

**Cuyahoga County Court of Common Pleas  
Juvenile Division  
Local Rules**

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# **GENERAL PROVISIONS**

## **Rule 1. Scope of Rules**

### **(A) Juvenile Court Jurisdiction**

The Rules of Juvenile Procedure, as supplemented by these local rules, govern all procedures in proceedings in the Cuyahoga County Juvenile Court within the jurisdictional boundaries as provided by law.

### **(B) Original Actions**

Original actions filed in this court are governed by the following:

- (1) The rules of civil procedure;
- (2) The rules of criminal procedure;
- (3) The local rules of juvenile procedure;
- (4) The rules of evidence;
- (5) The Ohio traffic rules; and
- (6) All applicable statutes.

### **(C) Amendment of Rules**

The Cuyahoga County Juvenile Court has the authority to change its local rules of practice. Ordinarily, when the court proposes to make a change to the local rules, the court shall post the rule and invite comment by interested persons at least 30 days before the effective date. In its discretion, the court may allow additional time for comments to be received. Notice shall be accomplished by placing the proposed change on the court's website (<http://juvenile.cuyahogacounty.us>), by posting the proposed change on the bulletin board located in the juvenile court clerk of court's office, and by providing copies of the proposed change to the Guardian ad Litem Project, to the Public Defender's Office, to the Prosecutor's Office, and to any persons requesting a copy. Following the 30 day period for comment, the court, in its discretion, may modify, delete, or adopt a proposed rule change as originally proposed. The court may immediately delete or modify an existing rule or adopt a new rule if, in the opinion of the court, either exigent circumstances so require or the rule change is ministerial to the function of the court. Public comments should be forwarded in writing to: Juvenile Court Staff Attorney, Juvenile Justice Center, 9300 Quincy Avenue, Cleveland, Ohio 44106.

## **Rule 2. Terms of Court and Hours of Court Sessions**

- (A) The term of court is one calendar year. All actions and other business pending at the expiration of any term of court are automatically continued without further order.
- (B) The jurist may adjourn court or continue any case whenever, in his or her opinion, such continuance is warranted.
- (C) Sessions of the court may be held at such places throughout the county as the court shall from time-to-time determine.
- (D) The session of the court shall be daily, Monday through Friday, 8:30 a. m. to 4:30 p.m.
- (E) The court shall be in session at such other times and hours as the administrative judge or any jurist thereof shall prescribe to meet special situations or conditions.

Last Revised 12/9/2013

### **Rule 3. Conduct in Court**

Proper decorum in the Court and surrounding areas is necessary for the administration of the Court's business. No radio or television transmission, voice recording device, use of cellular telephones and pagers, or the making or taking of pictures shall be permitted, except upon the consent of the Court and in accordance with Rules 11 and 12 of the Rules of Superintendence of the Courts of Ohio.

Last Revision Unknown, Prior to 2012

#### **Rule 4. Media and Public**

- (A) For purposes of these rules, the term "media" shall be understood to encompass representatives from any print or broadcast media.
- (B) Superintendence Rule 12 shall govern the presence of the media at hearings. Matters not covered by said rule shall be governed by the jurist assigned to the case.
- (C) Hearings that are governed by the Ohio Rules of Civil Procedure or the Ohio Rules of Criminal Procedure shall be open to the public, subject to closure by the Court. Hearings governed by the Ohio Rules of Juvenile Procedure are neither presumptively open nor presumptively closed to the public and the media.
- (D) Written requests to permit the presence of the public or the media shall be made by the person or media representative seeking to be present for any hearing not generally open to the public. The request shall be filed prior to the scheduling of the hearing, except with leave of Court. The request shall specify the case, date, the name, address and phone number of the person or media company seeking to be present along with the number of persons and type of equipment expected to be brought into the courtroom. The Court may direct the Clerk of Court to serve notice of the request to the appropriate persons.
- (E) Members of the media or public shall not be permitted to enter the jurist's chambers or accesses without judicial approval.
- (F) Audio equipment shall be so controlled that it will not pick up conferences or conversation between counsel and client, and between the jurist and counsel at the bench.
- (G) The Court shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded or photographed. Upon objection, the witness or victim shall not be recorded.
- (H) Permission of the public or media to be present may be revoked by the Court upon a failure to comply with the orders or directions of the Court.

Last Revision Unknown, Prior to 2012



**Rule 5. Use of Juvenile Initials**

All juvenile court pleadings and other documents filed in the court shall use the full names of juveniles rather than their initials except where initials are required pursuant to Rules 44-47 of the Rules of Superintendence for the courts of Ohio.

Last Revised 10/17/2013

**Rule 6. Administrative Judge**

- (A) The term of the administrative judge shall be two years.
- (B) Pursuant to Superintendence Rule 4(C), the Administrative Judge is relieved of such parts of his or her trial duties as is necessary in order to properly manage the calendar and docket of the Court.

Last Revised 5/17/2018

**Rule 7. Magistrates**

Pursuant to Juvenile Rule 40, Civil Rule 53, and R.C. 2151.16 and 2153.08, magistrates are empowered and authorized to conduct hearings, prepare decisions and issue orders on official cases referred to them as the Court shall direct.

Last Revision Unknown, Prior to 2012

## **Rule 8. Concurrent Jurisdiction with Other Courts**

### **(A) Obligation to notify.**

It shall be the obligation of the party initiating an action involving parenting or support of a minor child to inform the Court of the status of any prior or pending action in any domestic relations or juvenile court, including the amount of any prior support orders. In addition, IT SHALL BE THE OBLIGATION OF ANY PARTY TO SUCH AN ACTION TO INFORM THE COURT OF ANY PAST CRIMINAL CONVICTIONS, ANY ACTIVE CIVIL PROTECTION ORDERS, OR PENDING CRIMINAL ACTIONS IN ANY COURT, except for minor traffic violations. Any action involving parenting or parenting time, whether pending or post-decree, and whether raised by complaint or motion, must be accompanied by a parenting proceeding affidavit pursuant to R.C. 3109.27(A). If any parenting or support order has been entered by any other court in this state, no order regarding such issue(s) will be entered by this Court, except upon order from the Court with prior jurisdiction.

### **(B) Jurisdiction with courts outside the state.**

- (1) If any parenting or support order has been entered by any court outside this state, an order regarding parenting and/or parenting time will be entered only upon a showing that jurisdiction properly lies with this Court pursuant to the Uniform Child Custody Jurisdiction Act.
- (2) If the issue is other than parenting and/or parenting time, the Court will enter an order upon a showing that this Court otherwise has jurisdiction to entertain an action, including personal jurisdiction over both parties.

Last Revision Unknown, Prior to 2012

## **Rule 9. Communications with Jurists**

(A) Ex parte communication.

No attorney or party shall attempt to communicate, either orally or in writing, the merits of any litigation with any jurist presiding over the matter until final disposition thereof without the presence of opposing counsel or party, if not represented. This section does not apply to matters filed pursuant to Juvenile Rule 13.

(B) Attorney conference.

If it is determined that an issue in a pending action needs to be discussed with the jurist prior to hearing or disposition, the attorney desiring the conference may, with notice to opposing counsel, request a conference with the jurist.

Last Revision Unknown, Prior to 2012

**Rule 10. Reserved**

**Rule 11. Reserved**

# COUNSEL



**Rule 12. Prohibited Recommendations**

No officer or employee of the Court shall recommend bondsmen or attorneys to persons charged in the Court, litigants or their friends or representatives, except that the Court Services Department may assist in procuring counsel for indigent persons.

Last Revision Unknown, Prior to 2012

**Rule 13. Right to Counsel; Court Personnel and Attorneys**

The right of all parties to be represented by counsel of their own choosing is implicit in the law and is fully recognized by the Court. Court employees shall maintain a neutral, impartial and detached position and shall not give legal advice. Where an attorney has entered an appearance, court personnel shall make all contact with the client through his/her attorney.

Last Revision Unknown, Prior to 2012

## **Rule 14. Assistance of Counsel**

### **(A) When Appointed**

The Court shall appoint counsel whenever the Court determines a child, the child's parent or custodian, or any other person *in loco parentis* of the child desires counsel, is determined to be indigent, and the Court is required to do so by statute. The cost of assigned counsel appointed for a child may be assessed to the child's parent(s), guardian(s), or legal custodian(s) when appropriate. Upon arraignment or subsequent thereto, where it appears to the Court that a party desires to have counsel appointed for him/her, the Court, before doing so, shall require the party to execute an affidavit of indigency and a financial disclosure form and to pay a twenty-five dollar application fee unless the Court determines that it is an undue burden on the party to pay the application fee.

### **(B) Qualifications**

Assigned counsel for all cases shall be currently licensed and in good standing with the Ohio Supreme Court as defined in Gov. Bar R. VI, Sec. 15. Assigned counsel for unruly and delinquency cases shall have the required training and experience outlined in Ohio Administrative Code section 120-1-10.

### **(C) How Appointed**

The court shall maintain an alphabetical listing of qualified assigned counsel. When a jurist appoints an attorney, the jurist shall select the next available individual from the assigned counsel list.

When the assigned jurist determines that unique circumstances exist, or to facilitate the expeditious management of the docket, the jurist may appoint any individual from the assigned counsel list.

### **(D) Compensation**

(1) Assigned counsel shall be compensated in accordance with the Fee Bill Policy and Fee Schedule in effect at the time the attorney was appointed upon the filing of a Motion for Appointed Counsel Fees (Form OPD-206R and Form OPD-1026R), and shall be compensated at the authorized rate for in-court and out-of-court time not to exceed the maximum fee cap in effect at the time of acceptance of the assignment.

Assigned counsel is entitled to one maximum fee when one proceeding is held for a single subject on multiple charges or counts arising out of a single incident of criminal conduct or a series of related incidents. On cases involving multiple charges in which one fee is payable, the maximum fee shall be set corresponding to the highest degree of offense charged.

(2) It shall be the responsibility of the assigned counsel to file an itemized and signed Form OPD-206R and to meet all requirements of the Cuyahoga County Juvenile Court Fee Bill Policy in effect at the time the fee bill is filed.

(3) If an assigned counsel files a motion for extraordinary fees with the Clerk of Court, it shall be referred to the assigned judge for review and approval of payment.

(E) Periodic Review

The Court shall periodically review all assigned counsel appointments and assignment practices to ensure the equitable distribution of appointments among the attorneys for the list maintained by the court in section (C) of this rule.

(F) Quality Control

The Court requires quality representation by members of the bar who are appointed as assigned counsel. The Court may remove an assigned counsel from the case assigned in the interest of justice and for good cause shown. From time to time, the Court may develop procedures for quality control for assigned counsel. The Court may remove assigned counsel from the approved assigned counsel list pursuant to the procedure in effect at the time of removal.

(G) Duration of Assignment

An attorney's role as assigned counsel shall terminate upon entry of a final appealable order or the expiration of the time for appeals in the matter for which the attorney is assigned except for the following:

- (1) When an attorney has been appointed counsel to represent a defendant in a support hearing when a Motion to Show Cause has been filed, the attorney will continue to represent the defendant through the Review of the Purge hearing.
- (2) When an attorney has been appointed to represent a party in an abuse, neglect, or dependency case, the attorney will continue to represent the party until a final disposition is entered. For this purpose, a final disposition is: termination of Protective Supervision; termination of Temporary Custody without Protective Supervision; Termination of Planned Permanent Living Arrangement without Protective Supervision; Legal Custody without Protective Supervision; Permanent Custody; or any order which terminates the court case or Cuyahoga County Division of Children and Family Services involvement or the party's involvement in the case.

(H) Process: Notice

Absent a prohibiting disability, in conformity with Local Rule 39, an attorney assigned to represent a party before the Court shall provide a current email address to the Court's Clerk's Office. Unless the Court determines otherwise, notice of all upcoming hearings will be provided to counsel via the email address they have provided.

Last Revised 8/19/2021

Previously Revised 12/17/2020

## **Rule 15. Guardians ad Litem**

### **(A) When Appointed**

The Court shall appoint a Guardian ad Litem in accordance with Sup. R. 48.02.

### **(B) Qualifications**

A Guardian ad Litem shall have the following qualifications:

- (1) Currently licensed as an attorney in Ohio and in good standing with the Ohio Supreme Court as defined in Gov. Bar R. VI, Sec. 15;
- (2) Meet the qualifications and comply with all training requirements of Sup. R. 48-48.07; and
- (3) Possess and maintain current legal malpractice insurance.

### **(C) How Appointed**

The Court shall maintain an alphabetical listing of qualified Guardians ad litem. When a jurist appoints a Guardian ad Litem, the jurist shall select the next available individual from the list. When the assigned jurist determines unique circumstances exist, or to facilitate the expeditious management of the docket, the jurist may appoint any individual from the Guardian ad Litem list. It shall be the responsibility of the person seeking to be placed on the Court's list of approved Guardians ad Litem to submit documentation demonstrating compliance with the qualifications listed in Sup. R. 48, and to submit annually the certification and proof of having met the continuing training requirements in Sup. R. 48.

### **(D) Compensation**

- (1) At the time the Court appoints a Guardian ad Litem for a child and prior to ordering that the State pay Guardian ad Litem fees, the Court shall require the parties to execute an affidavit of indigency and a financial disclosure form.
- (2) When a party is not indigent, the Court may order the party to post a bond to secure payment of Guardian ad Litem fees, sua sponte or upon motion by the Guardian ad Litem. As the case proceeds, the Court may order a party to post additional bond.
- (3) If the filing party fails to post the bond ordered to secure payment of Guardian ad Litem fees, the Court may dismiss the party's complaint or motion or may impose any other sanction the Court deems appropriate. If any other party fails to post the bond ordered, the Court may impose any sanction the court deems appropriate.
- (4) The Guardian ad Litem shall maintain accurate time and expense records and shall provide monthly billings to the parties during the pendency of the case.
- (5) Upon motion for Guardian ad Litem fees to be paid by the parties, the Court shall conduct a hearing to determine: 1) the amount of time the Guardian ad

Litem has expended to represent the best interests of the child; 2) whether the time and services rendered were reasonable and necessary in the Guardian ad Litem's representation of the best interests of the child; 3) whether the Guardian ad Litem's hourly rate is commensurate with customary fees in this locality; and 4) the amount each party shall contribute toward the Guardian ad Litem's fees.

- (6) An order for payment of Guardian ad Litem fees shall be a joint and several judgment. Guardian ad Litem fees are assessed as and for additional child support and as such are not dischargeable in bankruptcy.
- (7) If a party fails to pay the Guardian ad Litem fees ordered, the Court may impose any sanction the Court deems appropriate, including but not limited to a fine, community service, and/or jail time.
- (8) In cases where the State is ordered to pay Guardian ad Litem fees, upon the filing of Form OPD-206R and Form OPD-1026R, compensation to the Guardian ad Litem shall be paid in accordance with the Cuyahoga County Juvenile Court Fee Bill Policy and Fee Schedule in effect at the time the Guardian ad Litem was appointed. The Guardian ad Litem shall be compensated at the authorized rate for in-court and out-of-court time, not to exceed the maximum fee cap in effect at the time of acceptance of the assignment.
- (9) The filing of a motion to extend or to modify a previous dispositional order shall be considered a new appointment for billing purposes pursuant to the Cuyahoga County Juvenile Court Fee Bill Policy and Fee Schedule.
- (10) For good cause and with notice, the Administrative Judge may modify the Court's Fee Bill Policy and Fee Schedule in accordance with budget restraints.
- (11) It shall be the responsibility of the Guardian ad Litem to file a completed and signed Form OPD-206R and to meet all requirements of the Cuyahoga County Juvenile Court Fee Bill Policy in effect at the time the fee bill is filed.
- (12) If a Guardian ad Litem files a Motion for Extraordinary Fees with the Clerk of Court, it shall be referred to the assigned judge for review and approval of payment.

(E) Dual Appointment Capacity

In the event a Guardian ad Litem is also appointed as the child's legal counsel and a conflict of interest arises in the dual appointment, the Guardian ad Litem/attorney shall immediately notify the Court and withdraw as legal counsel and successor legal counsel shall be appointed pursuant to R.C. 2151.281(H) and Juv. R. 4(C).

(F) Periodic Review

The court shall periodically review all Guardian ad Litem appointments and assignment practices to ensure the equitable distribution of appointments among the attorneys for each list maintained by the court in section (B) (3) of this rule.

(G) Responsibilities of a Guardian ad Litem

A Guardian ad Litem shall comply with all requirements as listed in Sup. R. 48-48.07.

(H) Quality Control

The Court requires quality representation by members of the bar who are appointed as Guardians ad litem. The Court may remove a Guardian ad Litem from the case assigned in the interest of justice and for good cause shown. The Court may remove a Guardian ad Litem from the approved list of Guardians ad Litem pursuant to the procedure in effect at the time of removal.

(I) Comments or Complaints; Removal

- (1) Comments or complaints regarding the performance of a Guardian ad Litem shall be made in writing and directed to the Court's Legal Department. A copy of any comments or complaints so submitted shall be provided to the Guardian ad Litem who is the subject of the comment or complaint.
- (2) The Court's Legal Department shall take appropriate action as necessary regarding any comment or complaint filed. The person making the comment or complaint and the subject Guardian ad Litem shall be notified of the disposition, and a written record shall be maintained in the Guardian ad Litem's file.
- (3) Motions to remove a Guardian ad Litem shall be referred to the judge or magistrate before whom the matter is pending.
- (4) Guardians ad Litem may be removed from the Court's appointment list with the approval of a majority of the judges of the Court.

(J) Duration of Assignment

The duration of an attorney's role as Guardian ad Litem shall be controlled by R.C. 2151.281 and Sup. R. 48.

(K) Process: Notice

Absent a prohibiting disability, in conformity with Local Rule 39, a Guardian ad Litem appointed to represent a party before the Court shall provide a current email address to the Court's Clerk's Office. Unless the Court determines otherwise, notice of all upcoming hearings will be provided to the attorney via the email address they have provided.

Last Revised 10/21/2021

Previously Revised 12/17/2020

**Rule 16. Entry of Appearance**

(A) All notices of entry of appearance of counsel in any action shall be in writing. Entry of appearance by counsel may be effective by signature of counsel on a pleading or motion to the Court. The notice of entry of appearance of counsel shall be sent to all attorneys and unrepresented parties.

(B) New attorney of record.

Any attorney of record entering a case on behalf of a party who has had previous representation in the action shall do so by filing written notice of substitution of counsel. Substitution of counsel does not require Court approval. Notice of substitution of counsel shall be sent to all attorneys, unrepresented parties and interested persons.

Last Revision Unknown, Prior to 2012



## **Rule 17. Guardian ad Litem/Counsel/Attorney of Record—Withdrawal/Removal**

### **(A) Withdrawal.**

- (1) It is contemplated that a guardian ad litem/attorney of record who has entered an appearance or been appointed in the case shall remain on the case until the entry of a final appealable order or as otherwise provided in these rules.
- (2) Upon entering an appearance as counsel for any party, no attorney shall be relieved of his/her responsibility unless:
  - (a) He/she timely files a written motion with the Court stating the reasons for the withdrawal;
  - (b) He/she provides certification that his/her client has been served with the motion by certified mail, return receipt requested;
  - (c) The motion is accompanied by proper certification that all counsel or, if unrepresented, the parties have been notified;
  - (d) The motion includes the last known address and phone number of the client; and,
  - (e) The Court grants the motion.

### **(B) Removal for conflict of interest.**

Upon motion of a party, or upon the Court's own motion, where it appears that a guardian ad litem/attorney of record has a conflict of interest, the Court may remove the guardian ad litem/attorney of record from the case and afford the party the additional time required to secure other counsel.

### **(C) Time of withdrawal.**

No guardian ad litem/attorney of record shall be permitted to withdraw from a case later than thirty (30) days prior to a trial/adjudicatory hearing, dispositional hearing or a bindover hearing except for extraordinary circumstances that require direct permission from the Court.

Last Revision Unknown, Prior to 2012

## **Rule 18. Guardian ad Litem Written Report**

- (A) For the purposes of this rule, "Final Hearing" shall include any abuse, neglect and dependency hearing in which a complaint or motion is pending and a disposition will be rendered, including all annual reviews and all dispositions in private custody cases and allocation of parental rights and responsibilities.
- (B) A Guardian ad litem shall file a written report with the court no less than seven (7) days prior to the final hearing in accordance with Rule 48 of the Rules of Superintendence for the Courts of Ohio or as otherwise ordered by the court.
- (C) The Guardian ad litem shall file a Notice of Submission of the Guardian ad Litem Report with the written report. Pursuant to the Ohio Rules of Juvenile Procedure, the Guardian ad litem shall serve the Notice of Submission of the Report on all parties or their legal representatives. Such submissions shall be made in compliance with The Ohio Rules of Superintendence, Rules 44(H) and 45(D).
- (D) The court shall make the report available to the parties or their legal representatives for inspection no less than seven (7) days prior to the final hearing, unless the due date for submission of the report is extended by the court. Written reports may be accessed in person at the clerk's office by the parties and their legal representatives.
- (E) The parties may waive the requirement of a written report with the approval of the court, except as prohibited by statute.
- (F) A Guardian ad litem may be ordered to file a written report on a case-by-case basis in all other cases including delinquency matters.
- (G) Each Guardian ad Litem Report shall detail the following when disclosure is in the best interests of the child:
  - (1) Activities performed;
  - (2) Hearings attended;
  - (3) Persons interviewed and dates of the interviews;
  - (4) Documents reviewed;
  - (5) Experts consulted;
  - (6) Summary of the child's case;
  - (7) Any special needs of the child (e.g., mental health, disabilities, etc.);
  - (8) That the Guardian ad litem ascertained the child's wishes or that the child lacked sufficient maturity to express his or her wishes;
  - (9) Dispositional and placement options (e.g., relatives, third parties, private placement, etc.)
  - (10) Specific recommendations, including recommendations of disposition, and the Guardian ad litem's reasons for that position;

- (11) All other recommendations, suggestions or concerns that the Guardian ad litem can identify as in the child's best interests;
  - (12) All other relevant information considered by the Guardian ad litem in reaching the Guardian ad litem's recommendations and in accomplishing the duties required by statute, by court rule, and in the court's Order of Appointment.
- (H) The Guardian ad litem may orally supplement the final report at the conclusion of the hearing.
  - (I) Each Guardian ad litem shall perform his or her duties in accordance with the Guidelines for Guardians ad litem adopted by the Guardian ad Litem Project Advisory Committee on June 2, 1994 and as amended, and Rule 48 of the Rules of Superintendence for the Courts of Ohio.
  - (J) All parties, agencies, and other individuals shall make good faith efforts to make the child available to the Guardian ad litem, and to provide the Guardian ad litem with the names and telephone numbers of any pertinent individuals whom the Guardian ad litem should contact. Similarly, all parties are obligated to provide the Guardian ad litem with any relevant written reports, documents, evaluations or other material that party wishes the Guardian ad litem to consider as part of the Guardian ad litem investigation.
  - (K) A Guardian ad litem may file a written motion requesting to restrict public access to the Guardian ad Litem Report or a portion of the report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the person for whom the Guardian ad litem was appointed in accordance with Rule 45 of the Rules of Superintendence for the Courts of Ohio.

Last Revised 10/18/2012

## **Rule 19. Attorney Fees**

(A) How made.

- (1) A request for attorney fees shall be made by motion filed at least fourteen (14) days prior to the hearing scheduled in the underlying matter.
- (2) No oral motion for fees shall be entertained unless good cause is shown why the provision of this rule could not be followed.

(B) Evidence in support of motion.

At the time of the final hearing on the motion or pleading that gives rise to the request for attorney fees, the attorney seeking fees shall present:

- (1) An itemized statement of the services rendered, the time of such services, and the requested hourly rate for in-court time and out-of-court time.
- (2) Testimony as to whether the case was complicated by any or all of the following:
  - (a) New or unique issues of law;
  - (b) Difficulty in ascertaining or valuing the parties' income/assets;
  - (c) Problems with completing discovery;
  - (d) Any other factor necessitating extra time being spent on the case;
- (3) Testimony regarding the attorney's years in practice and experience in juvenile cases; and
- (4) Evidence of the parties' respective income and expenses, if not otherwise disclosed during the hearing.

(C) Expert testimony is not required to prove reasonableness of attorney fees.

(D) Failure to comply with the provisions of this rule shall result in the denial of a request for attorney fees.

Last Revision Unknown, Prior to 2012

**Rule 20. Reserved**

# **CASES AND RECORDS**

## **Rule 21. Pleading and Motions**

### **(A) Form of pleading.**

All pleadings and motions shall be typewritten or legibly printed on paper 8 1/2 x 11 inches, securely bound at the top and unfolded. The caption in every complaint shall state the name and address, if known, of each party. Subsequent pleadings and motions shall state the number of the case, the name of the jurist, the name of the first party plaintiff and the first party defendant on each side. Every pleading, motion and other paper filed in the cause shall be identified by title and shall bear the name, address, telephone number and fax number of the attorney or, if there is no counsel, the party filing the papers. If the filing is made by an attorney, the Supreme Court registry number of the attorney and the name of the firm with which the attorney is affiliated, if any, must be included. In all cases, a blank space of at least two and a half (2 1/2) inches shall be left at the top of the first page for endorsements thereon.

In accordance with Criminal Rule 47, Civil Rule 7, and Juvenile Rule 19, a motion, other than one made during trial, shall be in writing unless the Court permits it to be made orally. A written motion may be ruled upon by the Court without an oral hearing. The motion shall be supported by a memorandum containing citations of authority and may also be supported by an affidavit. All motions shall be accompanied by a proposed order.

### **(B) Fact sheet.**

A fact sheet shall be completed and filed with all original complaints and petitions.

### **(C) Temporary restraining orders.**

Requests for temporary restraining orders may be made by separate motion. Any request for such an order shall be supported by an affidavit signed by the party stating the reasons for requesting the restraining order. Such orders may be granted on an ex parte basis and shall be directed only against a party to the action. Motions requesting restraining orders and a separate journal entry granting the relief requested under the motion shall be filed with the Clerk of Court. A party against whom an ex parte restraining order was granted may file a motion, supported by an affidavit, requesting that such order be dissolved, either in part or in full.

### **(D) Citations of authority.**

Every brief, motion or other pleading shall include photocopies of any unreported opinions and the disposition by a superior appellate court of any appeal from that case discovered after diligent search. Upon request of the Court, the attorney will supply the Court with a copy of any case cited in the pleading.

## **Rule 22. Facsimile and Email Filing**

### **(A) Applicability**

This rule shall apply to the following:

- (1) Emergency Custody Motions, Dependency, Neglect and Abuse Complaints, Affidavits in support and associated documents filed by Assistant Prosecuting Attorneys representing the Cuyahoga County Division of Children and Family Services seeking next day shelter care hearings.
- (2) A Certificate of one or more reputable practicing physicians that a child is in need of emergency medical and surgical treatment and the Complaint and Application for Care filed by a representative of the hospital or physician seeking to provide the immediate medical or surgical treatment.
- (3) An Ohio Uniform Traffic Ticket, Delinquency Complaint, Unruly Complaint, Adult Case Complaint alleging Interference with Custody and/or Contributing to the Delinquency of a Minor, or a computer generated or electronic Ohio Uniform Traffic Ticket that conforms to Local Juvenile Rule 10 filed by a law enforcement agency.

### **(B) Definitions**

As used in this rule:

- (1) "Facsimile transmission" means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end. "Facsimile transmission" does not include transmission by Email.
- (2) "Facsimile machine" means a machine that can send and receive a facsimile transmission.
- (3) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
- (4) "Email" means: A message distributed by electronic means from one computer user to one or more recipients via a network or is a method of exchanging digital messages from an author to one or more recipients.

### **(C) Original Filing**

A document filed by a fax or email shall be accepted as the effective original filing. The person filing a document by facsimile or email is not required to file a source document with the Clerk. The person filing the document shall maintain in his or her records and have available for production on request by the court, the source document filed by fax or email, with original signatures as otherwise required under the applicable rules and the source copy of facsimile or email cover sheet used for the subject filing.



The source document filed by facsimile or email shall be maintained by the person making the filing until the case is closed, and all opportunities for post-judgment relief are exhausted.

All documents faxed and emailed and filed shall conform to Sup. R. Rule 45(D).

(D) Cover Page

- (1) The person filing a document by fax or email shall also include all of the following information in a cover page or in the body of the email:
  - (a) Name of the Court
  - (b) Title of the Case (In Re: and child's initials)
  - (c) Case Number
  - (d) Name of the judge to whom the case is assigned, if any
  - (e) If a judge or a case number has not been assigned, state that fact
  - (f) Name of the child's Guardian ad litem, if one is assigned
  - (g) Title of the document being filed
  - (h) Date of transmission
  - (i) Transmitting fax number
  - (j) Indication of the number of pages included in the transmission, including the cover page
  - (k) Name, address, telephone number, fax number, Supreme Court registration number, and email address of the person filing the fax document if available.
- (2) If a document is sent by fax or email to the Clerk without the information listed above, the Clerk may do any of the following:
  - (a) Enter the document in the case docket and file the document;
  - (b) Deem the document a failed transmission.
  - (c) Respond to the email with a notation of the reason for failure
  - (d) If the Clerk does not enter the document, the document shall not be considered to be filed by the Clerk.
  - (e) The Clerk will inform the sending party of the failed fax or email filing.

(E) Signature

A party who wishes to file a signed source document by fax or email shall fax or email a copy of the signed source document.

A party who files a signed document by fax or email, represents that the physically signed source document is in his or her possession or control.

(F) Time of Filing

Subject to the provisions of these rules, all documents sent by fax or email and accepted by the Clerk, shall be considered filed with the Clerk as of the date and time the fax or email transmission was received by the Clerk. The Office of the Clerk will be open to receive facsimile and email transmissions of documents twenty-four hours per day, seven days per week, including holidays. In the case of faxed documents, each page of any document received by the Clerk shall be automatically imprinted with the date and time of receipt. In the case of email documents the date and time will be in the sent line in the header of the email. The date and time imprinted on the document shall determine the time of filing, provided that the document is deemed accepted by the Clerk.

(G) Fees and Costs

No fee shall be assessed for facsimile or email filings transmitted pursuant to this rule.

Last Revised 3/16/2017

## **Rule 23. Service**

(A) Process: summons.

Service shall be completed as provided in the Juvenile and Civil Rules of Procedure, as applicable.

(B) Service by publication: residence unknown.

If the residence of the respondent is unknown, service by publication shall be made by posting and mail. Before service by posting and mail can be made, an affidavit of a party or the party's counsel shall be filed with the court. The affidavit shall contain the same averments required by Juvenile Rule 16 or Civil Rule 4.4(A)(1), whichever is applicable, and in addition shall set forth the first and last name of the child and the respondent's last known address.

Upon the filing of the affidavit, the clerk shall cause service of notice to be made on the website of the court located at: <http://juvenile.cuyahogacounty.us> under the tab "Forms and Publications" and then after clicking "View Publications Here." Persons may also navigate directly to <http://juvenile.cuyahogacounty.us/PublicationSummons.html>.

(C) Notice to attorneys and guardians *ad litem*.

Absent a prohibiting disability, counsel and guardians *ad litem* representing a party before the court shall provide a current email address to the court's Clerk's Office. Notice of all upcoming hearings will be provided to counsel via the email address they have provided. Nothing in this rule shall be construed as prohibiting the trial court in which the case is assigned from providing notice in any other manner.

Last Revised 8/19/2021

Previously Revised 6/20/2019

## **Rule 24. Special Process Servers**

### **(A) Standing Orders for Special Process Server**

Persons requesting a standing order to be appointed as a "Special Process Server" must file an application with this Court supported by an affidavit. The procedure is as follows:

- (1) The application must include the name, address, and telephone number of the applicant.
- (2) The applicant agrees not to accept service of process in any case(s) wherein he/she is named as a party or counsel for the party.
- (3) The applicant agrees to follow Civil Rules 4 through 4.6 and any applicable local rules or procedure set forth in this Court.
- (4) The applicant must be eighteen years of age or older.
- (5) The application must be filed at the Clerk's Office and the applicant must pay the appropriate filing fee.
- (6) The order shall be signed by the Administrative Judge and filed with the Clerk of Court's Office.
- (7) The Clerk's Office shall retain the original application and order and maintain a log of all standing orders.
- (8) The appointment will remain in effect for one (1) year, and the applicant must re-apply annually.

### **(B) Motion to be Appointed as a Special Process Server**

Persons requesting to be appointed as a "Special Process Server" in a specific case must file a motion in the Clerk's Office, and the procedure is as follows:

- (1) The applicant must agree not to accept service of process in any case(s) whereas he/she is named as a party or counsel for the party.
- (2) The applicant agrees to follow Civil Rules 4 through 4.6 and any applicable local rules or procedure set forth in this Court.
- (3) The applicant must pay a filing fee when filing the motion.
- (4) The individual jurist assigned to the case will sign the order and file same in the Clerk's Office for journalization.
- (5) Once the order has been journalized, the Clerk's Office will prepare the summons, notice, pleading, etc. to be served.
- (6) The Special Process Server will pick-up service information and, if necessary, documentation desired to be served from the Clerk's Office.
- (7) The Special Process Server will file the return service in the Clerk's Office.

Last Revised 6/13/2016

## **Rule 25. Security for Costs**

- (A) No action or proceeding for custody, parenting time, visitation, parental relations, or support will be accepted by the Clerk of Court for filing by a non-governmental agency unless the party or parties filing the action have first deposited a sum to secure the payment of costs except as otherwise provided by law. Each child constitutes a separate filing. Therefore, parties will be charged a filing fee for each child. Advance deposits shall be in accordance with the fee schedule posted in the clerk's office and on the juvenile court web site.
- (B) The fee schedule may include fees for case type-specific special programs and additional services.
- (C) In cases with multiple parties, the Clerk of Court may require the party requesting service to advance to the Clerk of Court an amount sufficient to cover the costs.
- (D) The use of a credit card to pay court costs is subject to a convenience fee of 2.5% of the transactional amount or a minimum of \$2.00, whichever is greater.
- (E) A service charge of \$45.00 shall be assessed when checks are presented to the court from accounts with insufficient funds.
- (F) A poverty affidavit filed in lieu of a cost deposit must state the reason for the inability to prepay costs, include supporting documentation as listed in the instructions for the poverty affidavit, and is subject to review when any subsequent motions are filed.
- (G) Costs must be paid for all photocopies including requests via subpoenas.
- (H) The Court reserves the right to modify the fee schedule as necessary and without notice.

Last Revised 12/21/2017

**Rule 26. Notice of Hearings to Foster/Kinship Caregivers**

- (A) In accordance with R.C. 2151.424, the Court will provide notice to foster and kinship caregivers of the right to attend hearings and provide information concerning the child or children in their care.
- (B) To facilitate the Court in fulfilling its duty to provide proper notice of hearings to foster and kinship caregivers, the Instructions for Service Child Placement Form shall be completed and filed with the clerk no later than thirty (30) days prior to the hearing.
- (C) Information regarding the identity and contact information for foster or kinship caregivers provided to assist the Court in fulfilling its duty to give notice under this rule is not accessible to the public, including any party to the case except the guardian *ad litem*.
- (D) Failure to submit the Instructions for Service Child Placement Form does not affect the Court's jurisdiction in a case. A case need not be dismissed for this reason alone but the case may be continued.

Introduced 5/17/2018

## **Rule 27. Court Records**

- (A) Reports and records of the Probation Department, including social history and report of a mental or physical examination, shall be considered confidential information and shall not be made public. The inspection of probation records or other internal records by attorneys and other interested parties shall be governed by Juvenile Rule 32(C) and R.C. 2151.14. No person shall be permitted to read the probation records unless proper authorization is given by the jurist.
- (B) Official court records of cases involving juveniles shall be open for inspection by the parent(s), guardian(s) or, if deceased, next of kin, or by legal counsel or guardian ad litem of any child affected by any order of any proceeding. Otherwise, such records shall not be available to any person except by order of the jurist or by written consent of the juvenile involved and his/her parent(s), guardian(s) or, if deceased, next of kin, or by legal counsel or guardian ad litem.
- (C) Traffic records maintained by the Court are confidential and shall not be made public. Inspection by attorneys or interested parties may be allowed by leave of the Court.
- (D) Any individual or entity that is authorized by an order issued pursuant to R.C. 2151.14(D)(1) to obtain copies of specified records or specified information related to a particular child may file a written request for copies of the records or information requested which shall explain the need for the records or the information requested and include a copy of the order.
- (E) The records of adult cases shall be public record as provided by law.
- (F) No person, except a jurist or his/her representative, shall remove any documents or case files from the custody of the Clerk of Court.
- (G) Upon request, the Clerk of Court shall allow a party, or attorney of record representing the party, to examine, but not remove, any original document or case file that is maintained by his/her office. Examination shall be allowed during regular business hours.
- (H) Upon request and the payment of a photocopy fee, the Clerk of Court shall provide copies of an original document, except official transcripts, maintained by his/her office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk of Court. Photocopy fees may be waived for guardians ad litem and assigned counsel. A reasonable period of time shall be based upon the extent of the request and availability of the legal file. Efforts will be made to provide copies within a 24-hour response time.

The records of adult cases shall be public record as provided by law.

Last Revision Unknown, Prior to 2012



## **Rule 28. Telephonic Orders**

A person who intends to take an alleged abused, neglected, or dependent child into custody may request that a jurist grant by telephone an ex parte emergency order authorizing the taking of the child into custody if the following conditions are present:

- (A) It is between the hours of 4:30 pm and 8:30 am, the court is closed, or it is a weekend or holiday;
- (B) There are reasonable grounds to believe:
  - (1) The child is suffering from illness or injury and is not receiving proper care; or
  - (2) The child is in immediate danger from the child's surroundings; or that a parent, guardian, custodian, or other household member has abused or neglected another child in the house hold; or
  - (3) The child's removal is necessary to prevent immediate or threatened physical or emotional harm.
- (C) The person who wishes to take the child into custody shall call the on-call jurist who shall conduct a hearing to determine whether the child should be taken into custody. The hearing shall be recorded and the recording shall become part of the court record.
- (D) After the hearing is conducted, the person who requested the hearing shall prepare an entry pursuant to Juvenile Rule 25.
- (E) The prepared journal entry shall be signed and journalized pursuant to Juvenile Rule 25 and 25.1.
- (F) A sworn complaint shall be filed with respect to the child before the end of the next business day on which the child is taken into custody.
- (G) A hearing shall be conducted before the end of the next business day after the day on which the emergency custody order is issued, except that it shall not be conducted later than seventy-two hours after the emergency order is issued. The person taking the child into custody shall give the parents of the child notice of the next business day hearing.

Last Revised 11/8/2012

## **Rule 29. Case Management**

In order to improve the docketing time of cases and pursuant to Superintendence Rule 5(B)(1), the following case management procedure shall be in effect:

### **(A) Delinquency Cases**

- (1) Non-Detention Cases shall be docketed in the following time frames:
  - (a) Arraignments shall be conducted within twenty-one (21) calendar days of the filing of the complaint or as soon thereafter practical;
  - (b) Pre-trial hearings shall be conducted within fourteen (14) calendar days from the date of the arraignment or as soon thereafter practical;
  - (c) Adjudicatory hearings shall be conducted within thirty (30) calendar days from the date of the pre-trial hearing or as soon thereafter practical;
  - (d) Dispositional hearings shall be conducted within thirty (30) days from the date an admission was entered or an adjudicatory hearing held or as soon thereafter practical.
- (2) Detention Cases shall be docketed in the following time frame:
  - (a) Arraignment shall be held not later than seventy-two (72) hours after the child is placed in detention or shelter care or the next business day, whichever is earlier;
  - (b) Upon a motion to release from detention or shelter care, a hearing shall be held within seventy-two (72) hours of the filing;
  - (c) Pre-trial hearing shall be set seven (7) calendar days from the date of the arraignment but may be continued on a showing of good cause;
  - (d) The adjudicatory hearing shall be held not later than fifteen (15) days after the filing of the complaint, or may be continued upon a showing of good cause;
  - (e) Dispositional hearings shall be set within fourteen (14) calendar days of the adjudication or the arraignment, whichever is applicable;
  - (f) A child who is alleged to be, or who is adjudicated, a delinquent child may be confined in a place of juvenile detention provided under R.C. 2152.41 for a period not to exceed ninety (90) days.
- (3) Review, motion, probation violation, or violation of court order hearings shall be conducted within twenty-eight (28) calendar days of filing or as soon thereafter practical.
- (4) Competency Proceedings

(a) General Purpose

To expedite competency proceedings pursuant to R.C. 2152.51 through R.C. 2152.59, to ensure that proper notice of competency hearings is provided to the appropriate parties, and to ensure that any proceedings on an underlying complaint are stayed pending the determination of competency under these sections.

(b) Expedited Hearings

Juvenile competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or this rule.

(c) Notice

Upon the conclusion of each hearing, the Court shall provide written notice to the prosecuting attorney, the child's attorney, the child's guardian *ad litem*, and the child's parents, guardian, or custodian of the date, time, and place of the next scheduled hearing. Mailed notice shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon the conclusion of the immediately preceding hearing.

(d) Stay of Proceedings

Upon the filing of a motion for a determination regarding a child's competency or upon the Court's own motion, the Court shall stay all delinquency proceedings pending a determination of competency. If upon a determination of competency the Court determines that the child is not competent, but could likely attain competency, the Court order staying the delinquency proceedings shall remain in effect until such time as the child attains competency or the proceeding is dismissed.

(B) Custody Cases

(1) Upon return from mediation, applications and motions for custody and/or parenting time shall be set for a preliminary hearing within thirty (30) calendar days and set for trial within ninety (90) calendar days of the preliminary hearing. Final judgment shall be entered within six (6) months from the date of receipt from mediation.

(2) At the time of pretrial, all filing parties must be present. If a filing party fails to appear without a showing of good cause, the complaint will be dismissed without prejudice.

(C) Parentage and Child Support Cases

(1) Parentage actions shall be set for a pre-trial hearing within sixty (60) calendar days after completion of service of process and a second pre-trial within thirty (30) calendar days of filing of the genetic test results. Upon the granting of a

motion for genetic tests, an appointment shall be set for the parties to obtain such tests within thirty (30) calendar days of the granting of the motion. Final judgment shall be entered within nine (9) months from the date when service of process was completed.

- (2) All cases filed for which service is not perfected within six (6) months shall, after notice, be dismissed for want of prosecution, unless good cause can be shown to the contrary.

(D) Abuse, Dependency, and Neglect Cases

All cases alleging abuse, dependency, and/or neglect of a child shall be governed by the following case management guidelines:

(1) Shelter Care Hearing

- (a) If a child has been removed pursuant to a Telephonic Order of Removal, a hearing to review the necessity for shelter care shall be held the next business day, but not later than seventy-two (72) hours after the removal of the child. Requests for appointment of counsel and/or guardian *ad litem* shall be reviewed by the jurist.
- (b) If a motion for pre-dispositional temporary custody pending hearing on the complaint is filed requesting immediate hearing, the motion shall be heard on the same day. Requests for appointment of counsel and/or guardian *ad litem* shall be reviewed by the jurist.
- (c) If a motion for pre-dispositional temporary custody pending hearing on the complaint is filed, the shelter care hearing shall be held within ten (10) days of the filing of the motion.

(2) Adjudicatory Hearing

A hearing to adjudicate the issues raised in the complaint shall be scheduled no later than thirty (30) days after the date the complaint is filed, except for good cause shown under R.C. 2151.28 the adjudicatory hearing shall be scheduled no later than sixty (60) days after the complaint is filed.

(3) Dispositional Hearing

A dispositional hearing shall be scheduled pursuant to Juvenile Rule 34 at least one (1) day after the adjudication of the issues in the complaint, but no later than thirty (30) days after the adjudicatory hearing is held.

The parties may waive the requirement that the adjudicatory hearing and the dispositional hearing be separated by at least one (1) day.

(4) Motions for Permanent Custody

The Court shall hold a hearing on a motion for permanent custody not later than one hundred and twenty (120) days after the agency files the motion for permanent custody, except for good cause shown, the Court may continue the

hearing for a reasonable period of time beyond the one hundred twenty-day deadline.

(5) Review

- (a) If the Court issues an order of temporary custody or protective supervision, an annual review shall be scheduled as part of the disposition of the case, not less than five (5) weeks prior to the date of expiration of the order.
- (b) If the Court issues an order of permanent custody or for a planned permanent living arrangement, an annual review shall be scheduled as a part of the disposition of the case, not less than eleven (11) months after the date of the issuance of such order.
- (c) If the Court issues an order granting an extension of temporary custody or protective supervision, a review must be scheduled prior to the expiration of the extension.

(E) Court Procedures

- (1) Existing Court procedures and guidelines shall be enforced or modified to enable compliance with the docketing guidelines set forth in sections (A) through (D) of this rule.
- (2) Statistical audit programs shall be implemented to monitor continuances and the reasons therefore and to monitor compliance with the case management system.
- (3) A report shall be prepared and issued at least quarterly indicating the results of the audits provided for in section (E)(2) of this rule.
- (4) The Court may promote the use of any device or proceeding which would tend to facilitate the earlier disposition of cases, including reasonable restrictions on the volume of cases individual attorneys may undertake.

(F) Pre-Trial Hearings

- (1) When necessary, the pre-trial hearing date shall be set by phone or in person with the assistant prosecuting attorney and the attorney of record or the parties.
- (2) No continuance of a scheduled pre-trial hearing shall be granted, except for cause.

(G) Case Docketing

(1) Individual Assignment System

The provisions of this Local Rule are adopted in accordance with the Rules of Superintendence for the Courts of Ohio, Rules 4(B) and 36(B)(1). Pursuant to this Local Rule, the Court maintains an individual case assignment system. The Court's individual case assignment system ensures: judicial accountability for

the processing of individual cases; timely processing of cases through prompt judicial control over cases and the pace of litigation; and random assignment of cases to Judges of the division through an objective and impartial system that ensures the equitable distribution of cases between or among the Judges of the division. The Court's individual case assignment system directs that, upon the filing in or transfer to the court, a case is immediately assigned by random lot to a Judge of this division, unless an exception to the random draw guidelines is applicable. A description of the Court's individual case assignment system is maintained, and is available for public inspection, in the Clerk's Office of Cuyahoga County Juvenile Court.

- (2) A centralized docketing unit shall be maintained to ensure the timely movement of case files and associated caseflow material.
- (3) Individual case docketing shall be implemented at each courtroom site and coordinated by the use of an electronic docketing system.

(H) Visiting/Retired Judges

With the consent of the Supreme Court of Ohio and after receipt of the appropriate judicial assignments, visiting/retired judges may preside over special dockets in order to ensure compliance with case management docket time frames.

Last Revised 12/21/2017

**Rule 30. Pretrial Procedure**

All cases in which jury demands have been filed shall be called for pretrial hearing and notice shall be given counsel at least fourteen (14) days prior thereto. Counsel in each case shall appear with their clients. Pretrial procedure will be in accordance with the provisions of Local Rule 21 of the Court of Common Pleas of Cuyahoga County, General Division.

Last Revision Unknown, Prior to 2012

### **Rule 31. Consolidation and Reassignment of Cases**

- (A) For purposes of this rule, the following definitions apply:
- (1) Consolidation of cases means to combine more than one case pertaining to the same child into one case relative to the child. Once the case is consolidated, the action proceeds under one case number and all motions and pleadings are to be filed under one case number.
  - (2) Reassignment of cases means multiple cases, originally assigned to multiple jurists, are to be assigned to one of the original jurists. These cases shall be heard together, and each child retains his or her own case and case number. Reassignment of cases may occur in Abuse/Dependency/Neglect, Private Custody, Paternity Establishment, and Support cases involving siblings or one child with multiple cases. Reassignment of cases may occur in Delinquency cases where there are co-delinquents or one child with multiple cases and in Civil Protection Order cases where there are co-respondents. A jurist need not recuse him- or herself in order to effectuate a reassignment.
- (B) When actions involving a common question of law and fact are pending before this the Court, upon the motion of any party or the Court's own motion, the Court may order a single adjudicatory hearing or trial of any or all of the matters in issue and it may make such orders concerning proceedings as may tend to reduce unnecessary costs or delays.
- (C) In cases of multi-judge assignments, a motion for consolidation or reassignment shall be filed in all actions for which consolidation or reassignment is appropriate. The motion shall be directed to the administrative judge for ruling. Upon the granting of the motion by the administrative judge and journalization, the judicial assignment shall be changed.

Last Revised 3/13/2019



### **Rule 32. Journal Entries**

- (A) The court shall approve a journal entry deemed by it to be proper, sign it manually or apply an electronic signature to the journal entry pursuant to local rule 25.1.
- (B) DYS and residential commitment journal entries shall be filed and journalized on the day of the hearing. All others shall be filed and journalized within seven (7) days of the hearing date.
- (C) If the court directs counsel to prepare and file a journal entry in accordance with this rule, the failure to comply with such directive may result in dismissal of the action.
- (D) All telephonic ex parte emergency orders authorizing the taking of a child into custody shall be prepared by the person requesting the ex parte order immediately after the telephonic order is issued by the on-call jurist. The proposed journal entry shall be emailed to the jurist who will sign and file the entry pursuant to Juvenile Rule 25.1.
- (E) Absent a prohibiting disability, counsel and guardians ad litem representing a party before the court shall provide a current email address to the court's Clerk's Office. All journal entries will be provided to counsel via the email address they have provided.

Nothing in this rule should be construed to prohibit the trial court in which the case is assigned from providing journal entries in a manner other than what is prescribed in the above rule.

Last Revised 2/21/2017

### **Rule 33. Electronically Signed Documents**

- (A) The following definitions shall apply to this rule:
- (1) An "electronic signature" is one of the following:
    - (a) A signature created within the case management system that is associated with the document using a signature pad or other similar device in the presence of a deputy clerk or other court employee.
    - (b) A signature created within Microsoft Word for the sole purpose for a jurist to sign a journal entry as a result of a telephonic *ex parte* emergency request authorizing the taking of a child into custody.
    - (c) The term "document" includes journal entries, decisions, orders, notices, opinions, and any other filing by a judge or magistrate of this court.
- (B) The electronic transmission of a document with an electronic signature by a judge or magistrate that is sent in compliance with procedures adopted by the court shall, upon the complete receipt of the same by the Clerk of Court, constitutes filing and journalization of the document for all purposes of the Rules of Superintendence for the Courts of Ohio, the Rules of Civil Procedure, the Rules of Juvenile Procedure and the Cuyahoga County Rules of the Court of Common Pleas, Juvenile Division. Electronic transmission of a document means a document that is transmitted through the court's case management system or, in the case of a telephonic *ex parte* emergency request, authorizing the taking of a child into custody, a document that is emailed to the Clerk of Court.
- (C) In accordance with security policies prescribed by the court, the Clerk of Court shall ensure that the electronic signature is attached to or logically associated with a document electronically transmitted to the Clerk of Court for filing, and that the electronic signature is linked to the data in such a manner that any subsequent alteration of the document is detectable. Once an electronically signed document is filed with the Clerk of Court, any alteration of that electronically signed document shall invalidate the electronic signature associated with such document.

Last Revised 12/2012

## **Rule 34. Recording of Proceeding, Transcript, Use of Court Reporters**

### **(A) Recording of Proceedings**

Pursuant to Juvenile Rule 37(A), a record of all testimony or other oral proceedings shall be taken by digital recording, court reporter, or any other adequate means.

### **(B) Recording Usage, Retention**

Original records shall not be provided to the requestor. Copies shall be made and provided upon the receipt of a properly completed request.

### **(C) Court Reporters**

Parties requesting to utilize a court reporter will be permitted with the consent of the assigned judge. It is the requesting parties' responsibility to arrange and pay for such services absent an order from the assigned judge indicating otherwise. Judicial officers may utilize court reporters in hearings involving the transfer of jurisdiction to the Court of Common Pleas, General Division pursuant to Juvenile Rule 30, as well as cases where the prayer in the complaint or motion requests the court to grant permanent custody of a child to a public or private child care agency.

### **(D) Seeking a Transcription or Recording of Hearing or Case:**

Subject to the limitations proscribed in Juvenile Rule 37(B), an individual seeking an audio copy or transcript of a court hearing or case shall complete a "Request for Transcript or Audio Copy of Hearing Form" which is available in the Clerk's Office. The form must be completed and accompanied by a court order or a completed notice of appeal. The form and court order or notice shall be hand delivered to the Clerk's Office. The Clerk's Office will advise the requestor how much the audio recording will cost. Payment for transcription is as follows:

#### Transcription at Parties' Expense:

The Court upon receiving a properly filed request shall prepare the necessary materials and advise the court reporting company that the materials are ready for pick up. The vendor shall pick up the disc and the vendor shall contact the requestor to make payment arrangements.

If the matter involves an appeal, the vendor shall deliver the transcript to the Clerk's Office at Juvenile Court. The Clerk's Office shall deliver the transcript with any exhibits and supporting trial court documentation to the appellate court.

If the matter involves an order granting transcript not for purposes of appeal, the vendor shall notify the requestor that the transcript is ready and the vendor and the requestor are responsible to arrange pick up.

#### Transcription of Hearing at Courts Expense:

The Court upon receiving a properly filed request shall copy a disc containing the hearing or case requested. The Clerk's Office will contact the vendor advising the company to pick up the disc. The vendor shall pick up the disc and

the request form. The vendor shall deliver the transcript and the invoice to the Clerk's Office at Juvenile Court. If the matter involves an appeal, the Clerk's Office shall deliver the transcript with any exhibits and supporting trial court documentation to the appellate court. If the matter involves an order granting transcript not for purposes of appeal, the Clerk's Office shall notify the requestor that the transcript is ready to be picked up at the Clerk's Office. Juvenile Court will only receive billing for transcripts ordered at Cuyahoga County Juvenile Court expense.

All transcripts provided shall conform to the National Court Reporter Association standards. All transcripts provided will be accompanied by a certification that the record and testimony as transcribed are complete and accurate.

Last Revised 1/13/2014

### **Rule 35. Continuances and Advancements**

- (A) Requests for continuances or advancements will be made in accordance with Superintendence Rule 41 and Juvenile Rules 19 and 23. All requests for continuances or advancements shall be filed with the Clerk of Court and submitted to the assigned jurist in writing at the earliest time possible, no less than seven (7) working days before the day of trial or hearing. The Court shall set a date certain for the next hearing date upon the granting of a continuance.
- (B) All requests for continuances shall contain the following information:
  - (1) The date on which the need for the continuance arose;
  - (2) The reasons for requesting the continuance;
  - (3) The date on which all other attorneys of record and guardians ad litem on the case were contacted, and whether these attorneys and guardians ad litem agree on the need for a continuance; and,
  - (4) The earliest date that all parties will be ready to proceed.
- (C) No case will be continued on the day of trial or hearing except for good cause shown, which cause was not known to the party or counsel prior to the date of trial or hearing, and provided that the party and/or counsel have used diligence to be ready for trial and have notified or made diligent efforts to notify the opposing party or counsel as soon as he/she became aware of the necessity to request a postponement. This rule may not be waived by consent of counsel.

Last Revision Unknown, Prior to 2012

### **Rule 36. Witness Lists**

- (A) Each party shall submit to the opposing party or counsel a list with the names and addresses of all witnesses, including expert witnesses, expected to be called during trial. A copy of each list shall be filed with the Clerk of Court. Unless otherwise ordered by the Court, the witness lists shall be exchanged no later than fourteen (14) days prior to the trial date or three (3) days after receipt of notice of the trial date, whichever is later. A witness list may be supplemented any time prior to two (2) business days before the trial date.
- (B) No party shall be permitted to call any witness, except rebuttal witnesses, whose name was not included on the witness list or any supplemental list, unless good cause can be shown as to why the need for such witness was not known to the party until after the time for supplementing his/her witness list expired, or unless the identity of the witness was otherwise known to the opposing party. The Court may, however, in its discretion allow any party to call any witness whose name is not on a witness list, when doing so will serve the interest of justice.
- (C) This rule shall apply to motion hearings as well as trials.

Last Revision Unknown, Prior to 2012

## **Rule 37. Exhibits**

### **(A) Marking of exhibits.**

- (1) All exhibits must bear the official case number and shall be marked before trial with official exhibit stickers. The plaintiff shall mark exhibits with "Pl. \_\_\_\_\_" with numbers, and the defendant shall mark exhibits with "Def. \_\_\_\_\_" with letters. The guardian ad litem shall mark exhibits with "GAL \_\_\_\_\_" with letters. Unless otherwise ordered by the Court, joint exhibits shall be marked with "Joint Exhibit \_\_\_\_\_" with numbers. If there are multiple plaintiffs and/or defendants, numbers and/or letters shall be used followed by the party's first initial and last name. If the defendant has more than twenty-six (26) exhibits, double letters shall be used. If there are multiple plaintiffs, numbers shall be used followed by the plaintiff's first initial and last name.
- (2) Where a multiple-page exhibit is introduced, multiple pages should be numbered consecutively.

### **(B) An index of the exhibits to be used at trial, along with a brief description of such exhibits, shall be filed and served upon opposing counsel no later than one week before the final pretrial and updated no less than one week before the trial.**

### **(C) Disposition of exhibits.**

- (1) In accordance with Rule 26(F) of the Rules of Superintendence for the Courts of Ohio, at the conclusion of litigation, including times for direct appeal, the Court may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:
  - (a) The Court notifies the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within sixty (60) days from the date of the written notification;
  - (b) The written notification required in subsection (C)(1)(a) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty (60) days of the notification;
  - (c) The written notification required in subsection (C)(1)(a) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts; and
  - (d) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty (60) days from the date of the written notification required in subsection (C)(1)(a) of this rule.

### **Rule 38. Jury Demand**

In criminal cases, the defendant is entitled to a jury trial in accordance with the provisions of Criminal Rule 23(A). An adult charged with a petty offense may demand a jury in writing and such demand shall be filed with the Clerk of Court not less than ten (10) days prior to the date set for trial or on or before the third day following the receipt of notice of the date set for trial, whichever is later. Failure to demand a jury trial as provided in this rule is a complete waiver of the right thereto.

Last Revision Unknown, Prior to 2012



### **Rule 39. Motions to Show Cause and Complaints in Contempt**

(A) Contents of motion.

Any Motion to Show Cause shall state with specificity each provision of a prior court order with which a party has failed to comply, the date of such order, and the facts constituting the non-compliance. The motion shall be supported by affidavit. A copy of the court order with respect to which the party allegedly has failed to comply shall be attached to the motion.

(B) Complaint in contempt.

A Complaint in Contempt shall state with specificity each provision of a County Job and Family Services' Order with respect to which a party has failed to comply, the date of such order and the facts constituting the non-compliance. A copy of the administrative order shall accompany the complaint.

(C) Motions/Complaints for non-support.

If the motion/complaint pertains to failure to pay child support, the motion/complaint shall clearly set forth the date of the last order of support or County Job and Family Services' Order, the amount of support, the total elapsed weeks or months, the amount that should have been paid during that time, the amount actually paid during that time, and the amount of arrearage existing to the date of filing. For purposes of computing the arrearage, the effective date of a court order for child support shall be the date of journalization unless the order specifically designates some other effective date. At the hearing, the filing party shall be prepared to update the arrearage computation to the date of hearing.

(D) Medical bills or other support obligations.

If the motion/complaint asserts non-payment of medical/dental/optical bills or support other than periodic payments, the motion/complaint shall itemize the expenses and state whether demand for payment has been made prior to filing.

(E) Interest.

If interest is being sought on a child support arrearage that has accrued since July 1, 1992, the party requesting interest shall have determined prior to the hearing, how many weeks or months of support the computed arrearage constitutes and categorize the total weeks or months of arrearage based on the amount of weekly or monthly support ordered and based on the rate of 10% per year, simple interest.

**Rule 40. Reserved**

# **PARENTAGE, CHILD SUPPORT, AND CUSTODY**

**Rule 41. Genetic Tests**

A motion for a court order requiring genetic testing or request to release a DNA profile must be filed within thirty (30) days after the initial pretrial held pursuant to R.C. 3111.11. The costs of the test shall be determined by the court pursuant to R.C. 3111.09(A)(3) and (4).

Last Revised 8/5/2013

## **Rule 42. Child Custody Actions**

- (A) All private actions seeking a determination of custody, parenting time, shared parenting, and/or companionship time of a child shall be initiated by a sworn application, or in preexisting cases, by motion, accompanied by a child custody affidavit pursuant to R.C. 3127.23, a copy of the child's birth certificate, if a copy is not in the court file, and proof of paternity.
- (B) Custody actions filed under section (A) of this rule, unless exempted from mediation pursuant to section (A)(2) of Local Rule 43, shall be referred to mediation.
- (C) As a condition of obtaining custody, an individual may be required to sign a waiver for a background check.
- (D) Child custody affidavit.

A uniform child custody affidavit shall be filed in all child custody proceedings (excluding complaints for neglected, dependent and abused children). The affidavit must be on a form supplied by the Court or must be in compliance with R.C. 3127.23.

Last Revised 12/16/2021

Previously Revised 8/9/2018

**Rule 43. Mediation**

(A) Mediation is a structured process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their matter.

(B) The following cases may be referred to the Court Mediation Department for a mandatory mediation session:

(1) Applications to determine custody, shared parenting, or parenting time;

(2) Applications for companionship or visitation time;

(3) Motions to modify custody, parenting time, or visitation time;

(4) All other matters concerning allocation of parental rights and third-party custody and visitation.

(C) When referred - A matter may be referred to mediation at any time after a complaint or motion is filed. Parties may agree to mediate before service has been perfected if the responding party signs a Waiver of Service.

(D) Notice of Mediation Session, Continuances

(1) When a mediation session is scheduled, the court will send a notice to the parties with the date and time of the mediation. The parties must appear to the scheduled mediation session unless it is cancelled or continued.

(2) Parties may request a continuance of the mediation session by filing a "Motion for Continuance" with the Clerk of Court in compliance with Local Rule 35.

(E) Pre-mediation Screening

(1) Each matter that is referred to mediation shall be screened by the assigned mediator prior to the scheduled mediation session. The screening process is designed to determine if and how the case should be mediated, assess each party's ability to meaningfully participate in mediation and detect any safety concerns. Pre-mediation screening is NOT the time to discuss the merits of the case or each party's grievances.

(2) Each party is responsible for ensuring that the Court has up-to-date contact information. Mediators will reach out to the parties by phone during pre-mediation screening. Parties wishing to update their address and/or phone number can file a "Change of Address" form with the Clerk of Court.

(F) The following cases are exempted from mediation:

(1) Cases that do not comply with Local Rule 42;

- (2) Cases in which a litigant is the respondent in an active protection order naming the child as a protected party;
  - (3) Cases in which the Court may be unable to exercise jurisdiction over the child;
  - (4) In emergency circumstances requiring an immediate hearing by a jurist;
  - (5) Cases in which the parties have executed an Agreed Judgment Entry;
  - (6) Cases in which mediation would be inappropriate due to domestic abuse or domestic violence concerns;
  - (7) Mediation is prohibited as an alternative to the prosecution or adjudication of domestic violence; In determining whether to grant, modify, or terminate a protection order; In determining the terms and conditions of a protection order; In determining the penalty for violation of a protection order.
- (G) Parties participating in mediation shall follow all rules and guidelines communicated to them by the mediator. Each party will be given a chance to assert their position and desired goals.
- (H) The mediator will communicate the results of a mediation to the Court as follows:
- (1) If the parties reach an agreement, the agreed-upon terms will be put in writing, signed by the parties, and submitted to the Court.
  - (2) If the parties are unable to reach an agreement, the mediator will prepare a report to the Court and disclose only whether a mediation hearing occurred, whether a settlement was reached, and who attended the mediation hearing. The matter will then be set for further hearing by a Judge or Magistrate.
- (I) Privilege and Confidentiality
- (1) Statements and nonverbal communications that occur during a mediation are generally confidential and privileged. Consequently, communications made during mediations are generally not admissible in evidence in a proceeding unless the privilege is waived. Any party or participant may refuse to disclose and may be able to prevent others from disclosing mediation communications.
  - (2) There is no privilege for mediation communications to which any of the following applies:
    - a. Communications that involve imminent threats or statements of a plan to inflict bodily injury or commit a crime of violence against others;
    - b. A party or participant uses the mediation process to commit, conceal, plan, or attempt to commit a crime;

- c. A party or participant makes a communication that can be used to prove or disprove abuse, neglect, abandonment, or exploitation of a child or elderly person, including in a proceeding initiated by a child protection agency which alleges that a child is an abused, neglected, or dependent child;
- d. A party or participant makes a communication that is connected to the commitment of a felony or delinquency proceeding involving a felony if committed by an adult;
- e. The parties reach an agreement that is memorialized in writing and signed by the parties;
- f. Participants seek to prove or disprove a claim of professional misconduct or malpractice filed against a mediator;
- g. The mediation communication qualifies as a public record that is required to be disclosed under section 149.43 of the Ohio Revised Code.

(J) Attorneys and guardians ad litem may attend the mediation hearing with the parties but are not required to do so.

(K) Prohibitions

(1) Mediators are prohibited from giving legal advice to parties. Mediators will maintain the following information for the public:

- a. Attorney referral contact information;
- b. Information regarding children's services; and
- c. Resource information for local domestic violence prevention, counseling, substance abuse and mental health services.

(2) Mediators are prohibited from serving as an ongoing resource for parties after the mediation is concluded. Parties shall not solicit input from mediators about a pending matter or contact the mediator outside of the mediation process.

(L) Fees - A \$100 mediation fee shall be assessed to each party unless otherwise ordered by the Court.



(M) Incorporation of the Ohio Uniform Mediation Act – Ohio Revised Code Chapter 2710 is incorporated into this rule by reference as if fully rewritten. Ohio’s Uniform Mediation Act can be found on the Juvenile Court’s website.

Previously Revised 3/13/2019

Last revised 11/17/2022

## **Rule 44. Parenting Time/Shared Parenting**

### **(A) Standard parenting time guidelines.**

No Standard Parenting Time schedule can meet the needs of every parent-child relationship and therefore, the court encourages parties to submit parenting times agreements that will meet the specific needs of the parties' child and shall take into consideration the factors set forth in R.C. 3109.051(D).

The court has adopted a Standard Parenting Time Schedule to be used as a guideline for parents in drafting their own agreements. In the event the parties cannot agree, the court's Standard Parenting Time Schedule shall control. All parenting time schedules shall include a finding by the court that it is in the best interest of the child to order such parenting time. The Standard Parenting Time Schedule can be found at the juvenile court web site, in the juvenile court clerk's office and in the pro se clinic.

### **(B) Shared Parenting**

If the parties are filing for shared parenting as defined in R.C. 3109.04(K), the plan the parties are required to submit to the court shall include provisions covering all factors relevant to the care of the child, including, but not limited to, provisions covering factors such as physical living arrangements, child support obligations, provision for the child's medical and dental care, school placement and parenting time.

Last Revision Unknown, Prior to 2012

#### **Rule 45. Child Support Schedule**

- (A) In all cases resulting in a child support order, R.C. 3119.021 and 3119.022 must be applied, both at the time of an initial award of support and of any subsequent modifications. A Child Support Computation Worksheet shall be completed prior to the time of any hearing where child support is an issue. A Child Support Computation Worksheet shall be attached to and incorporated by reference in every judgment entry in which child support is ordered.
  
- (B) In all cases where child support is ordered there shall be an order for health insurance for the child. The order shall divide between the parties all extraordinary medical, dental, including orthodontia, and optical expenses incurred on behalf the child, as defined in R.C. 3119.01(C)(4).

Last Revision Unknown, Prior to 2012

**Rule 46. Reserved**

# INTAKE

**Rule 47. Diversion**

The Court recognizes the guidance set forth in Juvenile Rule 9 which states "In all appropriate cases formal court action should be avoided and other community resources utilized to ameliorate situations brought to the attention of the court." Prior to the filing of a formal delinquency or unruly complaint, the complaint shall be screened for diversion pursuant to the Court's intake guidelines. Copies of the Court's intake guidelines will be kept with the Clerk of Court.

Last Revision Unknown, Prior to 2012

**Rule 48. Diversion Assessments**

Unless prohibited by statute, any assessment on a matter diverted from a formal delinquency court filing pursuant to Juv. R. 9 and prepared by either the Court or a third-party treatment provider for the purpose of treatment shall not be considered or admitted into evidence in any subsequent unruly or delinquency adjudicatory proceeding or motion to transfer jurisdiction.

Last Revised 8/8/2017

**Rule 49. Reserved**



# **DETENTION AND ARREST**

## **Rule 50. Detention Services Criteria**

(A) Population.

The maximum number of children in secure detention at any one time shall be determined by the Administrative Judge.

The Court shall maintain a Population Control Policy governing the admission to and release from detention services. The detention services criteria may be amended from time to time and a copy of the current policy shall be kept with the Clerk of Court.

(B) Emergency release procedure.

When the detention center population exceeds the maximum level as indicated in the Population Control Policy as identified in section (A) of this Rule, the Superintendent will commence emergency release procedures in accordance with the Population Control Policy.

(C) Unruly offenders.

Children alleged or adjudged to be unruly offenders under R.C. 2151.022 shall not be detained in the detention center.

(D) Limitation on length of stay.

Pursuant to R.C. 2152.04, no child shall be detained in secure detention for a period exceeding ninety (90) days.

Last Revision Unknown, Prior to 2012

**Rule 51. Pre-Adjudication Assessments**

Unless prohibited by statute, any pre-adjudication assessments prepared in a delinquency matter either by the Court or a third-party treatment provider for the purpose of treatment shall not be considered or admitted into evidence for adjudication.

Last Revised 8/8/2017

## Rule 52. Child Restraints

- (A) The Court makes the presumption that a child, while appearing before the Court, shall not be physically restrained by any device, unless the judge or magistrate before whom the child is appearing makes an individualized determination, on the record, either before or during the juvenile's appearance, that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because of any of the following:
- (1) There is a significant risk the child will flee the courtroom;
  - (2) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom.
- (B)
- (1) If physical restraint is found necessary by the judge or magistrate under (A)(1) to keep the child from fleeing, the restraint must be the least restrictive necessary to meet the risk requiring the restraint, including but not limited to the use of leg shackles/restraints without corresponding hand shackles/restraints.
  - (2) Factors to be considered in making this determination include, but are not limited to:
    - (a) History of fleeing from custodial placement in the community, including the residence of parent or guardian or agency placement;
    - (b) History of absconding from juvenile probation services;
    - (c) History of absconding from the juvenile detention continuum, such as home detention, shelter care and the detention center;
    - (d) Any statements by the child indicating an intention to abscond;
    - (e) The child's case is being petitioned for transfer to the Cuyahoga County General Division pursuant to Juv. Rule 30;
    - (f) The offense the child is being charged with is a felony of the first degree or a felony of the second degree;
    - (g) A restraint order was made on the child in prior hearings.
- (C)
- (1) If physical restraint is found necessary by the judge or magistrate under (A)(2) and that the child represents a current and significant threat to the safety of the child's self or other persons in the courtroom, the restraint must be the least restrictive necessary to meet the risk requiring the restraint, including but not limited to the use of both leg and hand shackles/restraints.

- (2) Factors to be considered in making this determination include but are not limited to:
  - (a) Prior offenses of violence;
  - (b) Disruptive behavior in the community;
  - (c) Disruptive behavior in the detention center continuum, including the courtroom;
  - (d) Any statements or declarations by the child of future violence or disruptive acts;
  - (e) The child's case is being petitioned for transfer to the Cuyahoga County General Division pursuant to Juv. Rule 30;
  - (f) The offense the child is being charged with is a felony of the first degree or a felony of the second degree;
  - (g) A restraint order was made on the child in prior hearings.
- (D) Any party, as defined in Juv. R. 2(Y), or the Court on its own motion, may be heard on the issue of whether the use of physical restraint is necessary for that particular child at that particular proceeding.
- (E) Restraint of a pregnant or postpartum child shall at all times comply with the provisions of the Ohio Revised Code.

Last Revised 8/19/2021

Previously Revised 6/15/2016

**Rule 53. Court Bail Schedule**

(A) Adult Criminal and Juvenile Bindover Cases

The Court shall follow the bond schedule in effect at the Cuyahoga County Court of Common Pleas, General Division.

(B) Parentage and Child Support Cases

The Court shall set bond at no less than \$500.00, unless the Court determines that a lesser bond is appropriate.

Last Revised 12/21/2017

#### **Rule 54. Voluntary Appearance Policy**

(A) Voluntary appearance—Adult cases.

A party for whom a capias has been ordered may file a written request to enter a voluntary appearance in lieu of arrest or bond. Upon a showing of good cause for the failure to appear for the original hearing, the capias may be recalled at the jurist's discretion and a hearing shall be scheduled.

(B) Voluntary appearance—Juvenile cases.

A juvenile for whom a warrant has been issued may file a written request to enter a voluntary appearance in lieu of arrest. Upon a showing of good cause for the failure to appear which resulted in the issuance of said warrant, the warrant may be recalled at the jurist's discretion and a hearing shall be scheduled.

Last Revision Unknown, Prior to 2012

**Rule 55. Procedure Upon Arrest Pursuant to Warrant**

Upon arrest, the defendant or juvenile shall be brought before the Court on the next business day.

Last Revision Unknown, Prior to 2012



**Rule 56. Reserved**

# **SPECIAL HEARINGS**

## **Rule 57. Specialized Dockets**

The Cuyahoga County Juvenile Court has established specialized dockets pursuant to Appendix I. Specialized Docket Standards in the Rules of Superintendence for the Courts of Ohio.

Each specialized docket is presided over by one of the six elected judges. The presiding judge may refer the specialized docket to a magistrate.

The presiding judge of a specialized docket is responsible for ensuring judicial accountability for the processing of individual cases and the pace of litigation.

Any judge of the Cuyahoga County Juvenile Court may serve unlimited consecutive terms as the presiding judge of a specialize docket.

Last Revised 10/18/2013

## **Rule 58. Family Dependency Treatment Court**

### **(A) Establishment of the Family Drug Court Docket**

The Cuyahoga County Juvenile Court's Family Dependency Treatment Court, also known as the Family Drug Court, was established in 2001. The mission of the Family Drug Court is to empower parents to address their substance abuse addictions and other needs to achieve long-term sobriety, recovery and family stability in order to ensure the safety of their children. The Family Drug Court shall use a non-adversarial, team approach to provide support and intense monitoring to assist all participants.

### **(B) Placement in the Family Drug Court**

To be eligible for participation in the Family Drug Court, a parent must have an open case alleging child abuse, neglect and/or dependency with the Substance Treatment And Recovery Team ("START") Unit of Cuyahoga County Division of Children and Family Services ("CCDCFS") and be clinically assessed to be in need of chemical dependency treatment. The parent must be willing to enter the Family Drug Court docket voluntarily and to comply with the docket and treatment requirements. For more information regarding eligibility requirements or what makes a parent ineligible, please see the policy and procedure manual. The Family Drug Court presiding judge has the ultimate discretion over who is admitted onto the docket with input and recommendations from the Prosecutor's Office, CCDCFS, and the Public Defender's Office.

### **(C) Case Assignment in Multi-judge Courts**

All Family Drug Court cases shall be transferred to the presiding judge of the Family Drug Court. The presiding judge will be responsible for the case through final disposition. The successful or unsuccessful termination from the Family Drug Court does not affect the assignment of the case to the presiding judge.

### **(D) Family Drug Court Case Management**

Each participant shall sign an agreement that he or she will comply with the rules of Family Drug Court and that he or she has received a copy of the participant handbook that details the rights and responsibilities of the Family Drug Court, the benefits to participation in the Family Drug Court, the resources available to the participant, the list of requirements of the Family Drug Court and the specific legal and clinical eligibility criteria for participating in the Family Drug Court.

### **(E) Termination from the Family Drug Court**

A successful termination occurs when a parent completes all the treatment and court requirements of his or her program to the satisfaction of the treatment team. The parent will graduate from Family Drug Court and his or her case will be closed. An unsuccessful termination occurs when a parent stops participating in the program with three unexcused absences or demonstrates willful noncompliance with the program's expectations. For further information, please see the policy and procedure manual. Termination from the Family Drug Court will also result if a parent is charged with a new crime of serious violent activity, CCDCFS receives new allegations of serious physical abuse or sexual abuse against the child or the parent is incarcerated for an extended period of time. If termination occurs for any of these reasons, the case

remains on the docket of the Family Drug Court judge who will make further dispositional orders regarding the permanency plan for the child.

Last Revised 10/18/2013

## **Rule 59. Mental Health Court**

### **(A) Establishment of the Juvenile Mental Health Court Docket**

The Juvenile Mental Health Court was established in 2008. The goal of Mental Health Court is to support youth and their families in addressing the mental health issues that brought them into the juvenile justice system. This is done by collaborating with the treatment providers using close monitoring and rewards and sanctions for the youth (and his or her family).

The mission of Mental Health Court is to enhance public safety by preventing recidivism, while assisting participants in taking responsibility for their behavioral health issues, using effective, evidence-based interventions and treatments in a holistic, accountability-based and community supported program.

### **(B) Placement on the Juvenile Mental Health Court Docket**

While participation in Mental Health Court begins after adjudication as part of the dispositional orders of the case, identification of the youth for possible participation on the docket may be employed at any stage of the proceedings. Referrals may come from a variety of sources including a judge or magistrate, probation officers, prosecutors, defense counsel, and treatment providers. The person who feels that a youth may have mental health issues will refer the case to the Mental Health Court Probation Officer. The team makes a recommendation to admit the youth in Mental Health Court or not, but the ultimate decision regarding admission is left to the discretion of the Mental Health Court judge. The jurist hearing the case through adjudication and disposition would then issue a court order referring the case to Mental Health Court.

In order to be admitted to the program, the youth must have been diagnosed with a severe mental illness, be adjudicated on the complaint, and the parents and the youth must be willing and able to cooperate with court requirements and the treatment program. Sex offenders and youth younger than twelve will not be permitted to participate in the program. Youth whose IQ is lower than 70 or who have been found to be developmentally disabled will not be considered for the program. Youth with dual diagnoses will be admitted to this docket when the primary concern is the mental illness.

### **(C) Case Assignment in Multi-judge Courts**

All Mental Health Court cases shall be transferred to the docket of the presiding judge of the Mental Health Court. The presiding judge will be responsible for the case through final disposition. The youth's successful or unsuccessful termination from Mental Health Court does not affect the assignment of the case to the presiding judge.

### **(D) Juvenile Mental Health Court Docket Case Management**

Each youth shall sign an agreement that he or she will comply with the rules of Mental Health Court and that he or she has received a copy of the participant handbook that details the rights and responsibilities of the Mental Health Court, the benefits that will result from participating in the Mental Health Court, the resources available to the participant, the list of requirements of the Mental Health Court and the specific legal and clinical eligibility criteria for participating in the Mental Health Court.

(E) Termination from the Juvenile Mental Health Court Docket

When a youth completes all the treatment and court requirements of his or her program to the satisfaction of the treatment team, he or she will successfully graduate from mental health court and his or her case will be closed.

When a youth is unable to complete all the treatment and court requirements through no fault of his or her own, he or she will be neutrally discharged from mental health court. The dispositional orders upon a neutral discharge will be determined on a case-by-case basis.

When a youth chooses not to comply with the treatment or court requirements, he or she will be unsuccessfully discharged from mental health court upon the recommendation of the treatment team and in the discretion of the judge. When a youth is unsuccessfully terminated from mental health court, he or she will remain on the docket of the mental health court judge who will make further dispositional orders on a case-by-case basis.

Last Revised 10/18/2013

## **Rule 60. Juvenile Drug Court**

### **(A) Establishment of the Juvenile Drug Court**

The Cuyahoga County Juvenile Drug Court ("Juvenile Drug Court") was established in May, 1998 to offer a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to substance-dependent youths who come before the juvenile court.

The Juvenile Drug Court strives to help each youth become a fully functioning adolescent by focusing on sobriety, mental health stability, academia and maturity into young adulthood. The overarching goal of the Juvenile Drug Court is to enhance public safety and encourage youth to live healthy and drug-free lives.

### **(B) Placement in the Juvenile Drug Court**

Any Cuyahoga County Juvenile Court jurist or the Intake Coordinator may refer a youth to the Juvenile Drug Court by contacting the Drug Court Case Management Clerk.

To be eligible for participation in the Juvenile Drug Court, a youth must meet the following criteria: The youth must be assessed as being drug dependent or have a drug abuse problem and be amenable to treatment; youth who are dually diagnosed will be admitted to this docket when the primary concern is the drug abuse problem; Youth who demonstrate suicidal, homicidal or delusional ideations shall not be admitted until those conditions have been assessed by a certified mental health professional and are adequately controlled by medication and/or mental health treatment; Youth whose developmental disabilities or mental health issues are so significant that the individual may not be able to understand or comprehend the goals and expectations of the program will not be admitted into the program; The youth's charges will be assessed on a case-by-case basis for content, degree, impact etc. in determining whether a youth should be eligible for Juvenile Drug Court; The youth must be at least 13 years of age and be a Cuyahoga County resident; The youth must admit to the new charge(s) and volunteer to participate in the Juvenile Drug Court.

The presiding judge over the Juvenile Drug Court has the ultimate discretion over who is admitted onto the docket with input and recommendations from the Prosecutor's Office and the Public Defender's Office. The Cuyahoga County Juvenile Drug Court is a voluntary program and no youth can be ordered to enter the program.

### **(C) Case Assignment in Multi-judge Courts**

If accepted into Juvenile Drug Court, the underlying delinquency will be transferred from the originally assigned judge to the Juvenile Drug Court judge. While in Juvenile Drug Court, the youth shall appear on a regular basis for status review hearings before the Juvenile Drug Court jurist. Upon unsuccessful completion (neutral discharge or unsuccessful discharge for cause) from Juvenile Drug Court, the matter shall be reassigned to the previously assigned Cuyahoga County Juvenile Court Judge.

### **(D) Juvenile Drug Court Assessment and Case Management**

The Juvenile Court Drug Court coordinator will conduct an initial screening and provide the youth with the program design and expectations. If the youth appears to meet the legal and clinical eligibility requirements of the Cuyahoga County Juvenile Drug Court



and continues to express an interest in participating in the program, a drug and alcohol assessment and if applicable, a mental health assessment, will be scheduled.

If the youth is accepted into the program, a participation agreement with the parent and the public defender shall be completed. Treatment services will be promptly made available to the youth based upon the individualized needs as evidenced by the assessments.

As described more fully in the Cuyahoga County Drug Court Program Description, each youth shall be closely monitored by random, frequent and observed alcohol and other drug testing protocols that meet the requirements of the program. Each youth's performance and progress shall be closely monitored by regularly conducted status team meetings and ongoing judicial interaction which shall occur no less frequently than twice monthly while in the initial phases of the program. As the participant completes phases, judicial interaction may become less frequent.

(E) Termination from the Juvenile Drug Court

A youth is terminated from the Juvenile Drug Court in one of three ways.

A successful termination occurs when the participant completes all necessary requirements of the Juvenile Drug Court and graduates from the Juvenile Drug Court. Upon a successful completion and graduation, the youth will not be adjudicated and the case will be dismissed pursuant to Juv. R. 29. The record will be dismissed under the Juvenile Drug Court and will be immediately sealed.

An unsuccessful termination occurs when the participant is persistently noncompliant with the rules and requirements of the Juvenile Drug Court. A participant who is unsuccessfully terminated from the Juvenile Drug Court will be adjudicated a delinquent child and the matter will transferred to the previously assigned jurist for disposition.

A neutral discharge can occur when a participant is no longer able to participate in the Juvenile Drug Court. A participant who is neutrally discharged from the Juvenile Drug Court will be adjudicated a delinquent child and the matter will be transferred to the previously assigned jurist for disposition.

Last Revised 10/18/2013

## **Rule 61. Juvenile Re-Entry Court**

### **(A) Establishment of the Juvenile Re-Entry Court Docket**

The Juvenile Court Re-Entry Court was established in 2007. The goal of the Juvenile Re-Entry Court, which is voluntary, is to provide high risk youth who are released from the Department of Youth Services, with more intensive supervision for a successful transition into the community. The objective of the Juvenile Re-Entry Court program is to reduce recidivism and re-incarceration, provide an early release from parole and to prevent relapse into substance abuse and gang activity.

### **(B) Placement in the Juvenile Re-Entry Court Docket**

The Juvenile Re-Entry Court target population is selected from youth who have been adjudicated delinquent of any felony offense and are committed to the Department of Youth Services. Additional criteria are specified upon release from the institution; the individual will reside in Cuyahoga County and be under the supervision of parole in the Cuyahoga County jurisdiction. Individuals with mental health, drug or alcohol issues are included in the target population provided they are competent to understand the criteria of the Juvenile Re-Entry Court because it is a voluntary program.

The targeted youth, while in the institution, are identified by Department of Youth Services staff and are engaged by trained case managers several months prior to their release from the institution. The parole officer and treatment team make the recommendation that the youth be considered for participation in the Juvenile Re-Entry Court. The Juvenile Re-Entry Court Jurist has final discretion whether to accept the individual into the program.

Official acceptance into the Juvenile Re-Entry Court occurs at the initial scheduled court review hearing within a month of release from the institution. The youth must voluntarily agree to participate in the Juvenile Re-Entry Court and the youth must sign an agreement to abide by the rules and conditions of both parole supervision and the Juvenile Re-Entry Court program.

### **(C) Case Assignment in Multi-Judge Courts**

The Juvenile Re-Entry Court youth's parole case is transferred to the docket of the Juvenile Re-Entry Court jurist for the sole purpose of the Juvenile Re-Entry Court and the services provided. The case will remain the responsibility of the assigned jurist who will oversee any matters not related to the Juvenile Re-Entry Court.

### **(D) Juvenile Re-Entry Court Case Management**

Each youth shall sign an agreement that states that he or she will comply with the rules of the Juvenile Re-Entry Court and that he or she has received a copy of the participant handbook. The handbook details the rights and responsibilities of the Juvenile Re-Entry Court youth, the benefits to participation in the Juvenile Re-Entry Court, the possible sanctions and incentives, and the requirements expected of the participant.

The Juvenile Re-Entry Court parole officer and treatment team will provide a range of supportive services including assessment, diagnosis, determination of appropriate treatment intervention and level of care, intensive case management, urinalysis screens, follow-up and linkage with referring justice systems and to ancillary services

such as educational support, vocational support, mentoring, transportation, respite, housing, electronic monitoring and other necessary interventions.

(E) Termination from the Juvenile Re-Entry Court Docket

A participant can be terminated from the Juvenile Re-Entry Court in one of three ways.

A successful termination occurs when the youth completes all directives and orders of the Juvenile Re-Entry Court program. Successful termination from the Juvenile Re-Entry Court is within the discretion of the Juvenile Re-Entry Court jurist, and typically will coincide with successful discharge from parole supervision.

An unsuccessful termination occurs when the youth is persistently noncompliant with the terms and conditions of the Juvenile Re-Entry Court program and parole, or a youth may be unsuccessfully discharged if convicted of a new serious criminal charge, or the youth is re-committed to the Department of Youth Services or adult jail. A youth who is unsuccessfully terminated from the Juvenile Re-Entry Court is continued under parole supervision, and is monitored by the assigned Juvenile Court jurist.

A neutral discharge can occur when a youth is no longer capable of engaging in the Juvenile Re-Entry Court due to mental health issues, hospitalization, relocation, or at the discretion of the treatment team, parole and the Re-Entry Court jurist. A youth who is neutrally discharged from the Juvenile Re-Entry Court is continued under parole supervision, and is monitored by the assigned juvenile court jurist.

Last Revised 10/18/2013

## **Rule 62. Juvenile Traffic Violations Bureau**

### **(A) Traffic Tickets**

- (1) Traffic tickets produced by computer or other electronic means may be filed in lieu of the Ohio Uniform Traffic Ticket. The computer generated or electronic ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. The ticket shall not require the signature of the juvenile.
- (2) The color and weight of paper, size and method of binding provided for in Ohio Traffic Rule 3(B) shall not be applicable to a ticket that is produced by computer or other electronic means. However, the ticket paper shall be of sufficient quality to allow the court copy to remain unchanged for the period of the retention schedule.
- (3) If a computer generated or electronic ticket is issued at the scene of the alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket as required by Ohio Traffic Rule 3(E).
- (4) A law enforcement officer who files a computer generated or electronic ticket and electronically affixes his signature to the ticket shall be considered to have certified the ticket and shall have the same rights, responsibilities and liabilities as with all other traffic tickets issued pursuant to the Ohio Traffic Rules.
- (5) The ticket may be filed by electronic means pursuant to Local Juvenile 26.

### **(B) Traffic Violations Bureau**

Pursuant to Ohio Traffic Rule 13.1, the Court hereby establishes a Juvenile Traffic Violation Bureau to operate in the manner prescribed in Ohio Traffic Rules 13 and 13.1. A person charged with being a juvenile traffic offender or a person alleged to have violated the tobacco law pursuant to R.C. 2151.87 by reason of a violation which does not require a mandatory appearance pursuant to this Rule, may elect to proceed without a court appearance under the following procedure:

- (1) Upon the determination by the Traffic Violations Clerk that a mandatory court appearance is not required, an alleged juvenile traffic offender or a juvenile alleged to have violated the tobacco law pursuant to R.C. 2151.87 may elect to proceed without a formal court appearance by doing one of the following:
  - (a) Appear personally at the Cuyahoga County Juvenile Court's Traffic Violation Bureau accompanied by a parent, guardian or legal custodian, no later than the day the violation has been set for hearing. The juvenile must enter an admission in writing to the offense charged by signing the Admission and Waiver form available at the Violations Bureau or on the Juvenile Court's web site.
  - (b) The Admission and Waiver form must also be signed by the parent, guardian or legal custodian. Upon presenting said signed admission and waiver, the juvenile must provide proof of insurance at the time the citation was issued and the child or his or her parent must pay the fines and court costs established by the Court;

- (c) Obtain the Admission and Waiver form and sign the form along with the juvenile's parent's, guardian's, or legal custodian's signature. Send the signed form, a copy of the ticket, proof of insurance at the time the citation was issued and a check or money order for the total amount of the fines and costs assessed by the Court to the juvenile traffic violations bureau, no later than the day the citation is set for hearing.
- (2) All offenses that can be waived and fines and costs for these offenses will be posted at the Juvenile Court Traffic Violations Bureau and on the Juvenile Court's web site.
- (3) Signing the Admission and Waiver form shall constitute an admission to the facts alleged in the traffic citation. The signed Waiver shall further constitute a waiver of the right to counsel, the child's right to an adjudicatory hearing, the right to remain silent, the right to cross-examine witnesses, and the right to present witnesses and evidence in the offender's defense.
- (4) If payment in full is not tendered at the time of the entry of the admission, the Clerk's Office determines the offense cannot be waived, the required signatures are not on the Admission and Waiver form, or the juvenile is unable to provide proof of insurance, the Violations Bureau shall NOT accept the admission and a court appearance shall be required.
- (5) If any of the conditions exist in Section (4) above, and it is determined a court appearance shall be required, documents received from the child and parent will be returned to the child and parent with a new court date fourteen days from the prior court date.
- (6) A second or subsequent moving offense cannot be processed through the Juvenile Court Traffic Violations Bureau. If more than one moving traffic violation is charged arising from a single incident or series of incidents, none of those violations may be processed through the Juvenile Court Traffic Violations Bureau, and a mandatory court appearance is required.
- (7) All other traffic and tobacco law violations that cannot be waived require a mandatory court appearance.

Last Revised 2/16/2016

### **Rule 63. Juvenile Civil Protection Orders/Domestic Violence Protection Orders**

(A) Purpose; Prevailing Rules; Standard Forms

Juvenile Civil Protection Order cases brought hereunder shall be administered in accordance with Rule 56 of the Ohio Rules of Civil Procedure, Ohio Revised Code Sections 2151.34 and 3113.31, and Rule 10.05 of the Ohio Supreme Court Rules of Superintendence to facilitate the issuance of civil protection orders against juveniles who engage in certain violent behaviors, domestic violence, or sexually oriented offenses. The court shall use forms substantially similar to the petitions, protection order forms, notices, and warning forms promulgated by the Ohio Supreme Court in Rule 10.05 of the Ohio Rules of Superintendence.

(B) Exclusive Jurisdiction

The Juvenile Division of the Court of Common Pleas in any county in which the person or persons to be protected resides has exclusive original jurisdiction with respect to any proceedings brought under Ohio Revised Code Section 2151.34 and Ohio Revised Code Section 3113.31 when the respondent is under eighteen (18) years of age at the time the petition is filed. All orders against a respondent shall expire no later than respondent attaining the age of nineteen (19) years of age.

(C) Costs

There shall be no costs or fees assessed for filing or obtaining a protection order herein.

(D) Mutual Orders

No petitioner, in a protection order which the petitioner originally requested, shall be ordered to perform any act, refrain from any act, or assume any legal duty, unless respondent has filed a separate petition for a protection order, the petitioner has received or waived written notice of respondent's petition at least forty-eight (48) hours in advance of any hearing, and the petitioner's other due process rights have been protected by the court.

(E) Victim Advocate

Every petitioner shall be afforded the opportunity to be accompanied by a victim advocate in all stages of a proceeding commenced hereunder.

(F) Timely Procedures

A petition for a Juvenile Civil Protection Order or Juvenile Domestic Violence Civil Protection Order shall be promptly filed when it is presented to the court or clerk of courts. The clerk of courts shall assist the petitioners in filling out the forms.

If an *ex parte* hearing is requested, the *ex parte* hearing shall be conducted no later than the next business day after the filing date upon which the petition is filed in Juvenile Civil Protection Order cases and upon the same day as the petition is filed in Juvenile Domestic Violence Civil Protection Order cases, and shall be supported by sufficient testimony in support of the petition.

If the court issues an *ex parte* order in a Juvenile Domestic Violence Civil Protection Order matter in which the child is removed from his or her home, the matter shall be set for full hearing within seven (7) days from the date of the issuance of the *ex parte* order. If the court issues an *ex parte* order in a Juvenile Domestic Violence Civil Protection Order matter and the respondent is not removed from his or her home or if the court issues an *ex parte* order in a Juvenile Civil Protection Order matter, the matter shall be set for full hearing within ten (10) days from the date of said *ex parte* hearing.

If the court denies a request for an *ex parte* order or if the petitioner does not request an *ex parte* order, the matter shall proceed as in a normal civil action and grant a full hearing on the matter.

(G) Service

Service of process is required for a full hearing in accordance with the Ohio Rules of Civil Procedure. Further, the court shall direct that any juvenile civil protection order or juvenile domestic violence protection order or consent agreement issued by the court be delivered the same day upon the respondent, all law enforcement agencies that have jurisdiction to enforce the order, and the parent, guardian, or legal custodian of the respondent the same day that the order is entered upon the court's record. The court may order the protection order delivered to other persons as it deems necessary.

(H) Continuance of Full Hearing

Prior to or at the first full hearing in any Juvenile Civil Protection Order or Juvenile Domestic Violence Protection Order case, the court may continue a case for service upon the respondent, by consent of the parties, to allow a party to obtain counsel, and for other good cause shown, under the condition that any *ex parte* order then in effect shall remain in effect until the date upon which the matter is reset for full hearing. Continuances will not be granted to permit the respondent to file a petition against the petitioner. If petitioner fails to appear at the full hearing, the petition may be dismissed.

(I) Waiver; Modifications of Order

A petitioner may not waive, excuse, or modify any terms set forth in a juvenile civil protection order or juvenile domestic violence civil protection order. All requests for modifications to any existing juvenile civil protection order or juvenile domestic violence civil protection order shall be made by motion to the court and modifications may be made by order after an evidentiary hearing.

(J) Renewal; Termination of Orders

Any juvenile civil protection order or juvenile domestic violence civil protection order may be renewed in the same manner as the original order was issued. The court shall hear all requests for termination of a civil protection order or juvenile domestic violence civil protection order by evidentiary hearing.

(K) Consent Agreements

The judge or magistrate shall review all agreed orders and consent agreements in Juvenile Civil Protection Order cases and Juvenile Domestic Violence Civil Protection Order cases to assure compliance with the law and rules governing such cases. The

judge or magistrate shall further assure that any waivers including waiver of right to file objections are waived knowingly, intelligently, and voluntarily.

Last Revised 11/14/2013



## **Rule 64. Competency Hearings**

(A) In General.

All competency proceedings shall follow procedures outlined in this rule and sections 2152.51 to 2152.59 of the Revised Code. Competency proceedings are only available to a juvenile who is alleged to be delinquent.

(B) Expedited Hearings.

All competency proceedings shall be scheduled and heard on an expedited basis. The timelines established in R.C. 2152.51 through R.C. 2152.59 shall be strictly enforced.

(C) Notice.

Upon the conclusion of each hearing, the court shall provide written notice of the date, time and place of the next scheduled hearing to the prosecuting attorney, the child's attorney, the child's guardian ad litem, and the child's parents, guardian or custodian. Mailed notice shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.

(D) Stay of Proceedings.

Upon the filing of a motion for a determination regarding a child's competency or upon the court's own motion, the court shall stay all delinquency proceedings pending a determination of competency. If upon a determination of competency, the court determines that the child is not competent but could likely attain competency, the court order staying the delinquency proceedings shall remain in effect until such time as the court determines that the child has attained competency or the proceeding is dismissed.

Last Revised 8/3/2015

## **Rule 65. Behavior, Diversion, and Education (BDE) Program**

### **(C) Purpose**

The Behavior, Diversion, and Education ("BDE") Program diverts juveniles age thirteen (13) years or younger at the time of the offense and who have been accused of a sex offense against a family or household member away from formal court proceedings and into treatment as soon as possible. The primary goal of the BDE Program is to provide families with a safe space to address the offending behavior while protecting the victim.

### **(D) Eligibility Criteria**

Participation in the BDE Program is voluntary and requires parental involvement. Cases must meet the following criteria:

- (1) The alleged offender:
  - (a) is age thirteen (13) years or younger at the time of the offense and under the age of eighteen (18) at the time of the referral;
  - (b) has no prior adjudications for a sex offense (O.R.C. ch. 2907) or any felony of the first or second degree; and
  - (c) has had no past or current treatment for sexual offending with recurrent sexual behavior unrelated to the current case/matter.
- (2) The alleged victim is a family or household member as defined in O.R.C. § 2919.25(F). Juveniles in the custody of the Cuyahoga County Division of Children and Family Services are not precluded from participation in the Program.
- (3) Additional factors to be considered that may disqualify a matter include:
  - (a) Age difference between the alleged offender and victim;
  - (b) Physical injury to the victim;
  - (c) Number of victims;
  - (d) Length of time victim and/or alleged offender in the home; or
  - (e) Input from the victim's family.

### **(E) Referral to the Program**

Eligible cases may be referred to the BDE Program either by the Cuyahoga County Prosecutor's Office ("CCPO") before the filing of a formal complaint or by the Court after the filing of a complaint. Court referrals shall be made during the arraignment or pre-trial stage of the case, and in no event after any admission, adjudication, or testimony by the victim. Prior to a Court referral, an eligibility hearing shall be held and the victim and/or the victim's family shall be given the opportunity to attend.

(F) Post-Complaint Referrals by the Court

- (1) The BDE Program does not require any formal hearings, including arraignment or an admission pursuant to Juv. R. 29. The Program shall not be used as a dispositional order.
- (2) Scheduling
  - (a) The case shall remain open until successful completion of treatment.
  - (b) An Engagement Review Attorney Conference shall be scheduled approximately thirty (30) days after referral to determine if the child is engaged in treatment.
  - (c) A Treatment Review Attorney Conference shall be scheduled approximately six (6) months after the Engagement Review Attorney Conference to determine treatment progress.
  - (d) The prosecutor, defense counsel, and guardian *ad litem* (if applicable) shall attend and update the Court at all Attorney Conferences.
  - (e) The treatment providers and Care Coordinators shall not attend the Attorney Conferences but shall provide information to the attorneys and Court through written reports as requested.

(G) Successful Completion

If the alleged offender successfully completes treatment through the BDE Program, the treatment provider shall send a letter of successful completion to the Care Coordinator and it shall be entered into the Court's case management system. The Care Coordinator shall notify the prosecutor, defense counsel, guardian *ad litem* (if applicable), and BDE Committee of the successful completion. A successful completion closing letter from the Court's Early Intervention and Diversion Center and CCPO shall be sent to the alleged offender and victim. The Care Coordinator shall properly dispose of any physical documents and the matter shall be immediately sealed.

Enacted 8/19/2021