

Revisions: Wis. Stat. §938.363

- For procedure for all post-dispositional hearings, see Wis. Stat. §938.299(4)(b)

REVISIONS:

- A motion to request a change in the dispositional order that does not involve a change in placement (Wis. Stat. §938.363(1)(a)).
- May be filed by:
 - A juvenile (through you),
 - A juvenile's parent, guardian or legal custodian,
 - The person or agency primarily responsible for the provision of the dispositional services,
 - The district attorney or corporation counsel,
 - Or the court (does not require disqualification).
- The request (or court proposal) must set forth in detail:
 - The nature of the proposed revision, AND
 - What new information is available that "affects the advisability of the court's disposition."
- There must be a hearing, unless written waivers of objection are filed by all parties (See Standard Form JD-1783A for stipulated revision).
- Entitled to 3 days notice of the hearing (Wis. Stat. §938.363(1)(b)).
- Notice must contain a copy of the request (or court proposal)
- It cannot:
 - Extend the effective period of the dispositional order (though see unpublished decision of *In the Interest of Eugene G.*, 2003 WL 22888086, wherein the Court of Appeals found it acceptable to revise the order to shorten its length, allowing it then to be extended).
 - Extend an inpatient AODA commitment (under 938.34(6)(am)) for more than 30 days.
 - Extend a placement in juvenile detention or a place of nonsecure custody (under 938.34(3)(f)) for more than 365 days.

- At the hearing, any party may present evidence (Wis. Stat. §938.363(1m).
 - A foster parent/physical custodian, while not a party, is also allowed to make a statement, either verbally or in writing at the hearing, or in writing prior to the hearing

Practice Pointers:

- If you are filing it, make sure to include, in detail, what you are seeking as well as the “new information” which supports it.
- If someone else has filed it, has he/she done the same (including the Court)?
 - Is the new information verifiable in some way?
 - Is it actually new?
- Talk with your client:
 - What is his/her position on the request?
 - If not contesting, explore the possibility of revision via stipulation.
 - If the proposal has come from the court, odds are pretty good about it being granted.
 - If your client wishes to contest, what evidence can you present?
 - Will the Court likely address your client directly in the hearing?
 - If so, prepare him/her for saying something meaningful when asked.
- Talk with other non-moving parties:
 - Anyone who shares your client’s position?
 - Anyone who can be persuaded to share your client’s position?
- If placed outside the home, is the foster parent/physical custodian someone friendly to your client’s position.
 - If so, be sure to point out/capitalize on the ability to make a verbal or written statement.
- The hearing itself (if not stipulated).
 - The rules of evidence are not applicable (*see* Wis. Stat. §938.299(4)(b)).
 - Section provides no information about an applicable burden of proof.
 - What does it mean to “affect the advisability” of the order? What’s the standard?

- When in doubt, remind the Court that:
 - Per Wis. Stat. §938.355(1), “The disposition should employ those means necessary to promote the objectives under s. 938.01.” AND,
 - Per Wis. Stat. §938.01(2)(f), the court is to utilize “the most *effective* dispositional option.” SO,
 - Will this proposed revision be effective?