
JUVENILE COURT OF DELAWARE
COUNTY, OHIO DAVID A.
HEJMANOWSKI, JUDGE

LOCAL COURT RULES OF PRACTICE OF THE JUVENILE COURT OF DELAWARE
COUNTY, OHIO

EFFECTIVE; March 1, 2017

Amended April 11, 2018

ADOPTED BY JUDGEMENT ENTRY FILED IN CASE NUMBER 17010003MS

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Rules of Practice of the Court of the Delaware County Court of Common Pleas Juvenile Division

Effective May 1, 2003

As Amended Through March 1, 2017

GENERAL PROVISIONS

RULE 1 TERM OF COURT; HOURS OF COURT SESSION

1.01 The Court shall be in continuous operation for the transaction of judicial business. Each calendar year, beginning in January, shall constitute a separate term of court designated by the calendar year in which the term lies. Each annual term of court shall be divided into three sessions, with each session continuing for a period of four months. The sessions shall be designated as Part I, Part II and Part III. Part I shall commence on the first day of January of each calendar year. Part II shall commence on the first day of May of each calendar year. Part III shall commence on the first day of September of each calendar year. This Rule is adopted pursuant to the provisions of Section 2301.05 of the Ohio Revised Code.

1.02 The sessions of the Court generally shall be Monday through Friday from 8:30 a.m. to 4:30 p.m. The Court shall be in session at such other times as the judge shall prescribe.

RULE 1.1 SCOPE & APPLICABILITY OF RULES

The rules hereinafter set forth shall apply to the Juvenile Division of the Court of Common Pleas of Delaware County, Ohio, except as otherwise provided. Additional Local Rules of the Court have been adopted by the General Division, Domestic Relations Division and the Probate Division, and may be adopted by such other divisions of the Court as may be created, governing practice and procedure in those divisions. The Court of Common Pleas of Delaware County consists of four divisions: the General Division, the Probate Division, and the Juvenile Division.

RULE 1.2 INTERPRETATION

These Local Rules shall be interpreted to achieve the prompt, efficient, and fair resolution of cases. In the event that any portion of a rule is found to be ambiguous, the rule shall be interpreted as follows:

1. To be consistent with the Ohio and United States Constitutions, the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure and the Ohio Rules of Juvenile Procedure;
2. To be practical and efficient in their operation;
3. To be taken in context with the other portions of these rules.

RULE 1.3 CITATION

These rules shall be known as the "Local Rules of Practice of the Delaware County Common Pleas Court, Juvenile Division." These rules may be cited as "Loc.Juv.R. ___."

RULE 1.4 EFFECTIVE DATE

These rules shall be effective on May 1, 2003.

RULE 2.0 MAGISTRATES

Magistrates shall be appointed to hear all matters not otherwise acted upon by a judge of the Juvenile Division, including without limitation, delinquency, unruly, traffic, abuse, neglect, dependency, allocation of parental rights and responsibilities, parenting time enforcement and modification, child support enforcement and modification, URESA, UIFSA, and determination of parentage matters and any other matters as referred by a judge of the Juvenile Division. A magistrate, acting in these matters, shall have all powers set forth in Rule 40 of the Ohio Rules of Juvenile Procedure.

RULE 3 FILES

3.01 The Probate/Juvenile Judge is the Clerk of Court for the Probate/Juvenile Division and shall appoint a Chief Deputy Clerk. The term "Clerk" refers interchangeably to both the Judge and the Chief Deputy Clerk, as appropriate.

3.02 The Clerk of the Court of Common Pleas of Delaware County, Ohio, Juvenile Division, shall file and carefully preserve all papers delivered to the Clerk's office in every action or proceeding. The Clerk promptly shall file all papers in chronological order and make the appropriate entry in the docket.

3.03 Upon request for copies of pleadings or other documents from a case file, the Clerk shall furnish said copies within the mandates of Ohio Revised Code §149.43 and other applicable laws, including those relating to juvenile privacy considerations, and upon receipt of the appropriate copying fee.

3.04 No file, deposition, or transcript shall be removed from the Office of the Clerk of this Court by any person for any reason, except (1) the Clerk of this Court or any employee of said Clerk; (2) the Common Pleas Judges or any members of their staffs, including the Magistrates.

3.05 No file shall be taken apart for purposes of copying or for any other reason by any person, except the Clerk of this Court or any employee of the Clerk.

3.06 No file or any portion thereof shall be copied by any person, except the Clerk of this Court, any employee of the Clerk, or court staff.

3.07 Every pleading, document, or other paperwork that is filed with the Clerk of Courts shall, as far as practicable, be on 8.5 inch by 11 inch paper.

RULE 4 DEPOSIT OF SECURITY FOR COSTS

4.01 No new or reactivated action or proceeding shall be accepted by the Clerk for filing unless the appropriate deposit has been paid. Upon termination of the case, if costs remain unpaid, appropriate orders will be imposed to collect the costs. Except as otherwise provided by law, the deposit shall be in accordance with a schedule of costs, prominently displayed in the Clerk's office. Upon the termination of a case, if funds totaling more than twenty dollars (\$20.00) remain on the balance of the case, those funds shall be refunded to the proper litigant(s). Upon the termination of a case, if funds totaling less than twenty dollars (\$20.00) remain on the balance of the case, those funds shall be transferred to the Indigent Client Fund.

4.02 Final judgment entries shall contain a provision for payment of costs as ordered by the Court. The Clerk of Courts shall apply the deposit for costs in the case, regardless of the party against whom the costs are assessed.

4.03 If the party initiating the action or proceeding is unable to pay, as set forth in Loc.R. 4.01, the party shall file an affidavit, signed before a Deputy Clerk of Court, reflecting the inability to post the required cost deposit.

RULE 5 TRIAL PROCEDURE

5.01 Trial procedure shall be in accordance with applicable statutes or Rules of the Supreme Court of Ohio.

5.02 Except with the permission of the judge or magistrate, only one attorney for each adverse party will be permitted to speak on any interlocutory motion, or upon any question arising in the trial of a case; and only one attorney for each adverse party will be permitted to examine the same witness in any trial or proceeding before the Court. A Guardian *ad litem* appointed for a juvenile shall not be considered as an attorney for any party for the purposes of this rule.

RULE 6 CERTIFICATE OF SERVICE

6.01 Every pleading, motion, brief, memorandum, or argument in writing filed with the Court shall be served upon all opposing counsel, a Guardian *ad litem*, if one is appointed, and upon all parties not represented by counsel. Except as provided for by law, proof of service, in writing, shall be attached to the pleading, motion, brief, memorandum, or argument in writing. No paper delivered to the Court without a certificate of service shall be considered by any judge or magistrate.

RULE 7 PLEADINGS AND MOTIONS

7.01 Every pleading, motion and memorandum filed shall be legibly typewritten or printed on 8.5 inch by 11 inch paper, shall be securely bound, and shall have typed or printed the name, address, telephone number, and the Ohio Supreme Court attorney registration number of counsel having primary responsibility for the case. The name of the judicial officer shall appear beneath the case number.

7.02 When a new party Plaintiff or Defendant is added to a case after its commencement, the caption of subsequent pleadings shall contain the name and address of the new party, followed by the appropriate designation. If a name change occurs during the pendency of a case, the new name shall appear in parenthesis following the original name.

7.03 All motions, where appropriate, shall be accompanied by a memorandum in support of the motion, which shall set forth the specific grounds for the relief sought, along with citations to controlling authorities relied upon in requesting the relief, in accordance with Juvenile Rule 19. Where appropriate, all memoranda (in support of, contra to, and in reply) filed regarding a pending motion shall include page and document references to evidentiary material for all factual assertions. In addition, counsel shall attach copies of major and significant cases upon which counsel relies in requesting the relief or in opposing the motion.

7.04 Except as otherwise ordered by the judge or magistrate, all motions (except motions for summary judgment) shall be accompanied by a proposed Judgment Entry or Order.

7.05 Except as otherwise ordered by the trial judge, all motions shall be considered upon non-oral hearing on a date to be set forth in an order by the magistrate or judge and shall include the dates for filing and service of any memorandum contra and reply memorandum.

7.06 All motions, memoranda contra and replies shall be titled in the following manner:

MOTION: Motion of (Plaintiff/Defendant/Juvenile) (party name) (to/for) (type of motion).

MEMORANDUM CONTRA: Memorandum Contra of (Plaintiff/ Defendant/Juvenile) (party name) to (Plaintiff/Defendant/Juvenile) (party name's) Motion (to/for) (type of motion) Filed (date of motion).

REPLY: Reply of (Plaintiff/Defendant/Juvenile) (party name) to (Plaintiff/Defendant/Juvenile) (party name's) Memorandum Contra to Motion Filed (date of motion).

If an oral hearing on the motion is desired, the motion shall so request, with the anticipated length of the hearing, in the caption. If a case is styled, "In the Matter Of:", then the title of the movant (e.g. mother, father, custodian) shall be noted.

7.07 Once the initial motion has been filed, any memorandum contra to the motion shall be filed and served upon opposing counsel within the time set forth in the order issued pursuant to Loc. R. 7.05 or as otherwise provided by the Ohio Rules of Juvenile Procedure. Failure to file and serve a memorandum contra may result in the Court granting the motion as filed and served. A reply memorandum may be filed and served upon opposing counsel within seven days after the date stated in the certificate of service in the memorandum contra. The dates and time periods set forth in the order of the Court may be extended by the Court upon written application and for good cause shown. Where appropriate, the moving party shall submit a proposed Judgment Entry to this effect.

7.08 No memoranda, whether in support of or contra, shall exceed twenty-five pages, exclusive of supporting documents. Any memoranda exceeding twenty-five pages will not be accepted for filing without prior approval of the Court.

Reply memoranda shall not exceed twelve pages and shall be restricted to rebuttal.

Requests for leave to file memoranda in excess of the page limits shall be made by motion no later than seven days prior to the time for filing the motion, except for good cause shown.

7.09 All motions, briefs and memoranda (in support of, contra and reply) shall be filed with sufficient copies for service upon all parties. A motion delivered to the Court with an insufficient number of copies will not be accepted for filing.

7.10 Motions filed by *pro-se* litigants must, in all ways possible, comply with the provisions of Loc.Juv. Rule 7.

7.11 When service is required to be made by the Court for pleadings other than (a) those for which service has been requested by properly filed instructions for service, or (b) those for which a specific method of service is designated within the filing or is designated by statute, then service shall be through delivery to the court mailbox of an attorney who in writing has previously authorized such method of alternate delivery and upon all other individuals or entities by ordinary U. S. Mail sent to the last address reflected

in the case file for the individual or entities being served unless the serving deputy clerk indicates that service has been made personally or by certified mail.

For the filings to which this rule applies, the deputy clerk shall place a signed certification on the filing indicating the date of service and any alternate means of service used for a given party.

Unless otherwise indicated on the filing, the certification represents that the default method of service used was either: (a) to the court mailbox for attorneys having a designated court mailbox, or (b) by ordinary U.S. Mail for all other individuals or entities.

RULE 8 FILING OF DISCOVERY MATERIALS

8.01 Pursuant to Rule 5(D) of the Ohio Rules of Civil Procedure, the Clerk shall not accept for filing: depositions upon oral examination, interrogatories, requests for documents, requests for admissions and answers, or responses thereto, unless (1) the Court otherwise orders, (2) they are to be used as evidence, or (3) they relate to a pending motion.

8.02 Depositions. (A) Depositions may be allowed pursuant to Juvenile Rule 25. All filings of depositions shall conform to the Ohio Rules of Civil Procedure. Only one deposition per sealed envelope will be accepted for filing. The Clerk shall not accept for filing a sealed deposition envelope containing more than one deposition.

(B) Upon receipt of a sealed deposition, the Clerk shall file-stamp the deposition, place the deposition back into the envelope in which it was delivered, and reseal the envelope. The envelope containing the deposition shall thereafter remain sealed, until any party to the case, counsel for any party to the case, or any member of the public, acting pursuant to and within the bounds of O.R.C. §149.43, or other applicable laws, wishes to view the deposition. Before the interested person views the deposition, the Clerk shall unseal the deposition, initial and date the envelope, and record on the envelope the person's name who has requested to view the deposition. The interested person may then view the deposition in the presence of the Clerk. This rule is not intended to limit any person's lawful access to filed depositions, but to preserve the integrity of the depositions and exhibits appended thereto.

(C) Loc.R. 8.02(B) applies unless a protective order is placed on the cover of the deposition, an order sealing the deposition is placed on the cover of the deposition, or the deposition is protected by any statutory provision.

RULE 9 RULE DAY EXTENSIONS

9.01 By agreement of opposing counsel, any party may be permitted two leaves to plead, provided that the total extension of time does not exceed twenty-eight days. The agreement of counsel shall be evidenced by a "Consent to Plead" that has been signed by all parties to the action.

9.02 Except as otherwise provided by these Local Rules, where a party needs additional time, beyond that provided in Loc.R. 9.01, or where the parties cannot agree upon an extension of time, the party desiring the extension shall file a written motion, supported by an affidavit that states facts which indicate the practical impossibility of pleading within rule and which demonstrate good cause for further extension. The motion and affidavit shall be filed on or before the expiration of the time to move or plead. The

motion and affidavit shall be served upon opposing counsel, and the matter shall be heard at a time to be fixed by the judge or magistrate. The motion and affidavit will be required even though consent of opposing counsel is obtained if the extension is for a period of time beyond that permitted by Loc.R. 9.01.

RULE 10 RULE DAYS NOT FIXED BY LAW

10.01 In all cases where the time for the filing of pleadings or amended pleadings is not fixed by law or other rule, the pleadings or amended pleadings shall be filed on or before the seventh day after the date of the entry requiring or granting leave for the filing of pleadings or amended pleadings, unless otherwise specified in the entry and approved by the assigned judge or magistrate. The opposing party shall move or plead to the pleadings or amended pleadings so filed on or before the fourteenth day after the pleadings or amended pleadings are filed.

10.02 No pleading or motion shall be amended by interlineation or obliteration except upon express prior leave of the judge or magistrate. Upon the filing of an amended pleading or motion, the original or any prior amendment shall not be withdrawn from the files.

RULE 11 TRIAL ATTORNEYS

11.01 All pleadings and motions, served and filed on behalf of any party represented by counsel shall be signed by one attorney in that attorney's individual name as required by Rule 11 of the Ohio Rules of Civil Procedure, as the trial attorney for that party. Such attorney shall be the attorney who is to try the case, unless otherwise ordered by the Court, and shall be responsible for the action. Following that attorney's signature, office address, telephone number, and Supreme Court registration number, there shall be set forth the designation "Attorney for (Identifying Title)". Firm names and the names of co-counsel or associate counsel may appear on the pleadings and motions.

11.02 All copies of pleadings or other court filings required by these Rules or Rule 5 of the Ohio Rules of Civil Procedure to be served upon other counsel in a case, shall be served upon the trial attorney, as designated in accordance with Loc.R. 11.01.

11.03 All notices and communications from the Court with respect to a pending case will be sent to the trial attorney(s) as designated in Loc.R. 11.01.

11.04 If a party to a case is unrepresented by counsel, all communication regarding a pending case will be sent to the party's address as stated in the pleadings.

11.05 Compliance with Loc.R. 11.01 shall be sufficient to constitute an entry of appearance.

11.06 If the trial attorney designated in accordance with Loc.R. 11.01 withdraws from the case, as provided in Loc.R. 13, and a new attorney is substituted in his place, a written notice of substitution of counsel shall be filed.

RULE 12 ADMISSION OF OUT-OF-STATE ATTORNEYS

12.01 An attorney not licensed to practice law in the State of Ohio, but who is duly licensed to practice law in any other state or in the District of Columbia, may, at the discretion of the Juvenile Judge, be permitted to represent a party or parties in any pending action or in any action to be filed in Delaware County, provided that the out-of-state attorney has done all of the following:

- 1) Filed a written oath substantially in compliance with Rule I, Section 8A, of the Rules for the Government of the Bar;
- 2) Certified in writing that he or she has familiarized himself or herself with the Local Rules of Delaware County, Ohio and will familiarize himself or herself with the appropriate Ohio Rules of Criminal, Civil, or Juvenile Procedure, the Ohio Rules of Evidence, and the Ohio Code of Professional Responsibility;
- 3) Found an attorney licensed to practice law in Ohio to act as his or her sponsor. The sponsoring attorney shall provide written notice of his or her sponsorship to the Court and shall certify the out-of-state attorney's compliance with this rule and the Rules for the Government of the Bar;
- 4) The sponsoring attorney submits with the motion and certification an entry authorizing the approval of the motion;
- 5) The sponsoring attorney, or any other attorney licensed to practice law in the state of Ohio, shall be co-counsel with the attorney admitted *pro hac vice*.

12.02 The continuance of any scheduled trial or hearing date shall not be permitted solely because of the unavailability or inconvenience to the out-of-state attorney.

RULE 13 WITHDRAWAL OF COUNSEL

13.01 It is contemplated that counsel who have entered an appearance in the case will remain in the case until it is concluded.

13.02 Counsel for any party may be permitted to withdraw from an action:

1. upon written motion with the written consent of the client and the entry and appearance of substitute counsel; or
2. upon written motion showing good cause, with the consent of the Court, after notice by certified mail, or regular mail with certificate of mailing if certified mail is returned or unclaimed, to the client stating the time, date, and place where such motion will be heard.

13.03 Except for extraordinary circumstances, no attorney shall be permitted to withdraw from a case later than twenty days prior to trial or prior to a dispositive hearing or motion.

RULE 14 CONSOLIDATION OF CASES

14.01 Consolidation of Cases. When actions involving common questions of law or fact, are pending before the Court, or when a juvenile has been alleged to be delinquent or unruly in multiple cases, the Court may consolidate those cases under a single case number.

(A) Upon motion of the parties, or *sua sponte*, an entry or order shall be prepared, bearing the complete case captions of all cases to be consolidated.

(B) The case schedule of the lowest numbered case shall control the proceedings of consolidated cases unless otherwise ordered by the Court.

RULE 15 MOTION TO CONTINUE TRIAL DATE

15.01 Except as permitted by the judge or magistrate, no party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel, provided the trial judge or magistrate may waive this requirement upon good cause shown. A copy of such motion shall be served forthwith on all counsel of record.

15.02 If a party or counsel appears for trial, but shows good cause as to why the party or counsel is not ready for trial, the Court shall make such order or orders as it deems proper. If a party or counsel appears for trial but indicates the party or counsel is not ready for trial without showing good cause for unreadiness, the Court, if such party is one seeking affirmative relief, may enter an order dismissing the claim for want of prosecution, or if a party is defending a claim, order the party seeking relief to proceed with the case, determining all matters.

15.03 All motions to continue shall be accompanied by a Judgment Entry or Magistrate Order granting the same. The Entry or Order should be prepared for the signature of the Judge or Magistrate who has presided over any prior hearings in the matter or who presided over the immediately prior hearing if more than one Judicial Officer has presided.

15.04 The parties in each case shall make every effort to file a motion to continue at least seven days prior to the date of the hearing to be continued. If a motion to continue is filed less than seven days prior to the hearing for which the continuance is sought, the moving party shall contact all other parties of record to seek their approval or consent to the motion and shall, upon the face of the motion itself, indicate their approval or refusal to approve.

RULE 16 NOTICE OF SETTLEMENT

16.01 Whenever the parties have reached a settlement agreement prior to the trial date, it shall be the duty of counsel for the Plaintiff or original moving party to immediately notify the trial judge or magistrate by telephone or motion, particularly if there are pending motions that would involve the Court's time.

16.02 If a settlement or dismissal occurs within twenty-four hours of the trial date, counsel for the Plaintiff or original moving party shall notify an appropriate employee of the Juvenile Court as soon as possible to maximize the opportunity for profitable use of the allotted time.

RULE 17 FINDINGS OF FACT AND CONCLUSIONS OF LAW

17.01 Upon request of a party for findings of fact and conclusions of law, pursuant to Rule 52 of the Ohio Rules of Civil Procedure, or Rule 40(E)(2) of the Ohio Rules of Juvenile Procedure, the Court may require the parties to submit proposed findings of fact and conclusions of law for the Court's consideration.

RULE 18 ENTRIES AND DECISIONS

18.01 If the trial judge or magistrate directs, counsel for the party in whose favor a decision, order, decree, or judgment is rendered, within five days, shall prepare the proper judgment entry or decision and submit it to the counsel for the adverse party, who shall approve or reject the entry or decision within fourteen days after receipt. The name of the counsel and of the assigned trial judge or magistrate shall be typed or printed upon the entry or decision. When the entry or decision is approved by counsel, it shall be signed and presented to the trial judge or magistrate for approval, and, if the trial judge or magistrate

approves the entry or decision, it shall then be filed with the Clerk. If counsel are unable to agree upon the entry or decision, the matter shall be submitted to the trial judge along with a motion stating why counsel would not approve the entry or decision.

18.02 If counsel fails to present any entry order, decree or judgment within twenty days after the hearing wherein the entry, order, decree, or judgment is rendered, the trial judge or magistrate may prepare and file the entry, order, decree or judgment with underlying decision.

RULE 19 OBJECTIONS

19.01 Time for Filing

Objections to the magistrate's decision shall be filed within fourteen days of the filing of the decision itself. If a party should request findings of fact pursuant to Ohio Rule of Juvenile Procedure 40, the time for filing objections shall be fourteen days after the filing of the magistrate's findings of fact.

19.02 Form of Objections

Objections shall be filed with the Clerk of this Court in writing, and shall state with particularity the grounds of the Objection, so as to conform with Ohio Rule of Juvenile Procedure 19. Objections shall in all other manners conform with the provisions of Ohio Rule of Juvenile Procedure 40.

RULE 20 JURIES AND JURORS

Jury service is an obligation of all qualified citizens of Delaware County. Failure to attend when summoned to jury duty is a violation of the Ohio Revised Code. *See* R.C. 2123 *et seq.* Employers are prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work when summoned to jury service.

20.01 Opportunity for Service

(A) The opportunity for jury service shall not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group or person in Delaware County, Ohio.

(B) Jury service shall be an obligation of all registered voters of Delaware County, Ohio, who are not otherwise entitled to apply for a statutory excuse.

20.02 Jury Source List.

(A) A jury source list shall be obtained from the Delaware County Board of Elections' computerized list of all registered voters in Delaware County, Ohio, and said computerized list shall be provided to the Delaware County Jury Commissioners, in an automated form, on or before January 31 of each year.

(B) The computerized jury source list shall be inclusive of all registered voters within Delaware County, Ohio.

20.03 Random Selection Procedures

(A) Jurors shall be selected pursuant to the random selection procedures outlined in the local rules for the General Division of the Delaware County Court of Common Pleas. All jurors shall be randomly selected.

(B) The prospective juror lists shall be in conformity with the provisions of Section 2313.07(C), Section 2313.08(C) and Section 2313.21(C) of the Ohio Revised Code.

20.04 Eligibility for Jury Service

Eligibility for jury service shall be in accordance with Standard 4 of the Ohio Trial Court Jury Use and Management Standards.

20.05 Statutory Excuse and Temporary Excuse

(A) Prospective jurors may be excused from jury service as provided in Section 2313.16 of the Ohio Revised Code.

(B) Prospective jurors may be rescheduled for the following reasons: vacation, employment hardship, or student/educational hardship.

(C) Deferrals for jury service for reasonably short periods of time may be permitted by a judge or specifically authorized court official.

(D) Requests for excuses and deferrals and their disposition shall be written or otherwise made or recorded.

20.06 Juror Questionnaires.

(A) The juror questionnaire shall be phrased and organized so as to facilitate quick and accurate screening and shall request only that information essential for: (1) determining whether a person meets the criteria for eligibility; (2) providing basic background information ordinarily sought during voir dire examination; and (3) efficiently managing the jury system.

(B) Questionnaires shall be returned to the Court immediately following trial.

20.07 Voir Dire

(A) In order to be of assistance to counsel and the parties, and to reduce the time required to select a jury in any given case, an alphabetical list of prospective jurors and copies of prospective jurors' questionnaires shall be provided to counsel, upon written request, one week prior to trial.

(B) At the outset, the trial judge shall conduct a preliminary voir dire examination of the entire prospective jury panel called for jury service in any given case. Counsel for the parties shall then be permitted to conduct an appropriate voir dire examination of the entire prospective jury panel or of a more limited panel.

(C) Voir dire examination shall be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality. The trial judge shall ensure that the privacy of the prospective jurors is reasonably protected and that counsel's questions are consistent with the purpose of the voir dire process.

(D) In all cases, the voir dire process shall be held on the record.

(E) In all cases, the rules governing the voir dire examination shall be as follows, unless the trial judge otherwise orders.

- (1) The case may not be argued in any way while questioning the jurors.
- (2) Counsel may not engage in efforts to indoctrinate jurors.

(3) Jurors may not be questioned concerning anticipated instructions or theories of law. (4)

Jurors may not be asked what kind of verdict they might return under any circumstance. (5)

Questions are to be asked collectively of the entire panel whenever possible.

20.08 Removal from the Jury Panel for Cause

(A) If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel.

(B) In criminal and serious youthful offender cases, prospective jurors may be challenged for cause for those reasons specifically set forth in Rule 24(B) of the Ohio Rules of Criminal Procedure.

20.09 Peremptory Challenges

(A) Procedures for exercising peremptory challenges shall be in accordance with the Ohio Criminal Rules adopted by the Supreme Court of Ohio and applicable statutory authority. See Rule 24(C) of the Ohio Rules of Criminal Procedure.

20.10 Administration of the Jury System

All procedures concerning jury selection and service should be governed by these rules and other applicable statutes and the Ohio Rules of Criminal Procedure.

20.11 Jury Facilities

(A) The Board of County Commissioners of Delaware County shall provide an adequate and suitable environment for jurors in accordance with Standard 14 of the Ohio Trial Court Jury Use and Management Standards.

20.12 Juror Compensation

(A) Persons called for jury service shall receive a reasonable fee for their jury service, as determined by Resolution of the Delaware County Board of Commissioners.

(B) Petit Juror Fees shall be paid within two weeks of the completion of the term.

20.13 Juror Orientation and Instruction

(A) Each trial judge or magistrate shall provide orientation and instruction to persons called for jury service that is in conformity with Standard 16 of the Ohio Trial Court Jury Use and Management Standards.

20.14 Jury Deliberations

(A) Each trial judge shall provide for deliberations in accordance with Standard 18 of the Ohio Trial Court Jury Use and Management Standards.

20.15 Sequestration of Jurors

(A) Sequestration of jurors shall be in accordance with Standard 19 of the Ohio Trial Court Jury Use and Management Standards.

CASE FLOW MANAGEMENT PRACTICE AND PROCEDURE

Statement of Purpose

The following case management procedures are promulgated to ensure the readiness of cases for pretrial and trial and to maintain and improve the timely disposition of cases.

When these cases are filed in this Court, it is important for the Judge and magistrates to supervise their progress, from filing to termination, in a process that is fundamentally fair, but not too deliberate or too hasty. Within the bounds of applicable constitutional provisions, statutes, case law, and rules governing the courts of Ohio, the Court shall manage the sequence of events in litigation to ensure the timely disposition of all matters by trial, submission for decision on legal arguments, negotiated settlement, arbitration, mediation, or other means of appropriate dispute resolution.

It is therefore incumbent upon the judge and magistrates to articulate orders in each case for the uniform enforcement of procedural requirements, other rules, and time deadlines applicable in any particular case or type of case. Counsel in each case has a corresponding duty to know these rules and meet these deadlines and to inform the Court of extraordinary circumstances that would cause the standard deadlines to work a substantial injustice to their clients.

RULE 21 CASE FLOW MANAGEMENT

21.01 These case flow management rules shall apply to all matters filed in the Juvenile Division of the Common Pleas Court unless (1) the case by its very nature requires a more rapid adjudication such as in equity matters; (2) the case, because of court-imposed stays, interlocutory appeals, removal to federal court, and remand, etc., requires a different schedule; or (3) the judge or magistrate, by written order, places the case on a different schedule for resolution based on good cause shown. Wherever possible cases will be resolved in the shortest amount of time. The deadlines set by the Ohio Rules of Superintendence for the Courts of Common Pleas shall be construed as maximums and shall not preclude the more rapid resolution of cases under these rules.

21.02 It shall be the goal of these rules and the management of the docket by the Juvenile Division of the Common Pleas Court that ninety percent of all applicable cases should be concluded within twelve months of filing; ninety-eight percent within eighteen months of filing; and one-hundred percent within twenty-four months of filing, except for individual cases where the Court determines exceptional circumstances exist.

RULE 22 CALCULATION OF TIME

The time limits in these case flow management rules shall be calculated from the date of filing of the initial document invoking the jurisdiction of the Juvenile Division.

RULE 23 ATTORNEY DECORUM

Counsel for all parties shall be present and before the Court at the assigned hearing time. If counsel is not present in court at the assigned hearing time, the case may commence without counsel, may be continued, or may be dismissed, as the court shall decide is appropriate. If counsel is going to be late for a hearing, counsel must make a reasonable effort to notify the judge or magistrate as soon as is practical in order to explain the reason for his or her lateness. Repeated lateness or absences may result in fines or in the removal of counsel from the appointment of cases in the Delaware County Juvenile Court.

RULE 24 EX PARTE ORDER PRACTICE

24.01 The provisions of this rule shall set forth general guidelines to follow in the filing and processing of ex parte orders. The provisions of this rule shall be followed in conjunction with applicable statutory provisions and portions of the Ohio Rules of Juvenile Procedure, including Juvenile Rules 6 and 7, and Ohio Revised Code §§2151.31 and 2151.314.

24.02 No ex parte order for restraint from removal from the jurisdiction or any other ex parte extraordinary relief sought from the Court, shall be granted without a specific showing or allegation that, if immediate relief is not granted, serious and/or irreparable harm would result prior to the oral hearing. Every reasonable effort should be made by counsel attempting to obtain an ex parte order to give notice to opposing counsel or an unrepresented party of such intent and when such attempt shall be made.

24.03 Hearings both for Probable Cause to grant requests for ex parte orders and for review of ex parte orders shall take preference on the docket as to scheduling. All hearings with respect to probable cause to grant and review of ex parte orders shall be recorded. The transcription of the record shall be provided upon request and the posting of reasonable costs therefore, and the Court shall expedite the production of such record when requested for purposes of the filing of responsive pleadings or preparation for review hearing.

24.04 All requests for ex parte orders shall be made by motion, and shall be supported by affidavit, stating with specificity the basis for the request for extraordinary relief, and setting forth with specificity the reasons for the necessity for the extraordinary relief requested. The affidavit of the moving party shall contain a statement as to whether the responding party has retained or is otherwise represented by counsel, or if said information is known to the affiant.

24.05 Counsel for the moving party shall prepare and present to the Court a proposed order for the specific relief requested. The proposed order may be altered by interlineations at the direction of the Court, and shall also contain notice of the date and time of the review hearing. Additionally, if the moving party has been unavailable to the Court for examination, the entry shall contain specific findings as to the extraordinary reasons which have made the affiant unavailable to the Court.

24.06 Briefs and affidavits in opposition to the ex parte order may be filed on or before the date of the hearing, together with any authorities or citations relied upon. Reply briefs and submissions may be filed with leave of Court.

24.07 Counsel requesting extraordinary relief shall produce the party seeking the relief to state on the record, under oath, why the relief is sought and why immediate relief is necessary. Presence of the moving party may be excused by the Court for extraordinary cause being shown and specifically described in the proposed order presented to the Court. The moving party shall be subject to examination by the Court.

24.08 Hearings under this section shall be conducted by the judge, or by a designated magistrate if the judge is unavailable. Hearings under this section may be conducted in camera, however the statement of the movant shall be on the record.

24.09 Hearings on the merits of the ex parte order should be held within ten (10) days of journalization of the ex parte order, unless waived by both parties or statutorily mandated to be heard at any earlier time. Hearings on the merits shall be conducted by the judge or by a designated magistrate, and shall be recorded.

24.10 Merit hearings shall take precedence on the docket, shall be set at the time of or immediately after the hearing to secure the ex parte order by the moving counsel, and a notice of the date and time of the hearing shall be contained in the body of the ex parte order. The testimony presented and heard at the merit hearing provided under this rule shall be limited to whether the ex parte order was providently granted, whether there was basis for the extraordinary relief granted, whether the relief requested and granted was consistent with the nature of the emergency which existed and which was presented as the basis for the request for extraordinary relief by the Court, and whether the order shall be continued in its entirety, in part, or vacated.

24.11 In the event that the Court designated a magistrate to conduct the merits hearing, the order of reference shall contain the authority to immediately set aside the ex parte orders should no just cause for their issuance be found, or otherwise be modified according to law.

RULE 25 PRETRIAL PROCEDURE

25.01 The Court may, on its own motion, set any matter for pre-trial hearing. Any party may move, in writing, for a pretrial. If the judge or magistrate determines that a case warrants a pretrial, a date and time shall be set. All parties named in the action shall be present at the pretrial unless their presence is excused, in advance, by the judge or magistrate. In that event, the parties shall be available by telephone.

25.02 It shall be the duty of counsel to come to the pretrial fully prepared and authorized to negotiate toward settlement of the case. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or other sanctions as the judge or magistrate deems appropriate.

25.03 Pretrial Statements. When so ordered by the judge or magistrate, all parties shall prepare and file a pretrial brief or statement. It shall generally be the practice of the Court that this order be made at the final pretrial. The pretrial brief or statement shall be filed on or before the date specified by the order.

(A) The pretrial statement shall include the following:

- (1) Identification of the chief trial counsel, who shall be fully authorized to act and negotiate on behalf of the party;
- (2) The factual and legal issues which the case presents in detail, and the party's position on those issues, including any significant evidentiary questions;
- (3) A listing of all witnesses expected to testify;
- (4) A listing of all exhibits expected to be offered into evidence, except exhibits to be used only for impeachment, illustration, or rebuttal;
- (5) A description of the trial procedure to be requested, including:
 - (a) whether a jury trial, if previously demanded, will now be waived;
 - (b) the estimated number of days required for trial;
- (6) A statement of the status of settlement negotiations.

RULE 26 DISCLOSURE OF POSSIBLE LAY AND EXPERT WITNESSES

26.01 Initial Joint Disclosure of All Witnesses. Each party shall, pursuant to applicable rules of discovery, disclose all persons with relevant factual or expert knowledge whom the party reserves the option to call as witnesses at trial.

26.02 Supplemental Joint Disclosure of All Witnesses. Each party shall, pursuant to applicable discovery rules, disclose all persons, whose factual or expert knowledge did not appear relevant until the witnesses were initially disclosed, whom the party reserves the option to call as witnesses at trial.

26.03 Scope of Disclosure. Disclosure of witnesses under this rule shall include the following information:

(A) All Witnesses. Name, addresses, and business phone number (or home phone number, if no business number is available).

(B) Lay Witnesses. A brief description of witness' relevant knowledge.

(C) Experts. A brief description of the expert's qualifications and summary of the expert's opinions and the basis or theory of that opinion.

26.04 Exclusion of Testimony. Any witnesses not disclosed in compliance with this rule may not be called to testify at trial, unless the trial judge orders otherwise for good cause and subject to such conditions as justice requires.

RULE 27 CONTINUANCE OF THE TRIAL DATE

27.01 Modification. In any case, any party may file a "Motion to Continue the Trial Date" with the Clerk of Court, pursuant to Local Juvenile Rule 15. The motion shall be in writing, signed by the attorney, setting forth good cause for continuing the trial date. The motion will not be granted unless it is supported by a showing of good cause.

(A) In all cases, a copy of the "Motion to Continue the Trial Date" shall be served upon all counsel and any party not represented by counsel. A certificate of service shall be filed with the motion. The judge or magistrate, *sua sponte*, may continue the trial date, on reasonable notice to all counsel and parties.

(B) Conflicts. Unless otherwise provided in these Rules, when a party seeks a continuance due to conflicting court assignments, the case that was assigned first shall have priority. When an attorney becomes aware of any assignment that might impose a conflict, the attorney shall endeavor to advise the Court and opposing counsel as soon as practicable. When a conflict arises between a trial court proceeding and an appellate proceeding, the appellate proceeding shall take precedence.

27.02 Notice of Continuance of Trial Date. In all cases, if the trial date is changed by the judge or magistrate, the party requesting the change shall within five days file with the Clerk of Court an "Entry Continuing Trial Date" with copies served upon all counsel, any party not represented by counsel, and the judge or magistrate. If the continuance of the trial date is initiated by the judge or magistrate, the Court shall prepare and file the "Entry Continuing Trial Date" and mail it within five days to all parties.

RULE 28 DISCOVERY

28.01 Informal Discovery. Counsel will participate in discovery conferences with opposing counsel and shall freely exchange discoverable information and documents upon informal request. Counsel shall make every effort to resolve discovery disputes by agreement prior to filing motions with the Court. In all cases covered by the Rules of Juvenile Procedure, all counsel shall fully comply with Juvenile Rule 24(A).

28.02 Motions. Motions for protective orders or to compel discovery shall be accompanied by a statement reciting efforts made to resolve the matter and shall contain a request for oral hearing caption, if an oral hearing is desired.

28.03 Discovery Documents Discovery documents shall not be filed with the court. Only a notice of response to discovery requests shall be filed with the court.

RULE 29 COMPETENCY

29.01 General Purpose. The purpose of this rule is to expedite proceedings under sections 2152.51 to 2152.59 of the Revised Code, to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under these sections.

29.02 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 by this rule.

29.03 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 conclusion of the immediately preceding hearing.

29.04 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.

RULE 30 SPECIALIZED DOCKETS

30.01 Establishment of Adult Treatment Court and Juvenile Treatment Court Docket

Recognizing that alcohol and other drug-related use by both juveniles and adults poses unique challenges to the juvenile court justice system, the Delaware County Juvenile Court has created the Juvenile Treatment Court Docket and Adult Treatment Court Docket according to the requirements set forth in the Rules of Superintendence for the Courts of Ohio 36.20 through 36.29. The Juvenile Treatment Court and Adult Treatment Court are specialized dockets created by the Court to enable participants to recognize their condition, accept personal responsibility for addressing it and its consequences, and to provide resources and assistance so participants can lead a productive life beyond their court involvement.

The Juvenile Treatment Court Docket and Adult Treatment Court Docket seek to provide appropriate mental health and/or substance abuse treatment and related services to juvenile offenders and parents with identified mental health and/or substance abuse issues. The goals and objectives of the Treatment Court are to encourage access to appropriate mental health and/or substance abuse treatment, improve family relationships and social functioning, provide accountability and rehabilitation for non-violent offenders who have mental health and/or substance abuse problems thereby decreasing recidivism, have more stable and sober adults parenting their children and to reunify families.

30.02 Eligibility for Treatment Court Docket

(A) Eligibility Requirements for Juvenile Treatment Court

Eligible juvenile participants for the Delaware County Juvenile Treatment Court Docket must have an underlying substance abuse or mental health issue that has contributed to their legal involvement.

(B) Eligibility Requirements for Adult Treatment Court

Eligible adult participants for the Delaware County Adult Treatment Court Docket must have an open Abuse, Neglect and/or Dependency case with the Delaware County Department of Job and Family Services and must have an underlying substance abuse or mental health issue that has contributed to their involvement with child protective services.

30.03 Acceptance and Placement to Juvenile Treatment Court Docket

(A) Legal Requirements for Acceptance and Placement

To be accepted and placed into the Delaware County Juvenile Treatment Court, participants must meet the following legal requirements: (1) admit or be adjudicated of a non-violent misdemeanor or felony charge; (2) have a drug abuse or drug paraphernalia adjudication, an adjudication of operating a vehicle under the influence of alcohol or drugs (“OVI”), an abuse of harmful intoxicants adjudication, an alcohol or drug-related offense, or have a substance related probation violation; (3) not be adjudicated of a sex offense; (4) agree to participate and cooperate with the Treatment Court docket; (5) possess the ability to conform his/her behaviors to the requirements of the Court; (6) have the capacity to understand the requirements of the Treatment Court, the consequences for failure to follow those requirements, and the ability to comply with terms and conditions of probation; and (7) complete and sign necessary releases of information.

(B) Clinical Requirements for Acceptance and Placement

To be accepted and placed into the Delaware County Juvenile Treatment Court, participants must meet the following clinical eligibility requirements: (1) have a history of drug or alcohol abuse or dependency and/or have an Axis I diagnosis (DSM V); (2) have a responsible adult support person available and willing to attend counseling and to appear in Treatment Court proceedings with the juvenile; (3) be willing to contract for and participate in a drug/alcohol and/or mental health treatment plan; (4) be willing to take medication if prescribed; and (5) be willing to participate in the Juvenile Treatment Court process by signing and agreeing to the terms and conditions of the Treatment Court Participation Agreement, attending all required court appearances, submitting to random testing and complying with all other Treatment Court program requirements.

30.04 Acceptance and Placement to Adult Treatment Court Docket

(A) Legal Requirements for Acceptance and Placement

To be accepted and placed into the Delaware County Adult Treatment Court, participants must meet the following legal requirements: (1) have no prior sex offense or violent crime convictions; (2) be mentally competent to participate in treatment; (3) have no pending permanent custody filing; and (4) be adjudicated in an Abuse, Neglect or Dependency case.

(B) Clinical Requirements for Acceptance and Placement

To be accepted and placed into the Delaware County Adult Treatment Court, participants must meet the following clinical eligibility requirements: (1) have a history of drug or alcohol abuse or dependency; (2) have an Axis I diagnosis (DSM V); (3) be willing to contract for and participate in a drug/alcohol and/or mental health treatment plan; (4) be willing to participate in the Adult Treatment Court process by signing and agreeing to the terms and conditions of the Treatment Court Participation Agreement, attending all required court appearances, submitting to random testing and complying with all other Treatment Court program requirements.

30.05 Treatment Court Docket Case Management

Participants in the Juvenile Treatment Court Docket and Adult Treatment Court Docket will be referred to local agencies based on his or her needs for treatment. Participants will be provided with the program description, participant handbook and Participation Agreement. The Treatment Court team will continuously monitor participant's progress and behavior and will otherwise hold the participant accountable to the terms and conditions of the Participation Agreement.

30.06 Treatment Court Docket Review Hearings

The Court will schedule regular review hearings to monitor compliance with the original orders, including treatment, in accordance with the program phases. The Treatment Court Docket team is responsible for obtaining and presenting information at Court review hearings regarding the participant's progress. It is the responsibility of the Treatment court Docket team to monitor compliance through periodic communication with the designated treatment providers, and through direct monitoring and meeting with the participant.

30.07 Treatment Court Team

The Treatment Court Team is comprised of a Magistrate, Treatment Court Docket Coordinator, Probation Officer, Licensed Treatment Providers, Prosecutor, Guardian *ad litem* and Defense Counsel. Treatment Court is a problem solving team focused on helping participants reduce the factors that led to their court involvement. Treatment Court Team members work together to help support participants toward successful treatment and rehabilitation.

All Treatment Court Team members are notified of Treatment Court hearing dates and times. Treatment Court Team members are encouraged to maintain communication with the Treatment Court Docket Coordinator so as to determine dates and times for any out-of-court Treatment Team meetings that may be scheduled. Attendance by all Treatment Court Team members to both Treatment Court hearings and out-of-court Treatment Team meetings is encouraged.

30.08 Termination from Juvenile Treatment Court Docket

The goal of the Juvenile Treatment Court is for the participant to successfully graduate from the program and to be successfully terminated from probation. Participants can successfully complete, can be unsuccessfully terminated, can be suspended, or can be neutrally terminated from Juvenile Treatment Court. The Magistrate has the discretion to terminate or suspend a participant from the Juvenile Treatment Court Docket based upon the criteria set forth herein.

(A) Successful Completion

The Magistrate has the discretion to order that the participant has Successfully Completed the Juvenile Treatment Court program. In order to successfully complete the Juvenile Treatment Court program, participants must: (1) successfully complete all treatment requirements; (2) demonstrate a period of abstinence from drugs and alcohol for at least ninety (90) days; (3) demonstrate positive coping mechanisms; (4) participate in sober activities/meetings; (5) demonstrate the ability to identify triggers, including negative people, places and things; (6) maintain employment and/or education; (7) pay any outstanding Court fines and fees; (8) complete all community service hours as ordered by the Court; (9) complete application for graduation and present to Treatment Court Team during exit interview.

(B) Unsuccessful Termination and Suspension from Program

The Magistrate has discretion to Unsuccessfully Terminate a participant from the Juvenile Treatment Court program for noncompliance. Behaviors that may lead to unsuccessful termination include, but are not limited to: (1) ongoing noncompliance with treatment; (2) continued alcohol and/or drug use; (3) resistance to treatment; (4) new delinquency convictions; (5) leaving a residential program without permission; and (6) ongoing and repeated specialized docket infractions.

If a participant is unsuccessfully terminated from the Juvenile Treatment Court program for noncompliance, the participant may incur the loss of future eligibility to the Juvenile Treatment Court Docket and may otherwise be subject to other court action.

The Magistrate also has the discretion to Suspend a participant from the Juvenile Treatment Court program if a participant has been placed in a residential or foster care placement from which the participant cannot be transported for case review hearings; has been charged with a new crime pending adjudication and/or disposition; and/or has a warrant issued for non-compliance.

(C) Neutral Termination

The Magistrate has discretion to Neutrally Terminate a participant from the Juvenile Treatment Court program. Reasons that may lead to unsuccessful termination include, but are not limited to: (1) a serious medical condition; (2) participant/family moves out of Delaware County; (3) unforeseen life circumstances that prevent participation in program requirements.

30.09 Termination from Adult Treatment Court Docket

The goal of the Adult Treatment Court is for the participant to successfully graduate from the program and to be reunified with their family. Participants can successfully complete, can be unsuccessfully terminated, can be suspended, or can be neutrally terminated from Adult Treatment Court. The Magistrate has the discretion to terminate or suspend a participant from the Adult Treatment Court Docket based upon the criteria set forth herein.

(A) Successful Completion

The Magistrate has the discretion to order that the participant has Successfully Completed the Adult Treatment Court program. In order to successfully complete the Adult Treatment Court program, participants must: (1) successfully complete all treatment requirements; (2) attend sober support meetings and connect with a recovery community; (3) utilize a sponsor and be active in sober support activities; (4) demonstrate the ability to identify triggers, including negative people, places and things; (5) maintain stable housing; (6) be employed or demonstrate employability; (7) be awarded reunification with their child(ren); (8) pay any outstanding Court fines and fees; and (9) complete all community service hours as ordered by the Court.

(B) Unsuccessful Termination and Suspension from Program

The Magistrate has discretion to Unsuccessfully Terminate a participant from the Adult Treatment Court program for noncompliance. Behaviors that may lead to unsuccessful termination include, but are not limited to: (1) ongoing noncompliance with treatment; (2) continued alcohol and/or drug use; (3) resistance to treatment; (4) new and serious criminal convictions; (5) leaving a residential program without permission; and (6) ongoing and repeated specialized docket infractions.

If a participant is unsuccessfully terminated from the Adult Treatment Court program for noncompliance, the participant may incur the loss of future eligibility to the Adult Treatment Court Docket and may otherwise be subject to other court action.

The Magistrate also has the discretion to Suspend a participant from the Adult Treatment Court program if a participant has been placed in a residential facility from which the participant cannot be transported for case review hearings; has been charged with a new crime pending conviction and/or disposition; and/or has a warrant issued for non-compliance.

(C) Neutral Termination

The Magistrate has discretion to Neutrally Terminate a participant from the Adult Treatment Court program. Reasons that may lead to unsuccessful termination include, but are not limited to: (1) a serious medical condition; (2) participant/family moves out of Delaware County; (3) unforeseen life circumstances that prevent participation in program requirements.

RULE 31 DEFAULT JUDGMENTS

31.01 If, in any case where a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, the party entitled to a judgment by default shall promptly apply in writing or orally to the judge or magistrate within thirty days after the date upon which the defaulting party should have pled or otherwise defended. No judgment by default shall be entered against a minor or an incompetent person unless represented in the action by a guardian or other representative who has appeared. If the party against whom judgment by default is sought has appeared in the action, written notice of the hearing on the motion along with the date and time fixed by the judge or magistrate shall be served upon that party. In order for the judge or magistrate to award damages and enter judgment, to establish the truth of any averment by evidence, or to make an investigation of any other matter, the judge or magistrate may conduct hearings or order references as necessary and proper and shall, when applicable, accord a right of trial by jury to the parties.

RULE 32 [Reserved]

RULE 33 GUARDIANS AD LITEM

33.01 Coordinator Pursuant to the provisions of Rule 48 of the Rules of Superintendence for the Courts of Ohio, the Staff Attorney of the Delaware County Juvenile Court, or such other person as the Court may designate, shall coordinate the application and appointment process, receive written comments and complaints regarding *Guardians ad litem*, and perform other duties as required under Sup. Ct. R. 48.

All appointments of *Guardians ad litem* will be made through the Public Defender's Office and Delaware County Juvenile Court. Every effort will be made to ensure an equitable distribution of the work load among approved *Guardians ad litem*, subject to attorney availability.

33.02 Application Upon completion of the required pre-service training, an attorney seeking to serve as a *Guardian ad litem* shall submit an application to the Delaware County Juvenile Court. The application shall be filed in a special docket to be established by the Clerk of Court. The application shall be accompanied by a resume, a copy of the applicant's criminal background check, and the applicant's Background Disclosure Statement as required under Sup. Ct. R. 48. The Court, by entry, shall designate the acceptance of the application by regularly issuing a list of designated persons who are qualified to serve as *Guardians ad litem* on an Approved Court Appointment List.

The Court, by its own motion or the motion of a party to a proceeding before the Court, may remove a *Guardian ad litem* from the Approved Court Appointment List. Following removal, the Court will revise the Approved Court Appointment List by Judgment Entry. If a *Guardian ad litem* is removed from the Approved Court Appointment List, the Court shall provide a letter to the removed *Guardian ad litem* specifically detailing the reason(s) for removal. After losing eligibility, a removed *Guardian ad litem* may seek reinstatement of eligibility no sooner than six (6) months after receipt of the Court's letter designating the reasons for removal. For reinstatement, the removed *Guardian ad litem* must demonstrate that he/she is again eligible to serve as a *Guardian ad litem* and has addressed the initial reasons for removal from the Approved Court Appointment List. If the *Guardian ad litem* is otherwise qualified and has addressed the initial reason(s) for removal, the Court may, by entry, reinstate the removed *Guardian ad litem* to the Approved Court Appointment List and, by entry, modify the Approved Court Appointment List to reflect the reinstatement.

33.03 Fees The Court may fix compensation rates for the services of a *Guardian ad litem*. The *Guardian ad litem* shall submit an itemized statement for services to the Public Defender's Office as directed by the Court or the Public Defender's Office.

33.04 Comments and Complaints All comments and complaints regarding a *Guardian ad litem* shall be directed to the Staff Attorney of the Delaware County Juvenile Court, or such other person as the Court may designate. All comments and complaints must be in writing, include a case number, and describe the complaint in full detail.

RULE 34 CONDUCT OF TRIAL

(A) In all cases, the following matters shall be accomplished prior to trial, at a time that shall be specifically designated in the Court's trial or pretrial order:

(1) All exhibits shall be marked and exchanged by counsel. A list of those exhibits to be offered by each party shall be submitted to the Court and opposing counsel.

(2) All stipulations, except those necessarily arising in the course of the trial, shall be in writing, shall be approved by the parties and counsel and shall be filed with the Clerk.

(3) In cases to be tried to a jury, copies of the list of jurors and copies of jury questionnaires shall be made available to counsel one week prior to the commencement of the trial.

(4) If there are objections interposed during stenographic or audio-visual depositions to be offered at trial, the party offering such deposition shall request the Court for a ruling upon each objection to allow its timely editing reflecting such rulings prior to trial. Counsel's objections, if any, shall be indexed, and the grounds for the objections shall be set forth clearly.

(5) When so ordered by the judge or magistrate, counsel shall file with the Clerk and serve upon opposing counsel a trial brief. The trial brief shall contain at least the following material:

(a) A succinct statement of the kind of action;

(b) A clear statement of the issues involved;

(c) A summary of the factual situation in regard to each claim or defense;

(d) An itemized list of the claimed special damages;

(e) A statement of the principles of law involved in the case supported by the citation of appropriate legal authority (with copies of major and significant case law).

(6) When applicable, counsel shall file with the Clerk and serve upon opposing counsel proposed jury instructions, which shall contain at least the following material:

(a) If applicable, the specific section(s) of Ohio Jury Instructions upon which the party requests the Court to instruct, the complete text of the section(s) together with appropriate legal authority to support such instruction;

(b) The complete text of any special jury instruction, together with appropriate legal authority to support such instruction.

(7) When applicable, counsel shall file with the Clerk and serve upon opposing counsel proposed verdict forms, and, if applicable, proposed jury interrogatories.

- (B) All counsel and all parties shall be present in the courtroom at least one-half hour prior to the time the trial is scheduled to commence.
- (C) During direct or cross-examination of a witness, counsel shall remain at the trial table or in a position not to obstruct the view or hearing of the Court or a jury, except when presenting an exhibit to a witness.
- (D) The Court Reporter, if one is present, shall be the official custodian of all exhibits offered during the trial of any case, and shall be retained by said Court Reporter until otherwise ordered by the Court. If no Court Reporter is present, then the judge or magistrate shall be the custodian of exhibits.
- (E) After judgment and appeal, or after appeal time has expired without appeal, counsel for each party shall, upon issuing a receipt to the custodian of the exhibits, obtain return of the exhibits introduced into evidence and cause them to be returned to the owner. In cases of doubtful ownership of the exhibits, counsel shall bring the matter before the Court for determination. In any event, the Rules of Superintendence shall apply. (Supreme Court Rule 26).

MISCELLANEOUS RULES OF PRACTICE AND PROCEDURE

RULE 35 ELECTRONIC TRANSMISSIONS

35.01 There shall be maintained in the Office of the Clerk of this Court a private telephone line, facsimile machine, and e-mail address for purposes of accepting documents for filing in all cases, as limited by this rule.

35.02 Pleadings or other documents subsequent to the original Complaint or other initiating pleading, not more than ten pages in length or thirty (30) megabytes in size and not requiring a security deposit as addressed herein in Loc.R. 4, may be tendered to the Clerk for filing by means of facsimile or electronic filing transmission.

35.03 A facsimile or electronic filing transmission will be accepted for filing as the original, and the signature contained thereon will be accepted as the original, in conformity with Rule 5(E) of the Ohio Rules of Civil Procedure, and in conformity with Rule 8(A) of the Ohio Rules of Juvenile Procedure. If a filing is made electronically, the Clerk shall not accept a filing of a separate "hard copy."

35.04 The Clerk shall immediately notify the attorney if the transmitted document cannot be filed for any reason. All documents submitted will be considered filed when the date/time has been stamped by the Clerk. The date/time of filing is not determined by the facsimile machine date/time stamp or the electronic filing transmission received date/time stamp, but is determined by the Clerk's time stamp clock. If any facsimile or electronic filing transmission copy is received by the Clerk after 4:30 p.m. on a regular business day or anytime on a weekend or holiday, the facsimile or electronic filing transmission copy shall be filed on the next regular business day for the Clerk.

35.05 The filing of documents by means of facsimile or electronic filing transmission shall not relieve any requirements of filing additional copies as required by any applicable rules. All facsimile and electronic filing transmissions tendered to the Court for filing pursuant to this rule shall conform to the requirements of Rules 10 and 11 of the Ohio Rules of Civil Procedure, or Rule 10 of the Ohio Rules of Juvenile Procedure. Facsimile transmissions shall include a cover page which includes the following information:

- a. Name of forwarding attorney;
- b. Address of forwarding attorney;
- c. Ohio Supreme Court registration number of attorney;
- d. Telephone number of attorney;
- e. Facsimile number and email address of attorney;
- f. Date and time of facsimile or electronic filing transmission;
- g. Number of pages of facsimile or electronic filing transmission.

Electronic transmissions shall include said same information in the body of the electronic filing.

35.06 The Clerk of this Court is expressly herein authorized to charge a fee for this service, both for the transmission itself together with a per page charge, in an amount or amounts as determined by said Clerk. Payment of fees shall be arranged in advance of the sending of the telephonic facsimile or electronic filing transmission.

35.07 The risk of facsimile or electronic filing transmission remains with the sender and the Clerk of this Court shall assume no new responsibilities or liabilities.

35.08 In accordance with Rule 8(A) of the Ohio Rules of Juvenile Procedure, if it should be established that a facsimile or electronic filing transmission was transmitted without authority, the Court shall order the filing immediately stricken.

35.09 All electronic filing transmissions shall be in PDF format (portable document format). All electronic filing transmissions shall include the Case Number and Caption in the electronic filing transmission subject line.

RULE 36 PUBLIC ACCESS TO COURT PROCEEDINGS

Juvenile proceedings represent a unique and particularly sensitive juncture in the life of any child. Public exposure and media attention can further complicate both the treatment of youth within the juvenile justice system, and the process of holding them accountable for their actions. This difficulty must be balanced with the inherent right to due process that each citizen possesses, and with the fundamental rights and freedoms of the press in our society. The Ohio Supreme Court has stated that delinquency proceedings are neither presumed to be open to the public nor closed to them. These rules shall attempt to provide a framework around which appropriate closure decisions may be made.

36.01 Use of Television, Recording or Photographic Equipment.

(A) Requests for permission to broadcast, televise, record, or photograph in the courtroom shall be made in writing to the assigned judge or magistrate as far in advance as reasonably practical, but in no event later than one hour prior to the courtroom session to be broadcast, televised, recorded, or photographed unless otherwise permitted by the judge or magistrate. Requests shall be made in writing.

(B) The judge or magistrate may grant the request in writing consistent with Canon 3(A)(c), Code of Judicial Conduct, Superintendence Rule 11, and this rule. Written permission shall be made a part of the record of the proceeding.

36.02 Revocation of Permission

Upon the failure of any media representative to comply with the conditions prescribed by the judge or magistrate, the Rules of Superintendence of the Supreme Court, or this rule, the judge or magistrate may revoke the permission to broadcast, photograph, or record the trial or hearing.

36.03 Closure Hearings

Upon the request of any party, or a Guardian *ad litem*, or *sua sponte* the judge or magistrate may conduct a closure hearing to determine if cause exists to exclude the public from the proceeding. Any interested person may present testimony or other evidence and argument during the closure hearing to either support or oppose the closure of the hearing. The judge or magistrate may, at their discretion, limit the length of time each person has to present evidence and argument, or limit the number of persons who may make such presentations.

36.04 Decisions to Close Hearings

The judge or magistrate presiding over the closure hearing may order that the public should be excluded from the hearing if all of the following are found: (1) that there exists a reasonable and substantial basis for believing that public access could harm the child or endanger the fairness of the adjudication; (2) that the potential for harm outweighs the benefits of public access; and (3) that there are no reasonable alternatives to closure. Pursuant to Juvenile Rule 26 Serious Youthful Offender proceedings may not be closed to the public.

RULE 37 MEDIATION

37.01 Definitions

All definitions found in “Uniform Mediation Act” (UMA) O.R.C. 2710.01 are adopted by this Court through this Local Rule, including the following as used in this Local Rule:

- A. “Mediation” means any process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.
- B. “Mediator” means an individual who conducts a mediation.
- C. “Mediation communication” means a statement, whether oral, in a record, verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
- D. “Proceeding” means either of the following:
 - 1. Judicial, administrative, arbitral, or other adjudicative process, including related pre-hearing and post-hearing motions, conferences, and discovery;
 - 2. A legislative hearing or similar process.

37.02 Purposes

To promote greater efficiency and to facilitate the earliest possible resolution in Delaware County Court of Common Pleas, Juvenile Division cases, Court Mediation Services have been established.

37.03 Scope

At any time and in any action under the jurisdiction of the Delaware County Court of Common Pleas, Juvenile Division, Court Mediation Services may be chosen as an appropriate method of resolution. The following actions shall be exempted from mediation upon request of any party:

- A. Cases in which one party has been convicted of, or plead guilty to, a violation of O.R.C. 2915.25 (domestic violence) within the past two (2) years or when a civil temporary protection order is in effect;
- B. Cases in which the physical distance between parties is so great it is not feasible for them to participate in mediation sessions either in person or by telephone as determined by the court mediator;
- C. Case in which one of the parties is mentally ill;
- D. In emergency circumstances requiring an immediate hearing by a judicial officer, or
- E. Cases in which the parties have achieved an executed Agreed Judgment Entry.

37.04 Case Selection

- A. Referral Process
A case in Juvenile Division may be referred to Court Mediation Services in the following manner:
 - 1. For formal proceedings in Juvenile Division, the Court may order parties to participate in the mediation process;
 - 2. For formal proceedings in Juvenile Division, upon written or oral motion to the Court, the Court may order parties to participate in the mediation process;
 - 3. For informal cases in Juvenile Division, a referral to Court Mediation Services may be made by Court personnel.

B. Eligibility of Cases

Court Mediation Services will determine the eligibility and appropriateness of each referral prior to the commencement of the mediation process. Court Mediation Services may decline any referral deemed inappropriate.

C. Domestic Violence

All parties and counsel shall advise the mediation services, judge, magistrate or the mediation services assessor of any domestic violence allegations known to them to exist or to have existed in the past, or which become known to them following entry of the order but before conclusion of the mediation process, which allegations involve any two or more persons whom attendance is required by the referral order.

D. The mediation shall be communicated via a “Notice of Scheduled Mediation” Magistrate’s Decision or Judgment Entry which shall, at a minimum indicate the date, time, place and contact information for the mediation.

37.05 Procedure

If a case is deemed appropriate by Court Mediation Services, mediation will be scheduled. A mediator may meet with parties individually prior to bringing the parties together. A mediator may schedule multiple mediation sessions as is necessary and mutually acceptable for the resolution of some or all issues.

A. Party/Nonparty Participation

1. Parties to informal cases may voluntarily attend mediation sessions.
2. Parties who are ordered into mediation in formal cases shall attend scheduled mediation sessions. The Court may order parties to return to mediation at any time in formal case.
3. A Judge, magistrate and/or a mediator may require the attendance of the parties’ attorneys at the mediation sessions if the Judge, magistrate and/or mediator deems it necessary and appropriate.
4. A GAL shall participate in the mediation sessions upon written order of the Court or may participate upon request of the mediator.
5. If the opposing parties to any case are 1) related by blood, adoption, or marriage; 2) have resided in a common residence, or 3) have known or alleged domestic abuse at any time prior to or during the mediation, then the parties and their counsel have a duty to disclose such information to

the mediator and have the duty to participate in any screening required by the court.

6. By participating in mediation a nonparty participant, as defined by the O.R.C. 2710.01(D), agrees to be bound by this rule and submits to the court's jurisdiction to the extent necessary for enforcement of this rule. Any non-party participant shall have the rights and duties under this rule attributed to parties except as provided by under this rule attributed to parties except as provided by O.R.C. 2710.03(B)(3) and 2710.04(A)(2).
7. Each party shall proceed with mediation in good faith to reach a mediated agreement. Any party who agrees to mediation shall perform all obligations expeditiously and shall not use the mediation process for purposes of delay or discovery in any manner other than in a good faith attempt at resolution.

B. Stay of Proceedings

All remaining court orders shall remain in effect. No order is stayed or suspended during the mediation process except by written court order.

C. Confidentiality/Privilege

1. All mediation communications related to or made during the mediation process are subject to and governed by the "Uniform Mediation Act" (UMA) R.C. 2710.01 to 2710.10, R.C. 3109.052, the Rules of Evidence and any other pertinent judicial rule(s).
2. In furtherance of the confidentiality set forth in this rule, parties and nonparties desiring confidentiality of mediation communications shall execute a written "Agreement to Mediate" prior to the mediation session.
 - a. Said "Agreement to Mediate" outlines the confidentiality and privilege of all mediation communications, including but not limited to written and/or verbal agreement.
 - b. If a new or different person(s) attend a subsequent session, their signatures shall be obtained prior to proceeding further in the process. The form of agreement is available for review by any prospective participant by contacting Court Mediation Services.

D. Mediator Conflict of Interest

In accordance with O.R.C. 2710.08(A) and (B), the mediator conducting a mediation shall disclose to the mediation parties, counsel, if applicable, and any non party participants any known possible conflict(s) that may affect the mediator's impartiality as soon as such conflict(s) become known to the

mediator. If counsel or a mediation party requests that the mediator withdraw because of the facts so disclosed, the mediator may withdraw in favor of another mediator. If the mediator determines that withdrawal is not warranted, the mediator may elect to continue. The objecting party may then request the assigned Judge or magistrate to remove the mediator. The assigned Judge or magistrate may remove the mediator and appoint another mediator. If the assigned Judge or magistrate decides that that objection is unwarranted, the mediation shall proceed as scheduled, or, if delay was necessary, as soon after the scheduled date as possible.

E. Mediator Termination

If the mediator determines that further mediation efforts would be of no benefit to the parties, he or she shall inform all interested parties and the Court that the mediation is terminated using the procedure required by this Court.

F. Domestic Violence

Pursuant to Rule 16 of the Rules of Superintendence as adopted by this Court through Local Rule 37 any mediator providing services for the court shall utilize procedures for all cases that will:

1. Ensure that the parties are allowed to participate in mediation, and if the parties wish, that their attorneys are allowed to accompany them and participate in mediation.
2. Screen for domestic violence both before and during mediation.
3. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
4. Prohibit the use of mediation in any of the following:
 - a. As an alternative to the prosecution or adjudication of domestic violence;
 - b. In determining whether to grant, modify or terminate a protection order;
 - c. In determining the terms and conditions of a protection order; and
 - d. In determining the penalty for violation of a protection order.
5. Nothing in this division of this rule shall prohibit the use of mediation in a subsequent case even though that case may result in the termination of the provisions of a protection order.

6. For mediation involving the allocation of parental rights and responsibilities or the care of, or visitation with minor children, or delinquency or status offense cases, mediation may proceed, when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training set forth in “Specific Qualifications and Training; Domestic Abuse” of this rule and all of the following conditions are satisfied:
 - a. The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process and his or her right to decline participation in the mediation process or have a support person present.
 - b. The parties have the capacity to mediate without fear or coercion or control.
 - c. Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.
 - d. Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.
 - e. Procedures are in place for issuing written findings of fact, as required by O.R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

G. Abuse, Neglect and Dependency and Mediation

Pursuant to Rule 16 of the Rules of Superintendence as adopted by this Court though Local Rule 37, mediation in child abuse, neglect, or dependency cases shall include all provisions outlined above and shall proceed only if the mediator has specialized training set forth in the “Qualifications” section of this rule and utilizes procedures that will:

1. Ensure that parties who are not represented by counsel attend mediation only if they have waived the right to counsel in open court, and that parties represented by counsel attend mediation without counsel only where the right to have counsel present at the mediation has been specifically waived. Waivers can be rescinded at any time.
2. Provide for the selection and referral of a case to mediation at any point after the case is filed.
3. Notify the parties and non party participants of the mediation.

H. Conclusion of Mediation

At the conclusion of the mediation and in compliance with O.R.C. 2710.06, the Court shall be informed by the mediator of the following:

1. The attendance of the parties at the scheduled mediation session(s);
2. If an agreement was reached on all or some of the issues;
3. If no agreement was reached.
4. Any future scheduled mediation dates.
5. Any additional information the parties mutually agree they wish to be disclosed to the Court.

37.06 Agreement

Parties may reach agreement on all or some issues through the mediation process. Upon mutual agreement of the parties, agreements may be verbal or written. All agreements reached through mediation, are subject to confidentiality and privilege pursuant to “Uniform Mediation Act” (UMA) O.R.C. 2710.01 to 2710.10 (if the agreement is signed it will not be privileged pursuant to O.R.C. 2710.05 (A)(1)).

- A. If an agreement is reached through the mediation process, a mediator shall put said agreement in writing. Each party shall receive a copy of the Mediation Agreement and a copy shall be placed in the mediation file.
- B. Written agreements reached by the parties during mediation may become an Order of the Court after review and approval by each party and their attorneys’, if represented, and presented to the Court by the parties and/or their attorneys’, if represented. No oral agreement by the parties and/or their attorneys’ will be regarded as an Order unless made in open court.
- C. The assigned Judge or magistrate retains final approval on all agreements reached through the mediation process in formal cases.

37.07 Mediator Qualifications

Pursuant to Rule 16 of the Rules of Superintendence as adopted by this Court through Local Rule 11 the following qualifications apply to all mediators to whom the Court makes a referral:

A. General Qualifications

1. Possess a bachelor's degree, or equivalent education or experience as is satisfactory to the division, and at least two years of "professional experience with families". Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the division.
 2. Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.
- B. Specific Qualifications and Training: Family
- A mediator employed by the division or to whom the division makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect and dependency, or juvenile perpetrated domestic violence cases shall satisfy, in addition to the above, at least forty hours of specialized family or divorce mediation training which has been approved by the Dispute Resolution Section of the Supreme Court.
- C. Specific Qualifications and Training: Domestic Abuse
- A mediator employed by the division or to whom the division makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Ohio Supreme Court Dispute Resolution. A mediator who has not completed this specialized training may mediate these cases only if he/she comediates with a mediator who had completed the specialized training.
- D. Specific Qualifications and Training: Abuse, Neglect, and Dependency
- In addition to satisfying the requirements outlined above, a mediator employed by the division or to whom the division makes referrals for mediation of abuse, neglect, or dependency cases shall satisfy both of the following:
- a. Possess significant experience in mediating family disputes;
 - b. Complete at least thirty-two hours of specialized child protection mediation training through either a formal training session or through a mentoring program approved by the Dispute Resolution Section of the Supreme Court.

37.08 Sanctions

If any individual ordered by the Court to attend mediation and fails to attend mediation without good cause, the Court may impose sanctions which may include but not be limited to the award of attorney's fees and other costs, contempt or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.

37.09 Model Standards

Mediators providing services for the Court shall comply with the Model Standards of Practice for Family and Divorce Mediation and the Special Policy Considerations for the State Regulation of Family Mediators and Court Affiliated Programs as set for in Rule 16 of the Rules Superintendence for the Courts of Ohio.

RULE 38 [Reserved]

RULE 39 POSSESSION OF CONCEALED HANDGUNS IN THE COURTHOUSE FACILITY

(A) No person shall enter the Courthouse facility, located at 140 North Sandusky Street, Delaware, Ohio, 43015 while carrying a handgun, openly or concealed on the person's body. This rule shall not apply to the Judge or magistrates, to law enforcement officers acting in the scope of their duties, to unloaded handguns being conveyed into the building for evidentiary purposes, to bailiffs, to prosecutors or to secret service agents.

(B) For the purposes of this rule, 'Courthouse Facility' includes all floors of the Building housing the Delaware County Juvenile Court and any annex thereto.

(C) Pursuant to Ohio Revised Code §2923.123(C)(6) this rule prohibits persons from carrying a handgun into the Courthouse Facility even if they have a valid concealed carry permit under O.R.C. §§2925.125 and 2925.1213.

RULE 40 LANGUAGE INTERPRETERS

(A) Certified, qualified or language skilled interpreters shall be used in all proceedings in which a party or witness is non-English speaking or non-hearing. Interpreters shall be utilized in accordance with any existing Rules of Superintendence and in accordance with the Court Policy on Use of Interpretive Services.

(B) Prior to serving as an interpreter each person shall be required to read and sign the written Interpreter's Oath.

(C) Any person serving as counsel for any party, as Guardian ad Litem or in any other official capacity on any case, who becomes aware that there is a need for interpretive services, shall notify the Court of that need immediately. In no case shall the need for interpretive services be communicated to the Court less than seven days prior to the hearing or trial at which the interpreter will be needed.

RULE 41 ATTIRE

41.01 All parties and witnesses must wear proper attire when attending any hearing before the Court. All counsel shall wear business attire. For parties and witnesses, the following is a non-exhaustive list of attire that is not appropriate: bare feet, flip-flops, cutoffs, tank tops, crop tops, halter tops, visible undergarments including boxer shorts and bras, hats or any clothing containing drug/alcohol and tobacco slogans, profanity or racial/ethnic/religious slurs. Clothing that exposes excessive skin within the "privacy

zone,” including cleavage, midriff, back, and below the waist, shall not be worn. The display of gang colors and symbols is also strictly prohibited.

41.02 It shall be the duty of counsel to advise the parties and witnesses of this rule prior to their appearance in Court. The Judge, Magistrate or any employee at their direction, may exclude a person in violation of this rule. The presiding judicial officer shall be final arbiter and failure to comply may result in appropriate sanctions, including continuance, dismissal or a finding of contempt.

RULE 42 SUBPOENAS

Except for good cause shown, neither the Clerk nor the Sheriff shall be required to issue subpoenas, unless requests are filed with the Clerk at least two days prior to the trial date. The form of subpoena shall be in accordance with Juvenile Rule 17(A) and service of the subpoena shall be in accordance with

Juvenile Rule 17(C). The issuers of the subpoena shall comply with Juvenile Rule 17(D) and be responsible for attaching to each subpoena the text of Juvenile Rule 17(D) and (E).

DELINQUENCY/UNRULY/TRAFFIC AND CRIMINAL RULES OF PRACTICE AND PROCEDURE

RULE 43 GENERAL APPLICATION

43.01 These rules supplement existing Rules Governing the Courts of Ohio. In any case where the Criminal Rules of Procedure, Juvenile Rules or Local Rules do not resolve the issue before the Court, the Rules of Civil Procedure are to be consulted. These rules apply in all Delinquency and Unruly cases, in all traffic cases, and in all Criminal cases filed against adults in the Juvenile Court.

43.02 Speedy Trial. Because delinquency and unruly proceedings are not criminal proceedings, speedy trial provisions are not applicable to them. This rule shall therefore apply only to criminal cases filed against adults in the Juvenile Court, and to youth charged as Serious Youthful Offenders. Upon the determination that a case must proceed to trial without delay due to compliance with speedy trial statutes and rules, the assigned judge or magistrate, if already in trial, shall request that a visiting judge or another magistrate be assigned to preside.

43.03 Withdrawal of Counsel. A withdrawal of representation by counsel after a case is set for trial is to be discouraged. In order to withdraw as counsel of record, counsel must present a motion setting forth the reasons for requesting withdrawal and certifying that a copy was served on the client. The motion and proposed entry shall be presented to the judge or magistrate. The request should be made no later than fifteen days before trial. An oral hearing shall be scheduled, with an order directing the client to be present.

43.04 Use of Restraints

(A) Instrument of restraint, including, but not limited to handcuffs, chains or shackles shall not be used on a juvenile during a court proceeding unless both of the following apply:

- (1) The necessity of using restraints is demonstrated to the satisfaction of the judge or magistrate by the presence of one or more of the following factors:
 - (a) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom; or
 - (b) There is a significant risk that the child will flee the courtroom; and;
 - (2) The court determines that there are no less restrictive alternatives to restraints that will prevent flight or physical harm to the child or another person, including, but not limited to, the presence of court personnel, law enforcement officers or bailiffs.
- (B) When used, restraints should allow the juvenile limited movement of the hands to read and handle documents and writings necessary to the hearing unless there is a demonstrated need for more restricted movement.
- (C) In no circumstance does this rule limit the ability of law enforcement, security personnel or other court staff from restraining a juvenile if necessary to ensure the courtroom is properly functioning and/or to maintain the safety and security of court facilities.

RULE 44 GRAND JURY PROCEEDINGS

44.01 Grand Jury proceedings enter into the purview of the Court only for the purpose of bringing indictments against youth who are charged as Serious Youthful Offenders. The grand jury shall be presided over as provided in the rules of the General Division of the Delaware County Court of Common Pleas.

44.02 The Court Reporter or any other transcriber shall not prepare transcripts of testimony of grand jury proceedings except upon order of the judge or magistrate, prosecuting attorney, or Attorney General, such as the case may be.

RULE 45 ARRAIGNMENTS

45.01 In all cases involving criminal charges against adults in which the prosecuting attorney has requested service of process to be accomplished by means of a summons, the Sheriff of Delaware County, Ohio, shall serve a copy of the judgment entry scheduling the arraignment and the notice of the right to appointed counsel upon the adult defendant at the time of the service of the indictment or complaint and summons.

45.02 In all cases in which the prosecuting attorney has requested the service of process to be accomplished by means of a warrant, an arraignment shall be immediately scheduled, following the Sheriff's return of the warrant to the Clerk's office and the juvenile or the adult defendant's acquisition of counsel. The Sheriff's Department shall immediately notify the Clerk of Court's office of the arrest.

45.03 Subject to Crim.R. 10(B), all adult Defendants are required to personally appear at the arraignment and are required to be accompanied by and represented by an attorney. Juveniles who are charged with being unruly may enter a written denial. Alleged juvenile delinquents who are charged with first, second, or third degree felony offenses, any sex offense, or any offense of violence as defined in O.R.C. §2901.01, shall appear at formal arraignment. In all other cases, alleged juvenile delinquents may submit a written denial.

45.04 All juvenile traffic offenders shall personally appear with a parent or legal guardian, except as provided in Local Rule 52.

RULE 46 INFORMAL PROCEEDINGS (DIVERSION)

46.01 As part of the Court's overall effort to conform with Rule 9 of the Ohio Rules of Juvenile Procedure, informal intake conferences may be conducted in lieu of formal actions for certain delinquency and status offense cases. Generally, informal conferences will be available only for first time misdemeanor charges and status offenses. Although no formal finding or record shall result, to be eligible for an informal conference a youth must be willing to admit to the operative facts to the action.

46.02 Discretion regarding the availability of an informal conference shall be exercised by the Intake/Diversion Department. If, after review by the Intake/Diversion Department, a request for an informal conference has been denied, the matter may still be handled informally if so ordered by the Court.

RULE 47 BAIL FORFEITURE

47.01 Notice of bail forfeiture shall be sent by the Clerk to the Defendant or the Serious Youthful Offender, and to the surety in a form as may be approved by the Court from time to time. The Defendant or Serious Youthful Offender and surety, on or before the date set forth, shall show good cause why judgment should not be entered against them. The Clerk shall promptly present the affidavit to the judge or magistrate. No oral hearing shall be held unless requested in writing and granted by the judge or magistrate. After judgment is entered against the Defendant or Serious Youthful Offender and surety, no surety shall be released nor shall any penalty be released or remitted, except upon the filing of a written verified application filed with the Clerk in the case in question, setting forth in detail the reasons why a release or reduction should be granted. The Clerk shall bring the application to the attention of the judge or magistrate.

RULE 48 INACTIVE CASES

48.01 Cases in which further proceedings are not presently possible shall be placed in an inactive file by the Clerk and considered closed for statistical purposes either upon motion of the Prosecuting Attorney or the Court's own motion and shall not be subject to dismissal for want of prosecution. A case shall be removed from that list when the Defendant or juvenile is available and proceedings resume or when the case is dismissed. Cases to which this rule is applicable shall include those in which the Defendant or juvenile is not competent to stand trial, is confined in an institution in another state, has not been served, or cannot be found. A list of inactive cases shall be periodically be prepared and presented to the County Prosecutor. The Prosecutor shall file a report with the judge on the status of the inactive cases or shall dismiss those cases.

RULE 49 NOLLE PROSEQUI PROCEDURE

49.01 When the Prosecuting Attorney desires to enter a *nolle prosequi* in any criminal case pursuant to Crim.R. 48(A), or in any juvenile case pursuant to Juvenile Rule 19, a written application shall be filed, setting forth sufficient grounds for the requested relief; otherwise, an oral hearing will be scheduled.

RULE 50 MOTIONS

50.01 Motions. The filing and consideration of motions in a delinquency, unruly, or criminal case is governed in general by Crim.R. 12 and Loc.Juv.R. 7. The filing of motions in a juvenile case is governed generally by Juvenile Rule 19 and Loc. Juv. Rule 7. A party may request a hearing in advance of trial to consider a motion. In the absence of showing good cause, no motions will be considered on the day of trial. The absence of a witness regarding consideration of a motion will not be cause for continuance of the trial.

50.02 All motions and other written requests filed in criminal, juvenile and traffic cases shall be submitted to the office of the clerk. All motions, briefs and memoranda, pro and contra shall be filed in duplicate, with accompanying judgment entry or order as provided in Loc.R. 7.09.

50.03 Discovery. Pursuant to Crim.R. 16 and Juvenile Rule 24, discovery is to be conducted in a manner that will eliminate delay and unnecessary expense. Upon demand for discovery, it shall be the duty of a party to promptly respond to the request. In any event, discovery should be provided in fourteen days from the date of receipt of the demand. The failure of a party to timely and fully respond may lead to the exclusion of evidence at trial.

RULE 51 INDIGENT PARTIES

51.01 The Delaware County Assigned Counsel Assignment Office will suggest the appointment of an attorney, from among the list of attorneys which is on file with the Assignment Office, to represent any indigent juvenile who is alleged to be delinquent, unruly, a traffic offender or a Serious Youthful Offender, and shall immediately inform the Judge or Magistrate of the suggested attorney. A public defender shall also be appointed for any indigent adult defendant and indigent parents in abuse, neglect and dependency proceedings.

(A) Before counsel is appointed for an indigent adult, that adult must file a completed affidavit of indigency with the Assignment Office. Qualifying, or determining the eligibility of an adult for court assigned counsel is the sole responsibility of the Assignment Office. Eligibility shall be determined according to the Ohio Public Defender Commission's standards.

(B) Attorneys who wish to be appointed to represent juveniles and indigent adults shall complete an Application For Appointment As Assigned Counsel. The Judge maintains final authority to determine the number of attorneys who will be on the list for appointments and the experience and qualifications necessary for appointment. At a minimum attorneys wishing to receive court appointments shall meet the following criteria:

1. Licensed to practice law in Ohio
2. Good standing with the Ohio Supreme Court;

3. Maintain an office in Delaware County or has arranged to meet with clients at a law firm located in Delaware County.
4. Maintain professional liability insurance as required by the Ohio Rules of Professional Conduct.

Membership in the Delaware County Bar Association is not required, but is preferred so that attorneys may have ready access to rule changes, local training seminars and other updates from the Court. Criteria three may be waived by the Court as circumstances require. (Ex.: Where outside counsel from the State Public Defender's Office or Ohio Attorney General's Office are appointed in a case.)

(C) Appointments shall be distributed as widely as possible among attorneys on a rotary system designed to pair the defendant's level of offense with an attorney who meets the qualifications for assignment as established by the Ohio Public Defender Commission standards. The Assignment Office may appoint an attorney who is not next in sequence if an attorney does not respond to the inquiry by the Assignment Office within a reasonable time, is unavailable to represent the defendant, has a conflict, or the interests of justice requires the appointment of a specific attorney instead of the next available attorney. If the Assignment Office passes over the name of an attorney for any reason, the Assignment Office shall return to that attorney for the next appointment to the extent administratively feasible. If the attorney continues to not respond to inquiries, or the attorney refuses a second time to represent a defendant due to unavailability, the Assignment Office shall not return to the attorney until the next rotation.

(D) Not more than one attorney per indigent defendant will be appointed, unless the Court otherwise orders.

(E) Immediately upon selection of an attorney, the Assignment Office shall notify the judge or magistrate of the suggested appointment, and the judge or magistrate will file the appropriate entry/order appointing the attorney, unless the judge or magistrate decides in good faith that the suggested attorney is not suitable for that particular defendant or that particular case.

(F) Upon appointment, the attorney shall perform basic duties as warranted by the facts of the case and shall act in a professional manner.

(G) The attorney must personally represent the party for whom he or she was appointed and shall not, absent an emergency, allow substitute counsel to represent the party.

(H) The attorney shall have a working phone with an administrative assistant and/or voicemail in order to respond timely to calls from the Court or represented party. The attorney shall also have a mailbox in the Courthouse and shall be responsible for checking the mailbox on a regular basis so as to remain informed of scheduling entries and other case related communication unless an alternative or electronic form of communication has been established and approved by the Court.

(I) An attorney shall seek to withdraw from representing a court appointed litigant in a manner consistent with the Ohio Rules of Professional Conduct.

(J) Attorneys approved for court assignments shall be reviewed at a minimum of every four years.

(K) An attorney may be removed from the list for court appointment assignments for good cause, including but not limited to the following reasons:

1. Failure to maintain licensure to practice law in the state of Ohio and to remain in good standing with the Supreme Court of Ohio.
2. Failure to meet the criteria as established in Rule 51.01(B).
3. Routine failure to respond timely to the Assignment Office when attempting to assign cases or repeated refusal to accept assignment of cases without a valid reason, such as a conflicting interest.
4. Routine failure to respond to a judge or magistrate's staff when attempting to schedule hearings.
5. Routine failure to attend scheduled court hearings or to arrive timely.
6. Routine failure to adequately prepare for court hearings.
7. Routine failure to maintain appropriate contact with clients.
8. Routine failure to timely submit the Motion, Entry, and Certification for Court Appointed Counsel Fees.

51.02 No attorney who received compensation or has been promised compensation from any source shall be appointed to represent that indigent party.

51.03 Any attorney appointed to provide legal representation for an indigent party shall be compensated according to a schedule approved by the County Commissioners. Counsel shall maintain itemized time records for each appointed case showing the date of service, nature of services rendered, and hours worked. Counsel's itemized time records shall be provided to the Court upon request.

51.04 An attorney shall be reimbursed for expenses not to exceed two hundred fifty dollars without prior approval of the Judge. No allowance will be approved for fixed office overhead, daily copies of transcripts, or depositions, except as provided by law.

Expenses for services, which are requested in excess of two hundred fifty dollars must be submitted to the Judge for approval, prior to their incurrence. All expenses must be documented with receipts.

(A) Services include, but are not limited to, investigators or experts who are reasonably necessary for the proper representation of an indigent juvenile charged with a felony. The factors to be considered by the Judge are:

- (1) the value of the service to the juvenile's proper representation at trial;

(2) the availability of alternative devices that would fulfill the same functions as the service sought.

(B) Upon motion and for good cause, the Judge may order that the entry or order authorizing the service be sealed and maintained by the Clerk, along with all other original papers in the criminal case.

51.05 Extraordinary Fees

(A) An attorney's fees in excess of those set forth in Rule 51.03 may be granted by the Judge in Complex Cases or in other extraordinary circumstances.

(B) "Complex Case" is a case designated by the Judge as a Complex Case because it involves multiple counts dealing with multiple separate incidents and the case involves an extraordinary amount of trial preparation, or trial time.

51.06 Requests for compensation shall be made by each appointed attorney on forms supplied by the Ohio Public Defender Commission. The requests for compensation and reimbursement shall meet the time guidelines established by the Ohio Public Defender Commission. An attorney may be denied reimbursement for failure to meet the time deadlines or to comply with other reimbursement requirements.

RULE 52 TRAFFIC VIOLATIONS BUREAU

52.01 There is hereby created a Traffic Violations Bureau in the Juvenile Division of the Delaware County Court of Common Pleas, pursuant to Ohio R. of Traffic 13.1.

52.02 All juveniles shall personally appear, with a parent or legal guardian for a formal arraignment on any moving violation.

52.03 Juveniles cited for the subsequently listed non-moving traffic violations may sign the admission and waiver of trial provision of the ticket and mail the ticket and a check, money order or other form of payment approved by the clerk for the total amount of the fine and costs to the traffic violations bureau. The waiver eligible offenses are as follows: Failure to wear seatbelt; Failure to display or expired tags; Riding a bicycle on a sidewalk; Jaywalking; Skateboarding or rollerblading on a sidewalk or street; Muffler violations; No headlights or taillights; Window tint violations; Bumper height violations; Vehicle lighting violations; Loud amplifier violations; Other equipment violations (O.R.C. Chapter 4513) as approved by the Judge or Magistrate.

52.04 The Court shall establish and publish a schedule of costs and fines for all waiver offenses and shall distribute said schedule to all local law enforcement agencies.

Rule 53 STANDARDS OF PRACTICE FOR REPRESENTATION OF JUVENILES IN DELINQUENCY PROCEEDINGS

53.01 The Court adopts the Ohio Public Defender's Standards of Practice for Attorneys Representing Juveniles in delinquency cases, all as reprinted herein and attached as an appendix to these rules.

53.02 This rule is adopted to provide a high standard for representation by attorneys representing juveniles in delinquency cases in this Court. This rule shall be applied and interpreted to achieve that goal consistent with all applicable statutes and rules promulgated by the Supreme Court of Ohio and this Court.

RULE 54 NEGOTIATIONS

54.01 For the purposes of securing absolute and unequivocal accuracy in the matter of the terms of negotiations conducted in adult criminal cases, delinquency and unruly cases, and matters in which the juvenile is alleged to be a Serious Youthful Offender, all matters agreed upon in negotiations shall be stated on the record at the time of any plea, admission or adjudication, including any matters, such as the lack of restitution, that have been agreed to be absent in any case.

54.02 Failure to comply with Loc. Juv. R. 54.01 may result in the Court's refusal to proceed with any Guilty Plea Hearing or Adjudicatory Hearing.

RULE 55 DAILY COPIES OF TRANSCRIPTS

55.01 Daily copies of transcripts to counsel in cases will not be ordered, provided for, or permitted except in such cases where the sound discretion of the judge or magistrate would require it in the interest of justice.

RULE 56 DISCLOSURE OF PRE-DISPOSITIONAL REPORTS

56.01 Pre-Dispositional Investigation Reports. The judge and magistrates may allow the Intake/Diversion Department adequate time between the acceptance of an admission or plea and the date set for disposition or sentencing in which to prepare a Pre-Dispositional Investigation Report.

(A) The Intake Officer who prepares the Report shall have it completed no later than two court days prior to disposition or sentencing. When the Report is completed, it shall be provided, either in its entirety, or in summary form to the judge or magistrate and made available by the judge or magistrate, upon request, for review by the attorney for the Defendant or Juvenile (or by the Defendant or juvenile if not represented by an attorney) and the Prosecutor and/or the Assistant Prosecutor.

56.02 If the judge or magistrate believes that any information in the Report should not be disclosed pursuant to Juvenile Rule 32(C), the judge or magistrate, in lieu of making the report or any part of the report available, shall state orally or in writing the reasons why the report or portion of the report is not being made available. In the case of adult Defendants and juveniles who are alleged to be Serious Youthful Offenders, if any portion of the Report is not made available, the judge or magistrate shall orally summarize the contents of that portion on the record and then allow the attorney for the adult Defendant or juvenile to rebut or comment on that portion of the Report.

RULE 57 CERTIFICATION OF ASSETS

57.01 Any adult Defendant found guilty of a criminal offense in this Court shall, on a form provided by this Court, disclose assets of every kind for the purpose of assisting the judge or magistrate, the Adult Probation Department, and the Sheriff, in the collection of the fine and costs in that case.

RULE 58 WORK RELEASE PROGRAM

Statement of Purpose. The Work Release Program is established to afford the courts a community based and community oriented rehabilitative alternative to incarceration for those convicted adult criminal offenders who pose no substantial threat to the community but who need minimum custody in order for treatment efforts to be effected. This program is available to all courts within Delaware County upon proper funding and agreement. It shall be formed and known as the Delaware County Work Release program. The Work Release Program is a residential community center for rehabilitation for those offenders who have been granted the privilege of work release. The program center operates in a similar fashion as a traditional jail, but rather than housing offenders in the jail itself, the offenders are housed in a community setting.

58.01 The courts within Delaware County, Ohio, with the consent of the offender, may sentence individuals to the work release program as a condition of shock probation, a condition of intensive probation, as standard probation, or a community control sanction.

58.02 The Work Release Program is administered and operated by the Delaware County Sheriff.

58.03 The Director of the Work Release Program shall direct the day to day operations of the program. The Director is to prepare and utilize regulations deemed necessary for the operation of the program that are not inconsistent with this rule. All regulations must be approved by the judges of the General Division of the Court of Common Pleas.

58.04 The Director may order, with the consent of the judge or magistrate, or the consent of the administrative judge of the Court of Common Pleas, remove of any resident from the program for infractions of the work release rules and regulations.

58.05 Before admittance to the Work Release Program, the offender shall agree to and sign a Participation Agreement. The Agreement shall detail the rules, regulations and procedures by which the offender must abide while in the program. Any resident who is removed from the program shall be returned to jail, or authorized correction agency, to serve the balance of their sentence.

58.06 Any resident participating in the Work Release Program is required to pay a per diem as determined by the Court, under R.C. Section 5147.29, for reimbursement to the county for the cost of boarding and the direct cost of administering such program.

58.07 All funds received by the program from the offender are to be handled in accordance with R.C. Section 5147.29 and generally accepted accounting principles.

RULE 59 HOME INCARCERATION PROGRAM

Statement of Purpose. The Home Incarceration Program was established pursuant to R.C. Section 2929.23 to give the court an alternative to incarceration. The primary purpose of home incarceration is the protection of the public with the lowest possible expenditure of tax money. Other benefits include

relieving crowded conditions at the Delaware County Jail, getting offenders out of jail into a less restrictive environment and facilitating rehabilitation of offenders by encouraging them to behave in a responsible manner in a non-institutional setting.

59.01 The courts within Delaware County, Ohio, may utilize the House Arrest Program as an alternative to incarceration for convicted criminal offenders who pose no substantial threat to the community but who need minimum custody in order for treatment efforts to be effected. For example, house arrest may be utilized for revocation, pending pre-trial investigation, as a condition of bond, as a condition of probation or community control.

59.02 The House Arrest Program is administered and operated by the Delaware County Intensive Supervision Office. All staff of the program are appointed employees of the Delaware County Common Pleas Court. The staff shall be comprised of a Director, and any staff deemed necessary for operation of the program.

59.03 The House Arrest Program utilizes an "active" system whereby an offender wears a transmitter which sends a signal to a central computer that has been specifically coded to reflect that offender's sentence. The offender's movement is limited by how far the transmitter can operate, usually one hundred to one hundred-fifty feet. Should the offender exceed that distance, or leave home without authorization, a signal is sent to the computer and a violation is recorded. An unauthorized absence may result in a return to traditional jail incarceration. Case Managers make random home visits to monitor the progress of the offender, and may also make random drug and alcohol tests to control substance abuse.

59.04 A per diem fee, as provided for by R.C. 2929.23(E)(1), is paid by each eligible offender sentenced to electronically monitored house arrest. The fee includes the actual costs of providing house arrest and an additional amount necessary to enable the court to provide electronically monitored house arrest to indigent eligible offenders. The fee adopted shall be in addition to any fine, specifically authorized by any other section of the Revised Code for an eligible offender upon whom electronically monitored house arrest is imposed as a sentencing alternative.

RULE 60 POST CONVICTION PETITIONS

60.01 Post conviction petitions for a determination of a prisoner's Constitutional rights shall be filed and docketed by the Clerk in the original case in which the adult defendant or Serious Youthful Offender was sentenced. Upon the filing of a petition the Clerk shall issue written notice to the Prosecuting Attorney.

60.02 When a waiver or the return of the notice is filed, the Clerk shall deliver all the papers in the case to the judge or magistrate who originally handled the case. If the judge or magistrate who originally handled the case is no longer a member of the Court, the case shall be assigned to the sitting judge.

60.03 The Clerk shall deliver the post conviction petition to the judge or magistrate one day after it has been filed.

RULE 61 SERIOUS YOUTHFUL OFFENDER PROCEEDINGS

61.01 Purpose. Effective January 1, 2002, certain juvenile offenders are eligible to have a blended sentence imposed upon them. These offenders are referred to as Serious Youthful Offenders throughout the Ohio Revised Code, and throughout these rules. O.R.C. §2152.13 governs the imposition of such a sentence. Neither the Ohio Revised Code, nor the Juvenile Rules provide much in the way of guidance, however, as to the procedure to be used in processing these cases. These rules shall serve as that guide.

61.02 Complaint and Indictment. Pursuant to O.R.C. §2152.13, the Prosecuting Attorney may initiate a Serious Youthful Offender proceeding by alleging that the child is a Serious Youthful Offender, by filing a notice of intention to seek a Serious Youthful Offender disposition, or by seeking an Indictment from a duly impaneled Grand Jury. Regardless of the nature of the initiating document, the juvenile has a right to a determination of probable cause by a Grand Jury. Once an indictment is returned, it shall be transferred from the General Division of this Court to the Juvenile Division, pursuant to O.R.C. §2152.03, via motion prepared and filed by the Prosecutor's Office.

61.03 Upon receipt of an Indictment from the Clerk of the General Division, the Clerk of this Court shall prepare an appropriate summons ordering that the juvenile and his or her parent or guardian appear in Court for the purposes of an arraignment on the charge. The notice shall include a copy of the Indictment and the Prosecutor's Notice of Intention to Seek a Serious Youthful Offender Disposition, if one has been filed. The Sheriff of Delaware County, Ohio, shall serve a copy of the judgment entry or order scheduling the arraignment and the notice of the right to appointed counsel upon the juvenile or the adult defendant at the time of the service of the indictment or complaint and summons.

61.04 If an application for a public defender is made by a juvenile against whom a Serious Youthful Offender disposition is sought, and the juvenile is eligible for such representation, a public defender who is on the General Division's felony public defender list shall be appointed to represent the juvenile.

61.05 In any case where a juvenile, through negotiation, wishes to plead guilty to a charge seeking a Serious Youthful Offender disposition, all negotiations shall comply with Criminal Rule 11(F), and shall be presented to the judge or magistrate in written form, signed by the juvenile, the attorney for the juvenile and the representative of the Prosecutor's Office.

61.06 Following a plea, or a conviction at trial, of a juvenile against whom a Serious Youthful Offender disposition is sought, a presentence investigation shall be conducted either by a representative of the Court or by a representative of the Ohio Adult Parole Authority. A copy of the presentence investigation report shall be made available subject to the rules and conditions set forth in Rule 56 of these Local Rules.

COURT RECORDS MANAGEMENT AND RETENTION

RULE 62 GENERAL GUIDELINES

62.01 Applicability.

(1) This rule and Loc. Juv. R. 63 to 64 are intended to provide minimum standards for the production, maintenance, preservation, and destruction of records within the court and to authorize alternative electronic methods and techniques. Implementation of this rule and Loc. Juv. R. 63 to 64 is a judicial governmental function.

(2) This rule and Loc. Juv. R. 63 to 64 shall be interpreted to allow for technological enhancements that improve the efficiency of the court and simplify the production, maintenance, preservation, and destruction of court records.

62.02 Definitions. As used in this rule and in Loc. Juv. R. 63 to 64:

(1) "Administrative record" means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.

(2) "Case file" means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgments of the court on a case by case basis.

- (3) "Index" means a reference record used to locate journal, docket, and case file records.
- (4) "Journal" means a verbatim record of every order or judgment of a court.
- (5) "OHS" means the Ohio Historical Society, State Archives Division.
- (6) "Record" means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, operations, or other activities of the court.

62.03 Combined records. Notwithstanding any other provisions of the law, a court may combine indexes, dockets, journals, and case files provided that the combination contains the component of indexes, dockets, journals, and case files as defined in this rule and Loc. Juv. R. 63 to 64. A court may replace any paper bound books with an electronic medium or microfilm in accordance with this rule.

62.04 Allowable record media.

- (1) A court may create, maintain, receive, record, copy, or preserve a record on traditional paper media, electronic media, including digital images, or microfilm, including computer output to microfilm.
- (2) A court may create, maintain, receive, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with the American National Standards Institute (ANSI) standards and guideline, or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.
 - (a) If the court creates, maintains, receives, records, copies, or preserves a record using a records and information management process in accordance with 62.04(2) of this rule and the record is required to be retained in accordance with the schedules set forth in Loc. Juv. R. 63 to 64, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If Loc. Juv. R. 63 to 64 requires the record to be retained permanently, the back-up copy shall be stored in a different building than the record it secures.
 - (b) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, received, recorded, copied, or preserved by an alternative records and information management process in accordance with division 62.04(2) of this rule shall be provided.
 - (c) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division 62.04(2) of this rule.
 - (d) Paper media may be destroyed after it is converted to other approved media in accordance with this rule.

62.05 Destruction of records.

(1) Subject to the notification and transfer requirements of divisions 62.05(2) and (3) of this rule, a record and any back-up copy of a record produced in accordance with division 62.04(2) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Loc. Juv. R. 63 to 64.

(2) If Loc. Juv. R. 63 to 64 set forth a retention period greater than ten years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court's intention to destroy the record at least sixty days prior to the destruction of the record.

(3) After submitting a written notice in accordance with division 62.05(2) of this rule, the court shall, upon request of the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

62.06 Exhibits, depositions, and transcripts.

At the conclusion of litigation, including time for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:

(1) The court notifies the party that tendered exhibits, depositions, or transcripts that they will be destroyed within sixty days from the date of the written notification;

(2) The written notification required in division 62.06(1) 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 days of the notification;

(3) The written notification required in division 62.06(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;

(4) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification required in division 62.06(1) of this rule.

62.07 Extension of retention period for individual case files.

A court may order the retention period for an individual case file extended beyond the period specified in Loc. Juv. R. 63 to 64.

RULE 63 RETENTION SCHEDULE FOR ADMINISTRATIVE RECORDS

The following retention schedule shall apply for the administrative records of the courts:

63.01 Administrative journal.

Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

63.02 Annual reports.

Two copies of each annual report shall be retained permanently.

63.03 Bank records.

Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

63.04 Cash books.

Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

63.05 Communication record.

Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

63.06 Correspondence and general office records.

Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

63.07 Drafts and informal notes.

Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

63.08 Employment applications.

Employment applications for posted or advertised positions shall be retained for two years.

63.09 Employee benefit and leave records.

Employee benefits and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

63.10 Employee history and discipline records.

Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.

63.11 Fiscal records.

Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

63.12 Grant records.

Records of grants made or received by a court shall be retained for three years after expiration of the grant.

63.13 Payroll records.

Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

63.14 Publications received.

Publications received by a court may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the publications.

63.15 Receipt records.

Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

63.16 Requests for proposals, bids, and resulting contracts.

Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

RULE 64 RETENTION SCHEDULE FOR THE JUDICIAL RECORDS OF THE COURT

64.01 Definitions.

- (1) As used in sections 64.02 to 64.06, "division" means the Juvenile Division of the Court of Common Pleas of Delaware County, Ohio.
- (2) As used in sections 64.02 to 64.06, "docket" means the record where the clerk of the division enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

64.02 Required records.

- (1) The division shall maintain an index, docket, journal, and case files on accordance with Loc. Juv. R. 62.02, 64.01, and this section of Loc. Juv. R. 64.
- (2) Upon the filing of any paper or electronic entry permitted by the division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

64.03 Content of docket.

The docket of the division shall be programmed to allow retrieval of orders and judgments of the division in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the division, and shall include:

- (1) Names and addresses of the parties in full;
- (2) Names, addresses, and Supreme Court attorney registration numbers of all counsel;
- (3) The issuance of documents for service upon a party and the return of service or lack of return;
- (4) A brief description of all records and orders filed in the proceeding, the time and date failed, and a cross reference to other records as appropriate;
- (5) A schedule for court proceedings for the division and its officers to use for case management;
- (6) All actions taken by the division to enforce orders or judgments; and
- (7) Any information necessary to document the activity of the clerk of the division regarding the case.

64.04 Retention schedule for the index, docket, and journal.

The index, docket, and journal of the division shall be retained permanently.

64.05 Judge, magistrate, and clerk notes, drafts, and research.

Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

64.06 Retention schedule for case files.

- (1) Search warrant records shall be indexed and the warrant and returns retained in their original form for five years after the date of service or last service attempt.
- (2) Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency, and URESA records shall be retained for two years after the child who is the subject of the case obtains the age of majority. If post-decree motions have been filed, records shall be retained for one year after the adjudication of the post-decree motion or for two years after the child who is the subject of the motion obtains the age of majority, whichever is later.
- (3) Delinquency and adult records shall be retained for fifty years after the final order of this Court or for one year after the issuance of an audit report by the Auditor of State, whichever is later. This rule applies regardless of the disposition of the case. Matters that are expunged or sealed shall be kept in their separate and appropriate sealed files but shall be otherwise retained in accordance with this rule.
- (4) Traffic, unruly and marriage consent records shall be retained for two years after the final order of this Court or one year after the issuance of an audit report by the Auditor of State, whichever is later.



David A. Hejmanowski, Judge

Forms

- Form 57.01 Certification of Assets
- Form 61.02A Motion to Transfer SYO Indictment to Juvenile Court
- Form 61.02B Judgment Entry Transferring SYO Indictment to Juvenile Court
- Form 61.03 Precipe for Service of SYO Indictment on Juvenile

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, OHIO
JUVENILE DIVISION

IN THE MATTER OF:

**Amendment to the Local
Court Rules of Practice of
the Juvenile Court of
Delaware County, Ohio.**

JUDGMENT ENTRY

The following Local Rule 36.05 is hereby adopted as an amendment to the Local Court Rules of Practice of the Juvenile Court of Delaware County, Ohio, effective April 9, 2018.

Rule 36.05

Children who are aged 13 and younger who have been adjudicated to be abused, neglected or dependent and who are in the custody of a public children's services agency or private child placement agency may not be required to attend Post-Dispositional hearings in such matters, unless otherwise directed to do so by this Court. A public children's service agency or private child placement agency having custody of the adjudicated abused, neglected or dependent child(ren) who are aged 14 and older may facilitate the attendance of said children at all Post-Dispositional hearings as directed by this Court.

Dated: April 11, 2018



DAVID A. HEJMANOWSKI, JUDGE

cc: Ohio Supreme Court
Delaware County Bar Association

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JUVENILE COURT
DELAWARE, OHIO
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