signature and complete the informational box on the financial statement (next court date, assigned judge, room number and social worker assigned). The Court will also enter an order, with a copy to that parent(s) and department which orders the parent(s) to complete and provide to the department the necessary information within seven days of the order date.

2. Upon receipt of the income/assets disclosure information, the department will determine the recommended level of support and provide that information to the parent(s) and the social worker assigned to the case. That information will be provided to the Court at the time an order is entered for placement.
3. At the time of disposition, the parent may contest the amount of support recommended by the department based on certain factors provided in the statutes. If possible and if time permits this may be done at the same time as the hearing held to determine disposition. If time does not permit this to be addressed at the time of disposition, the Court may refer that portion of the matter to the Commissioner for scheduling and resolution.
4. In the event of **non-compliance** on the part of the parent in completion of the Disclosure of Income & Assets forms, the recommended amount of payment will be determined by the department to be the **full cost of care/month**, based on the type of placement ordered. In that case, the Court will enter an order for the full amount of payment (actual dollar amount to be provided by the department).
5. In the event the income/asset(s) information is not completed for reasons **other than non-compliance** (e.g. time problems, errors in providing forms, etc.), the Court shall enter an order that provides that the parent pay the cost of care to be determined by the department within 30 days (assuming compliance on the part of the parent(s)). If that is the case, the department will proceed to determine the amount and provide that to the parent(s) along with information explaining their rights relative to contesting the amount. If the amount is not contested, the department will forward to the Commissioner an order to be signed which includes the amount determined and confirmation that the parent(s) have been notified of the amount and have not indicated the intention to contest the matter. If the parent(s) does wish to contest the amount the department will request that the matter be scheduled with the Commissioner for a hearing at a time to be determined by the Court.

In any case in which a support order is entered, the order shall contain the amount each parent is liable for during the period of the child's placement.

Issues Related to Wage Assignment

Statutes provide that the order entered under these provisions becomes an assignment of wages and other income. In the event of non-compliance on the part of the parent(s) to pay the ordered amount(s), the department will provide to the Commissioner a Wage Assignment letter that will be filed with the parent(s)' employer. Upon signature of that letter, the Clerk of Courts will mail the letter to the employer and provide copies to the parent and any other support-related agency that may be working with the parent/child (i.e. IV-D).

The department is responsible to notify the court to discontinue the wage assignment at such time as the obligation is completed or otherwise modified. Again, the Commissioner will sign the appropriate letter/form to terminate the wage assignment and the Clerk will forward copies to the necessary parties.

EXCEPTIONS/COMMENTS

There are several issues to be aware of relative to this policy/procedure:

1. The majority of the provision of necessary **notice** and forms will likely be accomplished by the Commissioner and Juvenile Court Commissioner Clerk during the Plea Hearing process. However, there may be situations (esp. in the instance of extensions or change of placement hearings) in which the Judge and Branch Clerk will be responsible for accomplishing the notice and provision of information and entering the order for disclosure of income/assets.
2. There are numerous procedures developed by the department and the Clerk of Courts relative to issues of determination of the liability, the filing of orders for payment and wage assignment, and the overlap of these support orders with existing or subsequent child support orders that provide that the parent is assessed the proper amount, that the proper parties receive information of the order/assessment, and that the order is amended or terminated at the proper time. These procedures are not included in this policy but may be available through the Clerk of Courts office or Department of Human Services.
3. The parent(s) is responsible for the cost of care beginning from the first date of placement through termination of that placement. In cases in which there is an outstanding liability after the time a child is actually placed out of the home, the order for payment and, if necessary, the wage assignment will remain in effect until such time as the obligation is fulfilled.