

# Winona County, Minnesota Overview of Juvenile Delinquency Processes

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## WINONA COUNTY OVERVIEW OF JUVENILE DELINQUENCY PROCESSES

- 1. Introduction:** Between August of 2021 and January of 2022, the Juvenile Justice Committee of the Winona County Criminal Justice Coordinating Council completed a mapping process to assist committee members and others in understanding how juvenile delinquency cases are handled in Winona County. The information contained in this overview summarizes the information gathered during the mapping process; however, it is not intended to supersede juvenile delinquency statute or rules.

Separate mapping processes were completed on truancy procedures and juvenile diversion procedures, both of which resulted in the creation of written guidelines for those processes.

- 2. Juvenile v. Petty Delinquency:** During the mapping process, a comparison chart of delinquency offenses, petty juvenile offenses and juvenile traffic offenses was created (see Form 6). The legal definition of each offense type is included in the chart. Following is additional information that was supplied during the mapping process:
  - The level of the crime does not necessarily determine whether an offense is a petty offense or a delinquency. For example, some offenses that would be a misdemeanor if committed by an adult could fall under the label petty offense. Similarly, other misdemeanors (such as assault) could fall under the label of delinquency.
  - All felonies and gross misdemeanors are automatically a delinquency.
  - If a juvenile has two petty offenses, the third offense could result in a delinquency.
  - If a juvenile receives a stay of adjudication (where they admit to what happened, but the adjudication is withheld for a year and the youth is on probation), but they receive a petty offense, that petty offense could constitute a delinquency due to the prior stay of adjudication.
- 3. Citation v. Petition:** When law enforcement is contacted about the behavior or actions of a juvenile, they have discretion as to whether to cite the juvenile for an offense. Typically, this is done by a citation. However, for more serious crimes, such as a gross misdemeanor or felony, the Winona County Attorney's Office will draft a petition after reviewing the law enforcement reports.
- 4. Diversion Screening & Referral:** The Winona County Attorney's Office reviews juvenile citations and police reports to determine whether the juvenile is eligible for diversion. Only petty offenses are eligible for diversion. Please see the *Winona County, Minnesota Juvenile Diversion Program Guidelines* for more information about the diversion process.
- 5. Attorney Representation:** Juveniles are automatically appointed a public defender for delinquency cases. Juveniles are not appointed public defenders for juvenile petty offense cases, but they can hire their own attorney.

## 6. Court Proceedings:

- A. Detention Hearing:** If a juvenile is arrested and taken into custody for a new offense (which is very rare in Winona County), a detention hearing is scheduled for the next day. The purpose of the detention hearing is to determine whether the juvenile should remain in out-of-home placement or be allowed to return home. If a juvenile arrested on a new offense is not already on probation in Winona County, a social worker from the Winona County Department of Health and Human Services (WCHHS) will become involved, speak with the parents and juvenile about the circumstances in the home and inquire about possible placement options if the child cannot return home. Generally, at the detention hearing, the juvenile will be placed on pre-trial supervision with WCHHS (if not already on probation) or with probation (if already on probation).
- B. Admit/Deny Hearing:** At the admit/deny hearing, the juvenile can either admit or deny that they committed the offense with which they were charged. If they admit the offense, they proceed to disposition (below). If they deny the offense, a pre-trial and trial are scheduled.
- C. Pretrial:** A pretrial hearing is a hearing scheduled a few weeks before the trial, the primary purpose of which is to determine the status of the case and whether it has or can be resolved without a trial. Prior to the pretrial, the Winona County Attorney's Office provides the juvenile (or his/her attorney, if represented) with copies of the police reports, photos, videos and other investigation materials that they are required to disclose per law (collectively called "discovery"). Typically, County Attorney's Office also provides a settlement offer to the juvenile. As a result, most delinquency offenses are resolved at the pretrial hearing. If it is not resolved, the matter proceeds to trial.
- D. Trial:** Juvenile delinquency cases are heard and decided by a judge, not a jury. Based upon the evidence presented at the trial, the judge will decide whether the juvenile should be adjudicated of the charges or not of the offense charged.
- E. Disposition:** If a youth enters an admission or is found guilty at a trial, the next step is disposition.
- a. Pre-Dispositional Report: The judge may request a pre-dispositional report (PDR) to be completed by a juvenile probation officer. This PDR is completed after meeting with the juvenile and parent/guardian and provides background information on the juvenile as well as a recommendation for the disposition.
  - b. Typical dispositions:
    - Most juveniles that are charged with a delinquency for the first time receive a stay of adjudication. A stay of adjudication provides the juvenile with the opportunity to keep the adjudication off the juvenile's record.

The stay can be in place for up to one year. If the juvenile successfully completes probation, the adjudication is not entered.

- A typical disposition is six months supervised probation, ten hours of community work service, to remain law abiding and have good behavior in the community, to attend school with no unexcused absences and to be making progress towards graduation, to have no use of alcohol or controlled substances and cooperate with random testing to ensure compliance. The judge may also order restitution and completion of other programming.
- Juveniles can be placed on probation until they are 19 years old. Generally, a juvenile is placed on probation for a year. If a juvenile is struggling to comply with terms of probation, probation can be extended.
- Juveniles that are just on probation for a juvenile petty offense cannot be placed out of the home.

F. **Probation Completion or Violation:** A juvenile put on probation is supervised by a juvenile probation officer.

- a. Successful Completion: If a juvenile successfully complies with any court-ordered conditions (such as restitution) and terms of probation, the youth will be successfully discharged from probation.
- b. Violation: If a juvenile is struggling to comply with probation, the probation officer will work with the juvenile to try and correct the concerns. Generally, the probation officer will attempt several different ways to assist the juvenile in correcting the behavior prior to filing a probation violation report. If those efforts are unsuccessful, the officer will file a violation report with the court and a hearing will be scheduled to address the violation. At the hearing, the juvenile can admit or deny the probation violation. If the juvenile denies the probation violation, a contested revocation hearing is scheduled. At that hearing, the burden is on the prosecutor to prove the violation. If the juvenile admits the violation or is found to have committed the violation, the juvenile is restated on probation, typically with additional terms and conditions to assist the juvenile in correcting the behavior that led to the violation.



# MINNESOTA JUDICIAL BRANCH

## Juvenile Delinquency Forms

The following forms are provided as an aid to practitioners and the court in the juvenile justice system. The forms are not mandatory, but shall be accepted by the court if offered by any party or counsel for their designated purpose. The Advisory Committee on Juvenile Delinquency Rules strongly recommends that Forms 12 through 16 be used in all felony level or enhanceable cases. A sample petition may be found on the Minnesota Judicial Branch website.

1. Petition – DELETED
2. Notice of the Rights of Victims in Juvenile Court – **Microsoft Word**
3. Notice in Lieu of Summons – **Microsoft Word**
4. Summons – **Microsoft Word**
5. Prosecutor’s Request for Disclosure – **Microsoft Word**
6. Prosecutor’s Notice of Evidence and Identification Procedures – **Microsoft Word**
7. Petition to Proceed Pro Se in Juvenile Delinquency Proceeding – **Microsoft Word**
8. Statement of Rights: Juvenile Delinquency Proceedings – **PDF**
9. Statement of Rights: Juvenile Petty Offender Proceedings – **Microsoft Word**
10. Statement of Rights: Juvenile Traffic Offender Proceedings – **PDF**
11. Statement of Rights: Juvenile Probation Revocation – **Microsoft Word**
12. Waiver of Right to Contested Hearing in Extended Jurisdiction Juvenile Case – **Microsoft Word**
13. Waiver of Right to Contested Hearing in Non-Presumptive Certification Case – **Microsoft Word**
14. Waiver of Right to Contested Hearing in Presumptive Certification Case – **Microsoft Word**
15. Petition to Enter Plea of Guilty in Extended Jurisdiction Juvenile Case – **Microsoft Word**
16. Petition to Enter Plea of Guilty in Juvenile Delinquency Matter – **Microsoft Word**
17. EJJ Adult Stayed Sentence – **Microsoft Word**

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## Form 8. Statement of Rights: Juvenile Delinquency Proceedings

### STATEMENT OF RIGHTS JUVENILE DELINQUENCY PROCEEDINGS

You have been charged with a delinquent act by a document filed in Juvenile Court. You are presumed innocent of the charge(s) unless and until the state is able to prove guilt beyond a reasonable doubt. You have the following rights:

1. The right to understand the charge(s) against you.
2. The right to be represented by an attorney. If you cannot afford an attorney, the judge will appoint an attorney for you at public expense. The judge may order you or your parent(s), legal guardian(s), or legal custodian(s) to pay some or all of the attorney expense depending on the ability to pay. You may not be represented in court by anyone who is not an attorney, even if that person is your parent.
3. The right to plead guilty, plead not guilty, or remain silent. If you remain silent, the judge will enter a not guilty plea for you and the case will go to trial.
4. If you plead not guilty, you have additional rights including:
  - a. The right to a trial before a judge;
  - b. The right to require the state to prove beyond a reasonable doubt that you committed the offense(s);
  - c. The right to cross-examine witnesses called by the state;
  - d. The right to subpoena witnesses and present evidence on your own behalf; and
  - e. The right not to testify or to give an explanation of your actions.
5. If you plead guilty, you give up the rights listed in paragraph 4. The judge will ask you what you did. The judge cannot accept your guilty plea unless you admit doing something that is against the law.
6. Your guilty plea must be made freely and voluntarily, without threats or promises by anyone, with the exception of any plea agreement.
7. If you plead guilty or the judge finds you guilty, the judge may:
  - a. Counsel you and your parent(s), legal guardian(s) or legal custodian(s);
  - b. Place you on probation in your own home or a foster care facility under conditions established by the court;
  - c. Transfer your legal custody under court supervision and place you out of your home;
  - d. Transfer your legal custody by commitment to the Commissioner of Corrections;
  - e. Order restitution for any damage done to person(s) and/or property;
  - f. Order community work service and/or a fine up to \$1,000;
  - g. Order special treatment or care for your physical or mental health;
  - h. Recommend to the Commissioner of Public Safety that your driver's license be canceled;

- i. Require you to attend school until age 18 or completion of graduation requirements;
- j. Order the Commissioner of Public Safety to revoke your driver's license or to delay the issuance or reinstatement of your driver's license if you committed a controlled substance offense while driving a motor vehicle;
- k. Order an assessment of your need for sex offender treatment, and order that you undergo treatment, if you committed an offense involving criminal sexual conduct, interference with privacy, obscene or harassing telephone calls, or indecent exposure;
- l. Prohibit you from living near the victim if you committed a criminal sexual conduct offense;
- m. Consider imposition of additional consequences if a gun or dangerous weapon was involved;
- n. Require you to submit a DNA sample if you have been charged with a felony; and/or
- o. Require you to register as a predatory offender if you have been charged with a sexual offense or predatory offense.

8. If you plead guilty or the judge finds you guilty of a felony after your 14th birthday, this case may be used as a basis for additional jail or prison time if you are sentenced for another felony as an adult before your 25th birthday.

9. If you plead guilty or the judge finds you guilty of an offense, this case may be used as a basis to transfer any future felony-level case to adult court or treat it as an extended jurisdiction juvenile prosecution.

10. If you plead guilty or the judge finds you guilty of an offense and you are not a citizen of the United States, the plea or finding of guilt may result in deportation, exclusion from admission to the United States, or denial of naturalization as a United States citizen.

11. Your parent(s), legal guardian(s), or legal custodian(s) may not participate in the hearing until you either plead guilty or the judge finds you guilty of the offense. At that time your parent(s), legal guardian(s), or legal custodian(s) has the right to present information to the judge and may be represented by an attorney.

**IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS, ASK YOUR ATTORNEY BEFORE THE HEARING OR, ASK THE JUDGE DURING YOUR HEARING.**

DATE: \_\_\_\_\_  
 (Signature of Child)

DATE: \_\_\_\_\_  
 (Signature of Parent, Legal Guardian, or Legal Custodian)



## Form 9. Statement of Rights: Juvenile Petty Offender Proceedings

### STATEMENT OF RIGHTS JUVENILE PETTY OFFENDER PROCEEDINGS

You have been charged with a petty offense by a document filed in Juvenile Court. You are presumed innocent of the charge(s) unless and until the state is able to prove guilt beyond a reasonable doubt. You have the following rights:

1. The right to understand the charge(s) against you.
2. The right to be represented by an attorney that you hire. You do not have a right to appointment of a public defender or other counsel at public expense. If you wish to be represented by an attorney, you or your parent(s), legal guardian(s), or legal custodian(s) must hire one and pay the cost. You may not be represented in court by anyone who is not an attorney, even if that person is your parent.
3. The right to plead guilty, plead not guilty, or remain silent. If you remain silent, the judge will enter a not guilty plea for you and the case will go to trial.
4. If you plead not guilty, you have additional rights including:
  - a. The right to a trial before a judge;
  - b. The right to require the state to prove beyond a reasonable doubt that you committed the offense(s);
  - c. The right to cross-examine witnesses called by the state;
  - d. The right to subpoena witnesses and present evidence on your own behalf; and
  - e. The right not to testify or to give an explanation of your actions.
5. If you plead guilty, you give up the rights listed in paragraph 4. The judge will ask you what you did. The judge cannot accept your plea unless you admit doing something that is an offense.
6. Your guilty plea must be made freely and voluntarily, without threats or promises by anyone, with the exception of any plea agreement.
7. If you plead guilty or the judge finds you guilty of an offense, the judge may:
  - a. Require you to pay a fine of up to \$100;
  - b. Require you to take part in a community service project;
  - c. Require you to participate in a drug awareness program;
  - d. Place you on probation for up to six months;
  - e. Order you to undergo a chemical dependency evaluation and participate in an outpatient treatment program;
  - f. Order restitution for any damage to person(s) and/or property; and/or
  - g. Order you to perform other activities or participate in other outpatient treatment programs deemed appropriate by the judge.

8. If you plead guilty or the judge finds you guilty of a second or subsequent juvenile alcohol or controlled substance offense, in addition to the above penalties, the judge may:

- a. Send your driver's license or driving permit to the Commissioner of Public Safety who shall revoke it for one year or until your 18th birthday, whichever is longer.
- b. Suspend your driver's license or driving permit for up to 90 days, but allow you to travel to work.
- c. If you do not have a driver's license or driving permit, the judge may order denial of your driving privileges for one year or until your 18<sup>th</sup> birthday, whichever is longer.

9. If you plead guilty to, or the judge finds you committed a third juvenile alcohol or controlled substance offense, and a chemical dependency evaluation recommends inpatient treatment, you have a right to appointment of a public defender or other counsel at public expense.

10. Your parent(s), legal guardian(s), or legal custodians(s) may not participate in the hearing until you have either pled guilty or the judge finds you guilty of the offense. At that time, your parent(s), legal guardian(s), or legal custodian(s) has the right to present information to the judge and may be represented by an attorney.

**IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS, ASK YOUR ATTORNEY BEFORE THE HEARING. IF YOU DO NOT HAVE AN ATTORNEY, ASK THE JUDGE DURING YOUR HEARING.**

DATE: \_\_\_\_\_  
(Signature of Child)

\_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Parent, Legal Guardian, or Legal Custodian)

## Form 10. Statement of Rights: Juvenile Traffic Offender Proceedings

### STATEMENT OF RIGHTS JUVENILE TRAFFIC OFFENDER PROCEEDINGS

You have been charged as a juvenile traffic offender by a document filed in Juvenile Court. You are presumed innocent of the charge(s) unless and until the state is able to prove guilt beyond a reasonable doubt. You have the following rights:

1. The right to understand the charge(s) against you.
2. The right to be represented by an attorney that you hire. You do not have a right to appointment of a public defender or other counsel at public expense. If you wish to be represented by an attorney, you or your parent(s), legal guardian(s), or legal custodian(s) must hire one and pay the cost. You may not be represented in court by anyone who is not an attorney, even if that person is your parent.
3. The right to plead guilty, plead not guilty, or remain silent. If you remain silent, the judge will enter a not guilty plea for you and the case will go to trial.
4. If you plead not guilty, you have additional rights including:
  - a. The right to a trial before a judge;
  - b. The right to require the state to prove beyond a reasonable doubt that you committed the offense(s);
  - c. The right to cross-examine witnesses called by the state;
  - d. The right to subpoena witnesses and present evidence on your own behalf; and
  - e. The right not to testify or to give an explanation of your actions.
5. If you plead guilty, you give up the rights listed in paragraph 4. The judge will ask you what you did. The judge cannot accept your plea unless you admit doing something that is an offense.
6. Your guilty plea must be made freely and voluntarily, without threats or promises by anyone, with the exception of any plea agreement.
7. If you plead guilty or the judge finds you guilty of an offense, the judge may:
  - a. Reprimand you and counsel you and your parent(s), legal guardian(s) or legal custodian(s);
  - b. Continue the case for a reasonable period under such conditions governing your use and operation of motor vehicles or watercraft as the court may set;
  - c. Require you to attend a driver improvement course;
  - d. Recommend that the Commissioner of Public Safety suspend your driver's license;

- e. If you are found to have committed two moving highway traffic violations or to have contributed to a highway accident involving death, injury, or physical damage in excess of \$100, the judge may recommend that the Commissioner of Public Safety cancel your driver's license until you are 18;
- f. Place you on probation in your own home under conditions set by the judge including reasonable rules relating to the operation and use of motor vehicles or watercraft;
- g. Order restitution for any damage to person(s) and/or property;
- h. Order community work service or a fine up to \$1,000; and/or
- i. Order a chemical assessment for alcohol-related driving offenses and charge \$75.00 for the assessment.

8. Your parent(s), legal guardian(s), or legal custodian(s) may not participate in the hearing until you have either pled guilty or the judge finds you guilty of the offense. At that time, your parent(s), legal guardian(s), or legal custodian(s) has the right to present information to the judge and may be represented by an attorney.

**IF YOU HAVE ANY QUESTIONS ABOUT YOUR RIGHTS, ASK YOUR ATTORNEY BEFORE THE HEARING. IF YOU DO NOT HAVE AN ATTORNEY, ASK THE JUDGE DURING YOUR HEARING.**

DATE: \_\_\_\_\_  
 (Signature of Child)

DATE: \_\_\_\_\_  
 (Signature of Parent, Legal Guardian, or Legal Custodian)

**Form 11. Statement of Rights: Juvenile Probation Revocation**

**STATEMENT OF RIGHTS  
JUVENILE PROBATION REVOCATION**

A probation revocation is a hearing before a judge to decide if a juvenile violated a term or condition of probation, and if so, whether the judge should change the disposition.

You will be asked to admit or deny the allegations of the probation violation. You have the following rights:

1. You have the right to have an attorney represent you. You may have the right to an attorney appointed at public expense.

2. If you deny the allegations of the probation violation, you have a right to a hearing before a judge. The hearing must be held within seven days if you are removed from your home. If you are allowed to remain in your home pending the probation revocation hearing, the hearing must be held within a reasonable time. If you admit the probation violation, you give up your right to a probation revocation hearing.

3. Before the hearing, you are entitled to receive all the evidence of the probation violation that will be used against you, including probation revocation reports and all records relating to the proceedings.

4. At the probation revocation hearing, both you and the prosecuting attorney have the right to offer evidence, make arguments, subpoena witnesses, and call and cross-examine witnesses. You may testify in your own defense or remain silent throughout the hearing. You may present mitigating circumstances or other reasons why the probation violation, if proved, should not result in a change in the disposition order.

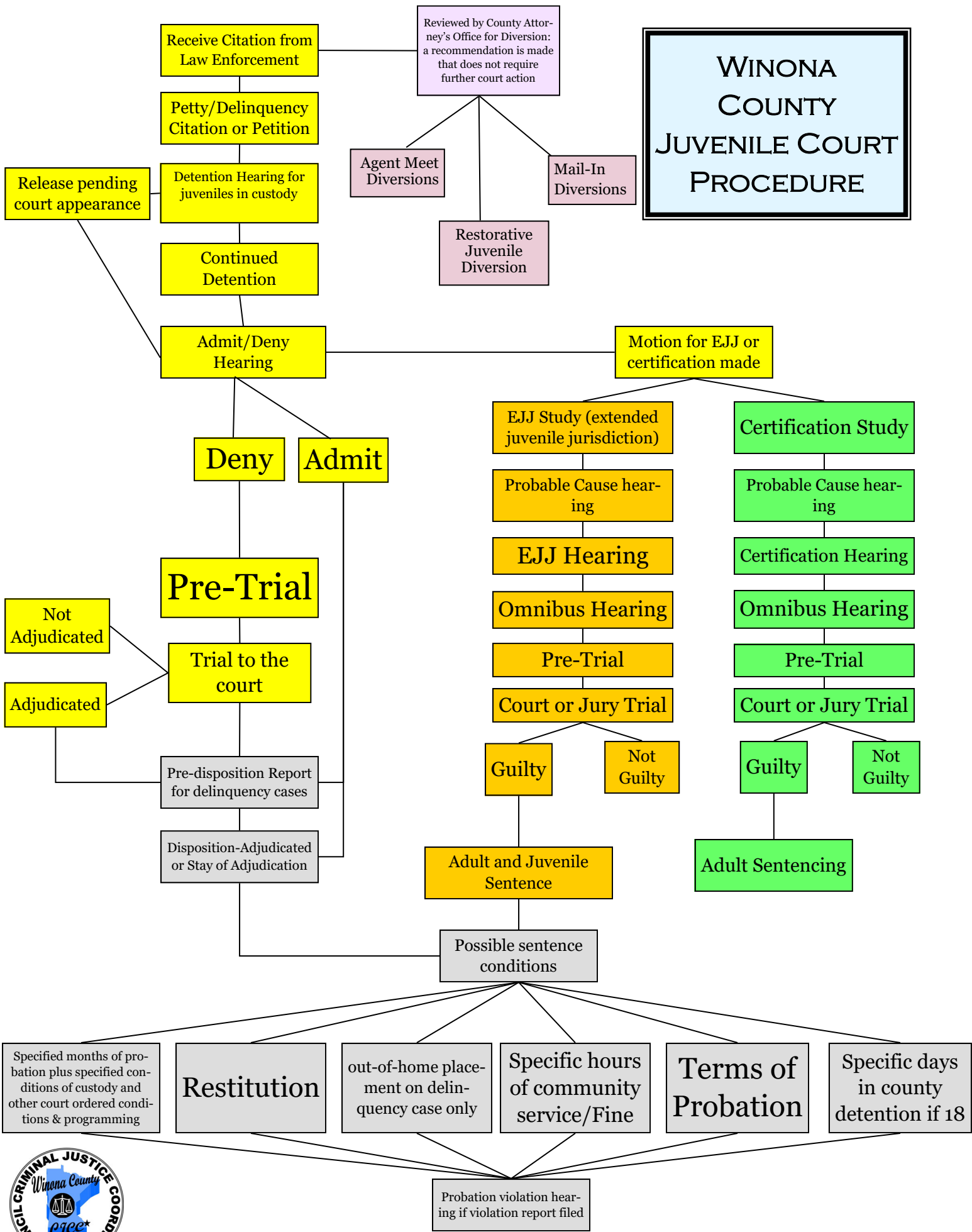
5. The probation violation must be proved by clear and convincing evidence. You have the right to appeal the decision of the court after a revocation hearing.

DATE: \_\_\_\_\_  
(Signature of Child)

DATE: \_\_\_\_\_  
(Signature of Parent, Legal Guardian, or Legal Custodian)

	TYPE OF OFFENSE			ADJUDICATION/CONSEQUENCES		
	Legal Definition	Statutes	Common Offenses	Adjudications	Possible consequences	Statute
Delinquency Offenses - Misdemeanors	A misdemeanor is a delinquency, unless it is a petty offense. (see below for description of petty offenses)	260B.007 subd. 6	Assaults (Fifth degree or domestic); Crim Sex Offense; Controlled substance offenses	Adjudicated Delinquent	1) counsel the child; 2) place the child on probation with condition designed for the physical, mental and moral well-being and behavior of the child; 3) transfer custody of the child for placement; 4) pay restitution; 6) pay a fine up to \$1,000; 6) order special treatment and care for reasons of physical or mental health; 8) require the child's DL be cancelled until their 18th birthday; 9) enroll in school, stay in school and attend school; 10) require an assessment and sex offender treatment, if appropriate	260B.198 subd. 1
Delinquency Offenses - GM and Felonies	All GM and felonies	260B.007, subd. 16			Court may order placement in secure treatment facility	260B.198 subd. 3
					After admission may continue without adjudication for up to 1 year (stay of adjudication)	260B.198 subd. 7
Petty Juvenile Offenses	Includes juvenile alcohol offender; juvenile controlled substance offender; violation of a local ordinance; Offense that would be a misdemeanor if committed by an adult.	260B.007 subd. 16	Disorderly Conduct; Theft; Minor Consumption	Adjudicated petty offender	1) pay a fine up to \$100; 2) require participation in a community service project; 3) require drug awareness program; 4) order CD evaluation and comply with outpatient treatment; 5) probation up to 6 months or can be longer if deemed appropriate by the court; 6) pay restitution; 7) perform any other activities or participate in any other outpatient treatment programs deemed appropriate by the court	260B.235 subd. 4
EXCLUSIONS FOR PETTY JUVENILE OFFENSES	<u>Does not include:</u> violating order for protection; contempt; assault; domestic assault; arson; reckless handling of a dangerous weapon; interference with privacy; harassment; or indecent exposure. <u>Does not include</u> a major traffic offense or an adult traffic offense. <u>Does not include</u> a misdemeanor-level offense committed by a child who was previously found to have committed a misdemeanor, GM or felony offense. <u>Does not include</u> misdemeanor-level juvenile offender who has 2 or more prior petty offenses, unless County Atty petitions otherwise	260B.007 subd. 16				
Juvenile Traffic Offender	Any violation of traffic laws that is not an adult court offense; in general, this includes a violation of a state or local traffic law, ordinance or regulation. If 15 or younger, all cases go to juvenile court **Any traffic offense other than a petty misdemeanor or a DWI	260B.225 subd. 1; 260B.225, subd. 4	Careless driving; Underage drink and drive; No proof of insurance	Adjudicated traffic offender	1) reprimand the child; 2) conditions that govern the child's use and operation of any motor vehicle; 3) require the child to attend a driver improvement school; 4) recommend the DPS suspend the child's DL; 5) place child on probation 6) pay restitution 7) pay a fine up to \$1,000; 8) order a CD assessment and follow recommendations	260B.225 subd 9
Adult Traffic Offender	petty misdemeanor violation of a traffic laws or a DWI by an individual 16 years or older	260B.225 subd. 1; 260B.225, subd. 4	Speeding; DWI	same as adult dispositions	court may order child placed out of home only in a residential treatment facility or juvenile correctional facility	260B.225, subd 8+D10:H12F1A10:H12

# WINONA COUNTY JUVENILE COURT PROCEDURE



## Parent/Juvenile Rights and the Arrest Process

### Rights of a Juvenile and Parent/Guardian Regarding Court

Rights of a Juvenile and Parent/Guardian vary depending on the offense that was committed. The following is a list of documents that outline your rights. If you have not received these documents you may obtain them from the Court Administrator.

1. Statement of Party's Rights– Child in Need of Protective Services (CHIPS) Proceedings
2. Statement of Rights– Juvenile Delinquency Proceedings
3. Statement of Rights– Juvenile Traffic Offender Proceedings
4. Statement of Rights– Juvenile Petty Offender and/or Status Offender Proceedings

### Arrest

Law enforcement officers may take a juvenile into custody when they suspect that he/she has committed a crime. Depending on the circumstances of the crime, the juvenile may be released to a parent, detained in secure detention or a shelter care facility. Law enforcement officers will notify the parents or guardian of the specific information concerning the youth's arrest and detention. The investigating law enforcement agency prepares a report and files it with the Winona County Attorney's Office to consider the filing of formal charges. Law enforcement officers have the authority to directly charge juveniles with misdemeanors by citation (issuing a ticket) which will require an appearance in Juvenile Court. A juvenile citation is referred to the Winona County's Attorney's Office for review prior to it being filed with the court.

## What kinds of sentence (dispositions) may be imposed?

As a disposition, the Juvenile Court's order may include, but is not limited to, the following:

- Probation under supervision of a probation officer;
- Monitoring to verify compliance with court orders;
- Electronic Home Monitoring;
- Removal from the family home to a correctional placement or a treatment facility, but only in delinquency cases;
- Pay restitution to the victim or to a victim fund;
- Apologize to the victim;
- Perform community work service;
- Pay a fine;
- Complete a chemical use assessment and follow the recommendations including treatment;
- Complete a psychological evaluation;
- Attend school;
- Complete special classes or programs;
- Learn new skills;
- Other Court-ordered sanctions

If the juvenile violates the Juvenile Court order, the juvenile may be required to appear in court and more severe consequences may be imposed.

## Juvenile Delinquency, Diversion, Arrest, Prosecution, and Court Process



**THIS BROCHURE PROVIDED COURTESY OF:  
WINONA COUNTY  
CRIMINAL JUSTICE COORDINATING COUNCIL  
MAILING ADDRESS:  
WINONA COUNTY COURTHOUSE  
171 WEST THIRD STREET  
WINONA, MN 55987  
[WWW.WINONACOUNTYCJCC.ORG](http://WWW.WINONACOUNTYCJCC.ORG)  
(507) 454-7770**



## Roles of Attorneys/Corrections and Extended Jurisdiction

### The County Attorney

The Winona County Attorney is responsible for prosecuting all juveniles (10-17 years of age) charged with crimes in Winona County. The County Attorney assigns assistant attorneys to handle all aspects of juvenile prosecution. Once a police report is received, it is reviewed by the County Attorney's Office to determine which charges are appropriate, if any.

### Public Defender/Attorney

The public defender is a court-appointed attorney. If the juvenile is charged with a juvenile delinquency, the juvenile will be appointed a public defender. The juvenile also has the right to be represented by a privately-retained attorney. A juvenile does not have a right to a court-appointed attorney for petty juvenile offenses.

### Department of Corrections (DOC)

The DOC has numerous functions in the Juvenile Justice System. They make recommendations to the Court regarding what sentence (disposition) should be given by the Judge. If the juvenile is placed on probation, DOC will determine how closely to supervise the juvenile and will assign a probation agent to supervise the juvenile. The DOC works with the juvenile and the parents to address the behavior of the juvenile, provide opportunities for the juvenile to learn new skills and make changes, and help the juvenile become involved in positive activities in the community.

### Extended Jurisdiction or Prosecution as an Adult

Some juveniles who are 14 years of age or older and who are charged with more serious offenses may be prosecuted under Minnesota's extended jurisdiction law. If the youth is convicted, this law extends the jurisdiction of the Juvenile Court over the youth until age 21 and also results in an adult sentence being imposed which is initially stayed (not imposed). If the juvenile violates the terms of the Juvenile Court disposition or commits a new crime, a Judge may impose this adult sentence. Some juveniles charged with more serious crimes may also be prosecuted in adult court.

## Diversion and Court Processes

### Diversion

A juvenile who is a first-time offender who faces charges that are juvenile petty offenses may be eligible to participate in a diversion program. To be eligible, the child must admit to committing the crime and meet the criteria of the diversion program. Participation is voluntary and left to the decision of the parent(s) and juvenile.

There are three types of diversions. For low level/non-victim offenses, such as a traffic offense, a juvenile may be offered to complete a **mail-in diversion**. A probation agent will mail the juvenile a form to acknowledge/admit the offense and the juvenile will agree to pay a fine or complete community work service (CWS). Once the fine is paid or the CWS completed, the diversion is closed successfully.

An **agent meet diversion** includes the juvenile and parent meeting with the probation agent. During the meeting a contract is drawn up to include consequences. Once the juvenile has successfully completed the conditions of the contract, the diversion is closed successfully.

The third diversion type is when the diversion is referred to **restorative justice**. A restorative juvenile diversion includes a circle. The circle includes the juvenile, the juvenile's parent(s), the victim(s), a support person for the victim, if they want, at least two community members and the restorative justice workers. During the circle, everyone is given the opportunity to be heard. Then a contract is drawn up regarding the juvenile's consequences. The consequences should be related to the offense, and everyone must agree on the terms. Once the contract is completed, the diversion is closed successfully.

If a diversion is completed successfully, offense will not go on the juvenile's court record. If the juvenile fails diversion or is not eligible for diversion the juvenile and the parent(s) are required to appear in Juvenile Court to answer to the charges.

### The Juvenile Court

At the first hearing, the juvenile, parents, defense attorney and County Attorney will meet before the Judge. The juvenile will then be given the opportunity to either admit or deny the charges. If the juvenile is charged with a felony, photographs and fingerprints will be taken following the initial hearing if not taken at the time of arrest. In most juvenile court cases, the Juvenile Court's jurisdiction over the convicted offenders ends when the juvenile reaches the age of 19.

## What happens if the juvenile admits or denies the charges?

### Admits the charges

The Judge may impose a sentence (disposition) immediately or order a study to be done in which case the sentencing would occur at a later hearing. The County Attorney, defense attorney, Department of Corrections, parents and victim may express their recommendations to the Court.

### Denies the charges

#### • Pre-Trial

If the juvenile denies the charges, the Court will schedule another court hearing date. This is called a pre-trial hearing. Prior to or at this hearing, the County Attorney and defense attorney meet to try and negotiate a settlement and other legal issues concerning the case will be addressed. If no agreement can be reached, a trial date will be set.

#### • Trial

At a trial, the juvenile is presumed innocent until proven guilty. The County Attorney must prove that the juvenile is guilty beyond a reasonable doubt. The County Attorney will present evidence to the Court that may include witness testimony. Most juvenile hearings are trials to the Judge and not a jury with the Judge making the final determination of guilty or not guilty. Juveniles prosecuted under the extended jurisdiction statute are entitled to a jury trial. Juvenile Court is closed to the public unless the juvenile is charged with a felony and was at least 16 years old at the time of the offense.

## Parental Liability

Under Minnesota law, a parent or guardian of a juvenile may be responsible for injuries or damages caused by the juvenile up to \$1,000. Also, Minnesota law requires the child, parents or guardian of a child to contribute, under established fee schedules, to the cost of care, examination or treatment of the child as ordered by the Court.