

RULES OF PRACTICE
HAMILTON COUNTY JUVENILE COURT

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TITLE I: GENERAL PROVISIONS

RULE 1. Adoption and Amendment of Rules

The Hamilton County Juvenile Court hereby promulgates and adopts the following rules of practice pursuant to authority under Article IV, Section 5(B) of the Ohio Constitution, Rule 5 of the Rules of Superintendence for the Courts of Ohio, and Rule 1 of the Hamilton County Rules of Practice of the Court of Common Pleas. These rules are effective May 1, 2004 and may be amended from time to time as necessary. These rules shall be known as the Rules of Practice of the Hamilton County Juvenile Court and may be cited as “Ham. Juv. R. ____.”

The amendments to Rules 1, 6, 21, 30, and 39 and the adoption of Rule 11 filed with the court and the Supreme Court of Ohio are effective on January 1, 2005 and shall govern all proceedings in actions brought after that date and in all actions then pending, except to the extent that their application in a particular action would not be feasible or would work an injustice, in which instance the former procedure applies.

(Amended, eff. 1-1-05.)

RULE 2. Scope and Construction of Rules

These rules are intended to provide for the management of proceedings and other functions of the court and to supplement and complement the Ohio Rules of Juvenile Procedure, the Ohio Rules of Civil Procedure, the Rules of Superintendence for the Courts of Ohio and controlling statutes.

These rules shall be applied, construed, and enforced so as to avoid inconsistency with other rules and statutes. They shall be interpreted so as to promote just and expeditious determinations.

The judge or magistrate presiding over a hearing may permit exception from a rule upon specific request and for good cause shown.

RULE 3. Sanctions

Failure to abide by the Ohio Rules of Civil Procedure, the Ohio Rules of Juvenile Procedure, or the Rules of Practice of the Hamilton County Juvenile Court may result in the imposition of sanctions. Sanctions that may be imposed include but are not limited to the following:

1. A case may commence without counsel, be continued, or be dismissed, as the court deems appropriate.
2. The court may order security personnel to remove persons in violation from the courtroom, hallway, or building.
3. The court may impose fines and/or incarceration pursuant to a finding of contempt.

4. The court may remove a person's name from the list of those eligible for appointment as counsel or guardian ad litem.

RULE 4: Official Law Journal

The Cincinnati Court Index, 119 West Central Parkway, Cincinnati, OH 45202, is the official daily law journal of the Hamilton County Juvenile Court in which all notices, advertisements, and other matters referred to in the Ohio Revised Code shall be published.

(Amended, eff. 11-1-05, 5-15-06)

RULE 5. Court Hours and Facilities

The court facility at 800 Broadway shall be open for the general transaction of business Monday through Friday from 8:00 a.m. to 4:00 p.m., excepting legal holidays. The Youth Center clerk's office at 2020 Auburn Avenue is open to the general public for the filing of delinquency and unruly actions from 8:00 a.m. to 6 p.m., Monday through Friday. Telephone ex parte emergency orders in abuse, neglect, or dependency cases are processed by the Youth Center clerk's office after regular business hours.

Any person entering court facilities at 800 Broadway or 2020 Auburn Avenue is subject to scanning by a metal detector and to a search of any bag, case, or parcel by security personnel. Smoking is prohibited in all court facilities.

The sessions of court at 800 Broadway shall be conducted Monday through Friday 8:00 a.m. to 4:00 p.m., excepting legal holidays. The court may be in session at such other times and hours as the presiding judge or magistrate shall prescribe to meet the special conditions of a case.

Official sessions of court may be conducted for selected cases in various community facilities and schools as the court may from time to time deem appropriate.

(Amended, eff. 3-2-06, 1-1-09.)

RULE 6. Servicemen's Civil Relief Act

Actions involving a person on active duty in the Armed Forces of the United States may require application of the Servicemen's Civil Relief Act, Public Law 108-189, 117 Stat. 2835. The court, in its discretion, may continue the case to accommodate a scheduled leave or may appoint counsel for the armed services member.

(Amended, eff. 1-1-05.)

RULE 7. Duty Magistrate

The chief magistrate shall designate each day that the court is in session one magistrate who shall be known as the duty magistrate. In addition to the magistrate's regular docket and such other duties as a judge or chief magistrate assigns, the duty magistrate may:

1. Hear and decide requests for emergency orders, except those filed by the Department of Jobs and Family Services.

2. Review and decide matters that do not require a hearing.
3. Authorize continuances.
4. Authorize requests for dismissals made prior to the date of hearing.

The duty magistrate's responsibilities shall cover the delinquency, unruly, traffic, custody, parentage, and support dockets. The deputy chief magistrate for the dependency department shall have like responsibilities for the dependency docket. That magistrate shall assign such responsibilities to another dependency magistrate when absent from the court.

RULE 8. Reserved

TITLE II: RECORDS

RULE 9. Case Files

(A) Inspection of Case Files. A child's case file, as defined in Sup. R. 26, shall be open for inspection by the parents, guardians or custodians, or if deceased, next of kin, or by an attorney or guardian ad litem for any child or party to the proceedings. Otherwise, such records shall not be available to any person except by order or permission of a judge or magistrate, by legal process from a court of competent jurisdiction, by written consent of the child's parent, guardian or custodian, or by written consent of the child who has reached the age of majority and is no longer under the jurisdiction of the court. A record may also be released where otherwise required or authorized by law.

A person requesting inspection of a child's case file shall provide to the clerk adequate proof of identification and/or relationship to the case before being permitted access. Thereafter, the clerk shall allow inspection and examination of a case file and its contents during regular business hours of the court. No original document, case file, or any part of its contents may be removed from the court by any party.

Attorneys wishing to investigate a matter prior to undertaking representation may review the case file by submitting to the clerk a written limited notice of appearance or a release signed by the prospective client.

Upon permanent termination of parental rights, the parent and the parent's representatives named above are prohibited from inspecting that portion of the child's case file generated after the termination.

(B) Copies of Case Files. Any person entitled to inspect a child's case file may request a copy of any document in the file. The clerk shall provide copies as requested, excepting official transcripts. Copies shall be provided during regular business hours within a reasonable time as determined by the clerk based upon the extent of the request. A fee for photocopying may be charged as the court may determine from time to time.

RULE 10. Record of Hearing

(A) Official Record. A complete record of all testimony or other oral proceeding shall be made in all official cases by means of a court reporter or an audio or audiovisual recording device provided by the court. This record shall be the official record of the case unless a transcript is filed pursuant to division (C) of this rule.

(B) Inspection of the Audio or Audiovisual Record. Any person who is a party to a case as defined by the Juvenile Rules or that person's attorney or guardian ad litem may listen to or view the record made in a case after a request is submitted and authorized. The judge, court administrator, chief magistrate or deputy chief magistrate, chief deputy clerk, or executive director of case management may authorize such requests.

(C) Transcription of the Record

For hearings before a judge, the transcription of a stenographic record shall be the responsibility of the court reporter who produced the record. The transcription of an audio or audiovisual record shall be the responsibility of the person assigned to do so by the judge who heard the case. For hearings before a magistrate, the transcription of the audio or audiovisual record shall be the responsibility of the person designated by the judge who has administrative responsibility for the case.

If a request for a transcript is made for purposes of appeal, the person seeking the transcript may directly request the court reporter or the person assigned by the judge to transcribe the record. The court reporter or person assigned shall certify the docketing statement by indicating the estimated number of pages and how much time is needed to complete the transcript. No transcript will be begun or provided until satisfactory arrangements for payment have been concluded.

If a request for a transcript is made for purposes of objections filed pursuant to Juvenile Rule 40, regarding a case pending within the court, or regarding a criminal prosecution that was transferred pursuant to Juvenile Rule 30, the person seeking the transcript may directly request the court reporter or the person assigned by the judge to transcribe the record. The transcript will not be begun or provided until satisfactory arrangements for the payment have been concluded.

Except for requests for the purposes stated above, any party requesting a full or partial transcript of the record shall file a written request with the clerk and provide a copy to the person responsible for transcription. All written requests for a transcript shall contain the case number, presiding judge or magistrate, date of hearing, reason for the request, number of copies in addition to the original, payor of the transcript, and any other pertinent information. The judge assigned administrative responsibility for the case may schedule a hearing or may rule on the request upon the pleadings.

The fees allowable for preparation of a transcript and copies shall be as prescribed in the Rules of Practice of the Hamilton County Court of Common Pleas.

All original transcripts shall be filed by the court reporter or person responsible for transcription with the clerk and shall thereby become the official record of the case.

(D) Reproduction of Audiovisual Record

No copy of an audio or audiovisual record shall be made unless by order or permission of a judge. Any party requesting reproduction of an audio or audiovisual record shall file a motion with the clerk. The judge assigned administrative responsibility for the case may schedule a hearing or may rule on the request upon the pleadings.

RULE 11: Filing by Facsimile; Electronically Produced Traffic Tickets

(A) Applicability

Pleadings and other papers may be filed with the Clerk's Office by facsimile transmission subject to the provisions of this rule. Only fax filings transmitted directly through the facsimile equipment operated by the clerk's office at 513-946-9450 will be deemed filed with Hamilton County Juvenile Court. This rule applies to cases involving all areas of the court's jurisdiction, with the exception of cases filed pursuant R.C. 2151.85 regarding a minor's complaint for an abortion. In such cases, no document shall be filed by facsimile transmission.

The following documents will not be accepted for fax filing: a petition for writ of habeas corpus; an ex parte motion for emergency custody in a custody, visitation, dependency, neglect, or abuse case.

The use and filing of a traffic ticket that is produced by computer or other electronic means is authorized in the Hamilton County Juvenile Court. Such ticket shall conform in all substantive respects, including layout and content, to the "Ohio Uniform Traffic Ticket," except that standards for the color and weight of paper and method of binding shall not apply. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the juvenile with a paper copy of the ticket as required by the Ohio Traffic Rules. The issuing officer shall be considered to have certified the ticket and shall have the same rights, responsibilities, and liabilities as with all other tickets issued pursuant to the Ohio Traffic Rules.

(B) Original Filing

A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the court. The source document with original signatures as otherwise required under applicable rules and the source copy of the facsimile cover sheet must be maintained in the person's records and be available for production on request by the court. The source document filed by fax shall be maintained by the person making the filing until the case is closed and all opportunities for post-judgment relief are exhausted.

(C) Definitions

As used in these rules, unless the context requires otherwise:

1. A "facsimile transmission" means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to print a duplicate of the source document at the receiving end.
2. A "facsimile machine" means a machine that can send and receive a facsimile transmission.
3. "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.
4. "Clerk's office" refers to the Clerk's Office of the Hamilton County Juvenile Court.

(D) Cover Page

The person filing a document by fax shall also provide therewith a cover page containing the following information:

1. Name of the court;
2. Title of the case;
3. Case number;
4. Assigned judge or magistrate;
5. Title of the document being filed (e.g. Complaint for Custody, Motion to Modify Support)
6. Date of transmission;
7. Transmitting fax number;
8. Indication of the number of pages in the transmission, including the cover page;
9. If a judge or case number has not been assigned, state that fact on the cover page;
10. Name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and if applicable, a statement explaining how costs are being submitted.

If a document is sent by fax to the Clerk's Office without the cover page information listed above, the clerk will deposit the document in a file of failed faxed documents with a notation of the reason for the failure. The document *shall not* be considered filed with the court. Although not required, but if practicable, the Clerk's Office may send to the sending party a notice of failed fax filing.

(E) Signature

A party who wishes to file a signed source document by fax shall either fax a copy of the signed source document, or fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document. A party who files a signed document by fax represents that the physically signed source document is in the possession or control of the person filing the fax.

Any signature on an electronically transmitted document shall be considered that of the attorney, party, or person it purports to be for all purposes. If it is established that the documents were transmitted without authority, the court shall order the filing stricken.

(F) Exhibits

Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge or magistrate and the title of the exhibit being filed. (E.g., Mother's Notice of Filing Exhibit G.) The exhibit and cover sheet shall be signed and served in conformance with the rules governing the signing and service of pleadings.

(G) Time of Filing

Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk's Office shall be considered filed as of the date and time the fax transmission was received by the Clerk's Office. The Clerk's Office will be deemed open to receive facsimile transmission of documents on the basis of 24 hours per day seven days per week including holidays. Each page of any document received by the Clerk's Office will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time of filing, provided the document is deemed accepted by the Clerk's Office.

The risks of transmitting a document by fax to the Clerk's Office shall be borne entirely by the sending party. The Clerk's Office may, but need not, acknowledge receipt of a facsimile transmission. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk's Office through whatever technological means are available.

(H) Fees and Costs

No document filed by facsimile that requires a filing fee shall be accepted by the Clerk's Office for filing until court costs and fees have been paid. Court costs and fees may be paid by credit card. Documents tendered to the Clerk's Office without payment of court costs and fees, or which do not conform to applicable rules will not be filed. Information furnished for authorization of payment by credit card shall not be part of the case file. No additional fee shall be assessed for facsimile filings.

(I) Length of Document

Facsimile filings shall not exceed 15 pages in length. The filer shall not transmit service copies by facsimile, except that the filer shall transmit at least one service copy if the filer requests the clerk to send service.

(J) Effective Date

This rule shall govern all proceedings in actions brought after it takes effect, and also in further proceedings in pending actions, except to the extent that, in the opinion of the court, the application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

(Adopted, eff. 1-1-05; amended, eff. 1-1-09.)

TITLE III: HEARINGS

RULE 12. Counsel of Record

(A) Appearance of Counsel; appearance pro hac vice

An attorney licensed to practice in Ohio shall file a notice of appearance of counsel within seven days of being retained. An entry appointing counsel shall serve as a notice of appearance of counsel.

Attorneys not licensed to practice in Ohio may practice before the court only if the court permits an appearance pro hac vice. An attorney seeking such permission shall file a written motion and

shall be licensed and in good standing in another state. The court may require local counsel and the filing of an affidavit as described in the Rules of Practice of the Hamilton County Court of Common Pleas.

(B) Appointment of Counsel

The Hamilton County Public Defender's Office provides for the assignment of attorneys for indigent parties who request counsel. Upon a party's request for appointed counsel, the party shall provide any necessary information and complete such forms or affidavits as that office requires to determine eligibility. The party is required to make and maintain contact with the public defender without delay.

Attorneys licensed to the practice of law in Ohio are eligible to request the placement of their name on the public defender's list of attorneys who seek assignment as appointed counsel.

(C) Substitution of Counsel

Counsel may be substituted by the filing of a notice of substitution with the clerk's office and service upon all parties. Original counsel is withdrawn upon the filing of such notice.

(D) Withdrawal of Counsel

An attorney seeking to withdraw as counsel of record shall timely file a written motion stating the grounds for withdrawing from the case; that the attorney has notified or made every possible attempt to notify the client of the intended action, the subsequent hearing dates, and the necessity of the client's appearance at such hearings; and that the attorney has notified opposing counsel of the intended action. An attorney shall not be considered withdrawn as counsel of record unless approved by the court in a written order.

An attorney of record shall not be permitted to withdraw less than 14 days prior to a scheduled hearing except for good cause shown and that the action is not the fault of the party or made for purposes of delay.

For good cause shown, the court may permit an oral motion to withdraw as counsel of record if no party is prejudiced thereby.

(E) Discharge of Counsel

An attorney shall be considered discharged as counsel of record when a final judgment has been rendered and no subsequent hearings are scheduled.

(F) Opposing Counsel

When counsel is aware that an adverse party is represented, counsel shall attempt, upon the filing of an action or at any other appropriate time, to select a mutually accommodating date.

RULE 13. Courtroom Decorum

Proper decorum in court is necessary for the proper administration of the court's business. Chewing gum, food, and beverages are prohibited in the courtroom during all hearings.

Cellular telephones, pagers, radios, compact disc or cassette players, headphones, and other electronic devices shall be turned off prior to entering the courtroom and not utilized except on consent of the court.

All counsel shall wear business attire. All parties and witnesses shall wear appropriate attire. The following are not appropriate: excessively revealing attire, bare feet, cutoffs, tank tops, crop tops, and visible undergarments.

Counsel and parties shall be present and before the court at the assigned hearing time. If counsel or a party is unavoidably delayed, notice must be given to the judge or magistrate as early as possible. Counsel shall make all reasonable efforts to engage substitute counsel in the event of an unexpected absence.

Counsel and parties shall have all witnesses and evidence present at the scheduled hearing time unless the court has specifically permitted an alternate schedule. Any delay in the appearance of a witness or change in the order of presentation shall be brought to the attention of opposing counsel and approved by the court.

Counsel and parties shall act in a professional and respectful manner. Permission must be sought before approaching the bench or a witness. Rising when making objections or addressing the court is optional. Argument shall be directed to the court and not to opposing counsel or parties.

Except for those who are witnesses, victims, or subjects of the proceeding, children are not permitted in the courtroom unless by consent of the court. Children who are permitted in the courtroom must be accompanied by an adult who will be solely responsible for their safety, care, and behavior.

Rule 13.01 Use of Child Restraints during Court Hearings

Pursuant to Ohio Supreme Court Rule of Superintendence 5.01, the Hamilton County Juvenile Court adopts this Rule regarding the use of restraints during court hearings:

- (A) Children appearing before the Court shall be free of physical restraint during any hearing unless the judge or magistrate before whom the child is appearing makes an individualized determination on the record that there is no less restrictive alternative to the use of physical restraint and that the physical restraint is necessary because of either of the following:
- (1) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom;
 - (2) There is a significant risk the child will flee the courtroom.
- (B) In making the necessary findings to use physical restraints, the judge or magistrate shall consider (1) the nature and severity of the offense for which the child is before the court; (2) the child's prior history with the court; (3) the child's prior and current behavioral history while being held in detention and in the presence of the Court; and (4) any other factors the judge or magistrate deem appropriate in making the individualized determination to apply physical restraints during the hearing.

- (C) The judge or magistrate shall permit the child who is the subject of a juvenile court proceeding (by himself or herself or through counsel), the child's spouse, if any, the child's parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child's custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court, to be heard on the issue of whether the use of physical restraint is necessary for that particular child at that particular proceeding. This hearing may take place absent the presence of the child as long as the child is represented by an appropriate person and given the opportunity to respond at the time he or she appears in the hearing room. A child shall not be required to be free of physical restraint during the hearing to determine the necessity of physical restraint.
- (D) Where physical restraint is deemed necessary by the judge or magistrate, the restraint chosen must be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.

RULE 14. Broadcasting, Televising, Photographing, or Recording of Proceedings

(A) Request to Broadcast, Televisе, Photograph, or Record Proceedings

Requests for permission to broadcast, televise, photograph, or otherwise record courtroom proceedings shall be submitted in writing to the judge or magistrate presiding over the hearing. The request shall be made as far in advance as is reasonably possible, but in no event later than 24 hours before the hearing to be recorded. The judge or magistrate may waive the advance notice provision for good cause.

The court shall immediately attempt to inform the attorneys for all parties of a request by the media through means most suitable to achieve actual and prompt notice of the request.

(B) Media Pool

The judge or magistrate presiding over the hearing may require media representatives interested in recording courtroom proceedings to do so through the pooling of their resources as described in the Rules of Practice of the Hamilton County Court of Common Pleas.

(C) Equipment

The media representative and/or the pool coordinator shall consult with the court in advance of the hearing about the placement of audio and video equipment. All equipment in the courtroom must be fully set up and operational before the beginning of the court proceeding. Once equipment has been positioned, media representatives shall remain in the designated area and act and operate the equipment so as not to distract the attention of the court or the parties. No changes of cassettes, film, film magazines, camera lenses, and similar supplies shall be made inside the courtroom except during a recess. Proper courtroom decorum shall be maintained at all times by media representatives, including appropriate courtroom attire.

(D) Victims, Witnesses and Jurors; Identification of Parties

The filming, videotaping, recording, or photographing of a victim, witness, or juror is prohibited without specific authorization of the court. If the subject matter of the proceeding is a child, the

name or identity of any party, witness, child, parent, or participant shall not be disclosed unless by specific authorization of the court.

RULE 15. Hearing Closure

A party to a proceeding may request that a hearing or hearings be closed to members of the public, the media, or other specified persons through a written or oral motion. Such requests shall be made as far in advance as is reasonably possible to allow the court to conduct a hearing and rule on the request without unnecessarily delaying the proceedings.

The right of a victim to attend a hearing pursuant to R.C. 2930.09, the right of a foster parent, relative or prospective adoptive parent to attend a hearing pursuant to R.C. 2151.424, the right of a defendant to an open and public hearing in a serious youthful offender proceeding, and the right of any other person who has a lawful right to attend a hearing shall be preserved.

RULE 16. Exhibits and Evidence

All exhibits must be marked and identified if referenced on the record. Once marked, all exhibits will be maintained in the sole possession of the court until the conclusion of the case, including time for appeal, unless the court otherwise orders return of the exhibit. Upon the conclusion of the case including time for appeal, the court may dispose of exhibits pursuant to law and at such time as it deems feasible following notice to proponent, victim, or owner.

Where appropriate and by court order, photographs as defined in Evid. R. 1001(2) may be taken of an exhibit and introduced as evidence in the hearing. The admission of such photographs is subject to the relevancy requirements of Evid. R. 401, Evid. R. 402, Evid. R. 403, the authentication requirements of Evid. R. 901, and the best evidence requirements of Evid. R. 1002.

When evidence requires the use of other devices to be seen or heard, the proponent of the evidence bears the responsibility for producing such equipment or device at the hearing. The following court equipment may be utilized subject to availability through prior arrangement with a case manager or court officer: VHS video tape player, video monitor, compact disc player, and flip chart.

RULE 17. Continuances

When all parties are in agreement with a continuance, one party may file a written request for a continuance on behalf of all. Such request shall state the reason for the request and be signed by all other parties or their counsel. The party filing the request may sign for any counsel or party if so authorized. The party filing the request shall then submit it to the bailiff of the assigned judge, or to the case manager of the assigned magistrate in a custody or a dependency, neglect, or abuse case, or in all other cases, to the case manager of the magistrate scheduled to conduct the next hearing. If the court grants the request, the requesting party shall assure that the date selected is accommodating to the schedules of all other parties.

All other requests for continuances shall state the reasons for the request and shall be filed with the clerk's office no later than 14 days before the hearing sought to be continued and served upon all other parties. The party filing the request for continuance shall then submit it to the

bailiff of the assigned judge, or to the case manager of the assigned magistrate in a custody or a dependency, neglect, or abuse case, or in all other cases, to the case manager of the magistrate scheduled to conduct the next hearing.

RULE 18: Service By Publication

Service by publication shall be made by newspaper publication. In order to assure publication in compliance with Juvenile Rule 16(A), requests for service by publication shall be filed no later than 10 days before the scheduled hearing. The clerk may exercise discretion regarding a request not timely filed and decline to process the request if publication is not likely to occur within the time specified by Juvenile Rule 16(A).

(Adopted eff. 11-1-05; amended eff. 5-15-06.)

TITLE IV: CUSTODY, PARENTING TIME AND ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES

RULE 19. Commencement of the Case

(A) Commencement

Before commencing an action for custody, parenting time, allocation of parental rights and responsibilities, or modifications to existing orders of such nature, the person filing the complaint must make a good faith effort to identify the true and accurate names of the child, mother, father or fathers, and any other person who has a legal interest in the proceeding. Cases regarding siblings will be filed under different case numbers unless they share the same mother and father.

(B) Documents Required At Filing

Original actions shall be initiated by sworn complaint. Requests to modify pre-existing orders shall be by motion. All documents must be typed or legibly printed on 8½ by 11-inch paper. A completed copy of the following documents must be filed with the complaint or motion:

1. Copy of the child's birth certificate
2. Child Custody Affidavit pursuant to R.C. 3127.33.
3. Hamilton County Juvenile Court Information Form
4. If paternity has been established, one of the following:
 - A paternity determination of record in the Central Paternity Registry
 - An administrative paternity determination
 - A paternity determination issued by a court
5. The most recent court order regarding custody or support issued by another court
6. Release Form of the Hamilton County Juvenile Court
7. Release Form of the Hamilton County Sheriff's Office
8. Information Form for the Department of Jobs and Family Services
9. Written Request for Service

If the petitioner is unable to secure any of the above documentation after the exercise of due diligence or in the case of an emergency, the petitioner shall file an affidavit identifying the

missing document and describing the efforts to secure it or the emergency that requires immediate filing without the document.

(C) Assignment of Cases

At filing, a case shall be randomly assigned to a magistrate who shall thereafter preside over all hearings in the case unless absent from the court or exigent circumstances require otherwise.

(D) Filing Fee

The party initiating the action shall submit the filing fee at the time of filing. If the party is indigent and unable to pay the fee, the clerk may accept the filing if accompanied by an affidavit of indigence and some form of documentation in support of the affidavit such as payroll receipts, Social Security determinations, or public assistance determinations.

The magistrate presiding over the case will review all affidavits of indigence. The magistrate may accept the affidavit as filed or set a hearing to determine if the filing fee must be paid before the case may proceed. If a party's financial status changes during the course of the proceedings, the party is under a duty to inform the court. The court may order subsequent payment of the filing fee if the court finds that financial circumstances have changed since the filing of the case.

(E) Failure to Comply

Failure to comply with the rules for commencement of an action may delay or preclude the filing of the case.

(Amended, eff. 1-1-08)

RULE 20. Pre-Trial Matters

(A) Investigations of the Parties

Upon the filing of a complaint or motion, the court will request information pertinent to the case from the Hamilton County Department of Job Family Services and the Hamilton County Sheriff's Office pursuant to R.C 3109.04 and 3109.051. Upon request, a copy of any information received from either agency shall be provided to the parties and/or counsel. Upon the court's receipt of the information, the case will be referred for either mediation or pre-trial hearing.

(B) Mediation

Prior to the first hearing, the court may refer for mediation such cases that it deems appropriate. Thereafter a case may be referred for mediation by order of the court. A mediation session is a docketed event requiring the appearance of all parties. The appearance of counsel is optional.

If an agreement is reached during mediation and all parties sign the agreement, it will be forwarded to the magistrate presiding over the case for review without hearing. Cases referred at filing will be forwarded to the chief magistrate or a designee for review. If approved, a magistrate's decision will be generated. When approved by the judge, the agreement becomes part of the record and an enforceable order.

If parties fail to appear for mediation, if no agreement is reached in mediation, or if the agreement reached is not approved by the magistrate, the case will be scheduled for a pretrial hearing and parties notified by mail.

(C) Guardians ad Litem

Guardians ad litem in custody and parenting time cases shall follow the provisions contained in Rule 30 of these rules unless any provision contained therein is clearly inapplicable.

(D) Temporary Orders Pursuant To Juvenile Rule 13

Requests for temporary orders pursuant to Juvenile Rule 13 shall be by written motion unless the court grants leave for the motion to be made orally. The court may determine the motion without hearing upon affidavits in support and opposition. The court may consider agreed temporary orders if submitted in writing prior to any scheduled hearing.

Motions for ex parte temporary orders filed pursuant to Juvenile Rule 13(D) shall be in writing and contain an affidavit regarding the circumstances that require the court to take immediate action and without notice to opposing parties. Prior to filing the motion, the movant shall report the child's circumstances to 241-KIDS for investigation. Such motions will be referred for hearing the same day if filed at least one hour before the close of business for the day. Motions filed thereafter may be referred for hearing on the following business day.

(E) Pre-Trial Hearings

At a pre-trial hearing, the court will review the complaint or motion, check parentage, and assure that all necessary parties have been included and properly served. The court will also inform the parties of their right to counsel and address any other issues pertinent to the case. Unless otherwise specified by the court, all hearings will be scheduled for a 20-minute period. All parties and counsel shall appear and shall be prepared for settlement of all issues at each pre-trial hearing.

Upon review of the filings and the information submitted by the Department of Job and Family Services and the Hamilton County Sheriff's Office, the court may question the parties to determine whether mediation, appointment of a guardian ad litem, or an expanded custody investigation should be ordered. The court may also require the submission of a pre-trial statement at such times as it deems appropriate.

If the court determines that all parties have not been served, that discovery has not been completed, or that other pre-trial issues are not resolved, the court may maintain the case on the pre-trial docket or take other appropriate measures so as to promote a just and expeditious resolution.

If the court determines that all parties are in agreement, or that necessary parties have failed to appear or answer after service, having been notified of an adverse consequence for such failure, the court may receive evidence as time permits to resolve the complaint or motion. If docket time is insufficient, the court may continue the hearing to a later date.

RULE 21. Trial Matters

(A) Trial Scheduling

The court will schedule a case for trial after it determines that all pre-trial matters have been concluded and that the parties cannot reach an agreement. Trials will be conducted on the afternoon docket. If travel requirements or other unusual circumstances cause undue burden, the court may deviate from such scheduling.

(B) Agreed Entry

Once a complaint or motion is filed, an agreed entry may be submitted to the clerk's office for approval without hearing. All parties must be represented by separate counsel and all parties and counsel must sign the agreement. The agreement must contain an acknowledgement of service of summons. After submission, the chief magistrate or a designee will review the agreement and the information submitted by the Hamilton County Department of Job and Family Services and the Hamilton County Sheriff's Office pursuant to Rule 20 of these rules. If approved, a decision of the magistrate will be prepared and sent to the parties and counsel. If the agreement is not approved, the case will be scheduled for a pre-trial hearing and the parties and counsel will be notified by mail.

(C) Shared Parenting

Where parentage has been established and a party seeks shared parenting, shared parenting plans shall be filed in accordance with R.C. 3109.04. If a court has previously determined paternity or made orders regarding child support, health insurance, medical expenses or tax exemptions, the shared parenting plan shall reference the case number and court in which such determinations or orders were made, but the shared parenting plan shall not modify such orders.

If child support has not been ordered previously, the following shall be completed and submitted with the shared parenting plan:

- Income Worksheet
- Wage Assignment
- Order on Obligor
- Order on Oblige

(D) Change of Circumstances

Where a showing of a change of circumstances is required for a motion to change custody or to modify a shared parenting plan, the matter will be set for an initial hearing to determine that issue.

(Amended, eff. 1-1-05)

RULE 22. Registration of Parenting Decrees of Another State

Pursuant to R.C. 3127.35, parenting decrees of another state may be filed in the clerk's office. Enforcement of such decrees shall be pursuant to R.C. 3127.36 or upon the court accepting jurisdiction from a court relinquishing jurisdiction.

(Amended, eff. 1-1-08)

RULE 23. Standard Parenting Time Guidelines

Standard parenting time guidelines are as follows.

Normal Weekly Schedule

The non-residential parent shall have parenting time on alternate weekdays from Friday at _____ a.m./p.m. until Sunday at _____ a.m./p.m. The non-residential parent shall have parenting time from _____ a.m./p.m. to _____ a.m./p.m. on a weekday preceding the weekends during which there is no parenting time.

Holiday Time

The schedule for holiday time will take precedence over the normal weekly schedule. During even numbered years, the non-residential parent shall have parenting time on New Year’s Day, President’s Day, Memorial Day, Veteran’s Day and Thanksgiving Day. During the odd numbered years, the non-residential parent shall have parenting time on Martin Luther King Day, Easter, July 4th and Labor Day. Parenting times for such holidays shall begin at _____ a.m./p.m. and continue until _____ a.m./p.m.

During the even numbered years, the non-residential parent shall have parenting time from _____ a.m./p.m. to _____ a.m./p.m. on Christmas Eve, and during odd numbered years, on Christmas Day from _____ a.m./p.m. to _____ a.m./p.m.

Mother shall have parenting time on Mother’s Day and Father shall have parenting time on Father’s Day, _____ a.m./p.m. to _____ a.m./p.m.

During even numbered years, the non-residential parent shall have parenting time on the child’s birthday. If the child’s birthday falls on a non-school day, the parenting time shall take place from _____ a.m./p.m. and continue until _____ a.m./p.m. If the child’s birthday falls on a school day, parenting time shall take place from _____ a.m./p.m. and continue until _____ a.m./p.m.

The non-residential parent shall not exercise regular weekly parenting time on holidays unless entitled to holiday time by the holiday schedule or unless the parties otherwise agree in writing.

The following days of special meaning shall also constitute holiday time and shall be apportioned between the residential and non-residential parent as follows: _____

Extended Time

The non-residential parent shall be entitled to four weeks of additional parenting time each year. Extended parenting time shall take precedence over the holiday schedule with the exception of Christmas Eve and Christmas. This parenting time may be exercised during the child’s seasonal school breaks, summer vacation, or any other appropriate time during the year. Such extended parenting time shall not interfere with any summer school that is mandatory for child to pass to next grade. The residential parent is entitled to two weeks uninterrupted extended parenting time.

Extended parenting times are to be arranged within seven days from the time the parents' vacation schedules are posted by their employers. The non-residential parent shall notify the residential parent in writing of the times desired for extended parenting time no later than 30 days prior to the exercise of said time.

Precedence

Extended parenting time shall take precedence over the holiday schedule with the exception of Christmas Eve and Christmas Day. The holiday schedule will take precedence over the normal weekly schedule. In the event of a conflict, the order of precedence is: extended time, first, excepting Christmas Eve and Christmas Day; holiday time, second; weekends, third; and midweek days, fourth.

Wait Time

The child and/or the residential parent have no duty to wait more than 30 minutes for the non-residential parent to arrive for parenting time. The non-residential parent who is more than 30 minutes late for a particular parenting time shall forfeit that time. The non-residential parent, who is more than 30 minutes late in returning the child without calling to make arrangements for just cause shall be subject to contempt.

Relocation

The residential parent may not remove the child from Hamilton County to establish residence in another county or state without a court order or an agreement signed by the person or persons exercising court ordered parenting time. If the residential parent intends to establish a residence outside Hamilton County and all other parties have not signed an agreement, the residential parent shall file a notice to relocate with the clerk.

Make-up Days

Makeup days shall be given if, due to an emergency, the child or non-residential parent cannot visit at the scheduled time, or if the custodial parent denies parenting time with just cause. All makeup days shall be rescheduled and exercised within 30 days.

Transportation

In the event that the parties are unable to reach an agreement regarding transportation for parenting time, the _____ shall provide transportation at commencement of the period and _____ shall provide transportation at the termination of the parenting time period.

Any parent who transports the child shall have a valid driver's license, roadworthy vehicle, insurance required by the laws of Ohio, and car seats required by the laws of Ohio.

School Releases

The residential parent shall arrange for the appropriate school officials to release any and all information concerning the child to the non-residential parent.

Medical

The residential parent shall authorize the release of any and all medical information and/or records concerning the child to the non-residential parent. In the event that a parent seeks medical attention by a physician, the parent shall promptly notify the other parent. Elective surgery shall be performed only after consultation with the non-residential parent.

Addresses

Each parent shall keep the other parent notified of any change in address and/or telephone number. Each parent will keep the other parent notified of the location of child if not in Hamilton County. Each parent will provide the other parent with his or her vacation destination, method of travel, times of arrival and departure, and the telephone number where he or she can be reached.

RULE 24. Standard Phase-In Parenting Time Guidelines

Where the child may not be sufficiently familiar with the parent to warrant standard parenting time scheduling, the court may consider, subject to the child’s best interests, the following standard phase-in parenting time guidelines before initiating the standard parenting time schedule.

Supervised Day Parenting Time.

The nonresidential parent shall have ____ (#) weekly parenting time periods of _____ hours on - _____ (day) from _____ a.m./p.m. to _____ a.m./p.m., beginning on _____. Supervision will be provided by _____, who will remain within sight and sound of child at all times. The parenting time will occur at _____. The parties shall provide their own transportation to such location.

Unsupervised Partial-Day Parenting Time

The non-residential parent shall have parenting time _____ (#) times, every week / alternate weeks for _____ (#) hours on _____ (day) from _____ a.m./p.m. to _____ a.m./p.m., beginning on _____.

Transportation for Unsupervised Parenting Time.

In the event that the parties are unable to reach an agreement regarding transportation for parenting time, _____ shall provide transportation at the commencement of the period and _____ parent shall provide transportation at the termination of the parenting time period. Pick up and return location is _____:
_____.

Any parent who transports the child shall have a valid driver’s license, roadworthy vehicle, insurance required by the laws of Ohio, and car seats required by the laws of Ohio

Unsupervised Full Day Parenting Time.

The non-residential parent shall have parenting time _____ (#) times, every week / alternate weeks for _____ (#) hours from _____ a.m./p.m. to _____ a.m./p.m., beginning on _____.

Unsupervised One-And-A Half-Day Parenting Time.

The non-residential parent shall have parenting time on _____(day), from _____ a.m./p.m. until _____(day) at _____ a.m./p.m., beginning on _____ and occurring every week / every alternate week.

Unsupervised Two-Day Parenting Time

The non-residential parent shall have parenting time from _____(day), from _____ a.m./p.m. until _____(day) at _____ a.m./p.m., beginning on _____ and occurring every week / alternate week.

End of Phase-In Schedule

The end of the Phase-In Schedule shall occur on _____. The Standard Parenting Time Guidelines shall start on _____. In the event of a conflict, the Phase-In Parenting Time schedule shall take precedence over the Standard Parenting Time Guidelines or any other parenting schedule.

RULE 25. Reserved

TITLE V: PARENTAGE AND CHILD SUPPORT

RULE 26: Parentage Actions

(A) Civil Rules Apply

The Ohio Rules of Civil Procedure apply to all matters regarding the establishment of parentage and orders for and modification of child support.

(B) Commencement by Administrative Action

Except as provided by R.C. 3111.381, a person filing an action to establish parentage or child support must first request an administrative determination through a Child Support Enforcement Agency. A copy of the request for an administrative determination must be attached to the complaint or motion.

The Child Support Enforcement Agency or a party may file with the clerk any administrative paternity determination or order for child support to which the parties do not object. The court may adopt the determination or order after review without hearing. Requests for judicial review of an administrative determination or child support order will be set for hearing before a magistrate.

(C) Actions Involving Minors

Actions for parentage, child support, and contempt for failure to pay child support in which a parent or an alleged parent is a minor require the attendance of the minor parent's parent or legal guardian or custodian at all hearings.

(D) Genetic Testing

Advance payment for genetic testing is the responsibility of the requesting party. Repeat genetic testing may be ordered in the court's discretion. At the conclusion of the case, the court may assess the costs of genetic testing against the non-prevailing party. When the Child Support Enforcement Agency has advanced the costs of genetic testing, the court may order reimbursement by the non-prevailing party.

(E) Modification of Child Support Order

Motions for modification of a child support order shall state the specific reason for the request and attach a copy of the most recent order that the party seeks to modify.

(F) Motions to Set Aside

Motions filed pursuant Civil Rule 60(B) to set aside a finding of parentage and/or an order for child support shall set forth the specific reasons for the requested relief and contain a copy of the order being sought to set aside. Such motions will be set for hearing before a magistrate.

RULE 27. Reserved

TITLE VI : DEPENDENCY, NEGLECT, AND ABUSE

RULE 28: Copy of Birth Certificate Required

A copy of the child's birth certificate shall be filed with the complaint, or within 60 days if unavailable at the time of filing.

RULE 29: Telephone Ex Parte Orders

A designated magistrate shall carry a pager for purposes of responding to requests for ex parte telephone emergency orders made pursuant to R.C. 2151.31(D). Such requests may be initiated by phone or in person at the Youth Center intake office at 2020 Auburn Avenue. If an ex parte order is made, the hearing on the order will be docketed the next business day or within 72 hours, whichever is sooner.

Requests for authorization for emergency medical treatment will be referred to a judge.

RULE 30. Guardians ad Litem

(A) Appointment. A guardian ad litem shall be appointed in every case alleging a child to be dependent, neglected, or abused. The following are eligible for appointment as guardians ad litem for a child:

1. Attorneys eligible for appointment by the public defender as counsel in juvenile court proceedings.
2. Staff of the public defender guardian ad litem division who are trained and supervised by that division.
3. A Court Appointed Special Advocate (CASA) who is trained and supervised by ProKids.
4. Any other person upon specific order of the court.

Once appointed, a guardian becomes a party to the case and is entitled to all rights and notices that are afforded any other party in an action. Guardians are entitled to complete and timely information regarding the child's whereabouts and residence.

(B) Authority

In addition to the authority granted to guardians ad litem by law, guardians appointed to serve in cases of dependent, neglected and abused children shall have the authority to do the following:

1. Act as an independent gatherer of information.
2. Review all relevant records of the child, including but not limited to medical, psychological, dental, Job and Family Service, and school records.
3. Monitor the implementation of case plans and dispositional orders regarding the provision of services and their level of effectiveness.
4. Interview every child, as appropriate to the child's age, in private without the consent of the parent, guardian or custodian, or of any private or public entity.
5. Observe each parent, guardian or custodian, or foster parent with the child.
6. Review the pleadings in the case and consult with attorneys involved in the case.
7. Participate in mediation sessions and administrative reviews.
8. Participate in education meetings, including but not limited to those regarding multi-factored evaluations and individualized educational plans.

(C) Responsibilities

Guardians ad litem for children are required to do the following either personally or through the supervision of a CASA:

1. Seek representation by counsel for the filing of pleadings and motions, and the examination and cross-examination of witnesses; seek the advice of counsel in the issuance of subpoenas.
2. Communicate with every child, as is appropriate to their age, privately and in person within 14 days of the appointment, before adjudication, before disposition, and thereafter at least every three months until the court terminates the case.
3. Communicate with the adult with whom the child is living by phone, email, letter, or in person within 14 days of appointment.
4. Communicate with every child, as is appropriate to their age, privately by phone, email, letter, or in person at least once per month.
5. Respond promptly to any request made to communicate with the child or to investigate the child's circumstances when made by the child or any person on behalf of the child.
6. Investigate the circumstances of the child through contact with the following: the child, parents, foster parents, teachers, and any other person with pertinent information regarding the needs of or resources for the child.
7. Attend and remain present for the entirety of any mediation regarding the child.
8. Submit verbal or written recommendations, as directed by the court, at every hearing that include but are not limited to contacts made, interviews conducted, and recommendations.
9. Attend every court hearing regarding the child, except that when the guardian's presence has been excused, a written report shall be submitted.
10. Explain to every child, as is appropriate to their age, the court proceedings and the role of the guardian ad litem.
11. Advocate for the best interest of the child, giving due regard for the factors that the court must consider in determining the child's best interests.

(D) Conflict

In the event of a conflict regarding an attorney who is representing an abused child and also serving as that child's guardian ad litem, the guardian shall promptly notify the court of the conflict. The court shall appoint another person to serve as guardian ad litem.

Where a guardian ad litem of a dependent, neglected child, or abused child discerns a conflict between the desires of the child and recommendations of the guardian ad litem, the guardian shall notify the court of the child's desires and may request the court to appoint counsel for the child. The court, in its discretion, may appoint an attorney for the child.

(E) Termination of Appointment

Though otherwise eligible, the court may deem any person ineligible for future appointment, or may remove any person as a guardian ad litem for a child or party.

(Amended, eff. 1-1-05)

RULE 31. Mediation

Anytime after filing, the court may refer for mediation such cases that it deems appropriate. A mediation session is a docketed event requiring the appearance of all parties. Counsel for all parties may be required to attend or the court may waive the presence of all counsel. If the presence of counsel is waived for mediation, the parties shall have the opportunity, if desired, to consult or appear with counsel before the court approves mediation agreement.

If an agreement is reached during mediation and all parties sign the agreement, a hearing will be conducted immediately after the mediation session to review the agreement. If approved, a magistrate's decision will be generated. When approved by the judge, the agreement becomes part of the record and an enforceable order.

If parties fail to appear for mediation, if no agreement is reached in mediation, or if the agreement reached is not approved by the magistrate, the case will be scheduled for a pretrial or trial hearing.

RULE 32. Incarcerated Parents

With sufficient notice that a parent is incarcerated in the Hamilton County Justice Center and if there is no conflict with that parent's appearance in a criminal matter, the court will arrange for the transportation of the parent to the proceeding.

If a parent is incarcerated within the Ohio Department of Rehabilitation and Correction, transportation will be arranged for a parent's appearance for proceedings regarding permanent termination of parental rights only upon motion and by signature of the magistrate and judge.

RULE 33. Waiver of Case Completion Requirement

The court may waive the requirement to complete the adjudicatory and dispositional hearings within 90 days if all parties are in agreement.

RULE 34. Expedited Hearings

A party requesting a hearing prior to the next scheduled hearing shall file a written request stating the reasons for the request, serve all parties, and submit the request to the bailiff of the assigned judge or the case manager of the assigned magistrate. If the request is granted, the party filing the request shall assure that the date selected accommodates the schedules of other parties.

RULE 35. Notice of Case Plan

Whenever a party, including a public children service agency or private child placing agency, is required, pursuant to Revised Code 2151.412, to provide notice to a child's parents and guardian ad litem regarding a case plan, notice shall also be given to the attorney representing the child's parents and the attorney representing the child's guardian ad litem.

RULE 36. Reserved

TITLE VII: DELINQUENCY AND UNRULY CASES

RULE 37. Diversion of Cases

After filing, the Court may divert to the unofficial docket a misdemeanor case of a child who has had no previous official charge and no previously diverted cases in the preceding two years. Diverted cases are heard by a hearing officer and no official record results if the child admits to the charge and complies with the recommendations of the hearing officer. If the child denies the charge or does not comply with the recommendations, the case will be referred to the official docket for hearing.

RULE 38. Complaints, Arrest Warrants and Detention Hearings

A. Complaints:

Clerks at 800 Broadway and the Youth Center have the responsibility for processing delinquency, unruly and traffic complaints filed by police officers, public or private agencies and private individuals.

B. Warrants:

Warrants for the arrest of juvenile may be issued by a judge, magistrate, chief deputy clerk, clerk's office manager, juvenile correction officer-intake clerk or any other officer of the court designated by the administrative judge. Warrants will be issued in accordance with Hamilton County Juvenile Court Youth Center Policy V4C01P02, Juvenile Rules 6 and 7 and pursuant to the laws of arrest. All court personnel responsible for processing complaints and issuing warrants shall be trained prior to assuming such responsibilities on documentation, review and determination of probable cause and compliance with the factors set forth in Juvenile Rules 6 and 7 and relevant case law pertaining to such matters. All court personnel responsible for processing complaints and issuing warrants shall receive on-going, in-service training on their responsibilities.

Supervisors and a duty magistrate are available twenty-four hours a day, seven days a week for consultation and assistance in making determinations whether there are sufficient facts and circumstances to support the issuance of an arrest warrant for a juvenile.

C. Taking into Custody:

A juvenile may be taken into custody and placed in detention or shelter care by a judge, magistrate, juvenile correction officer-intake clerk or any other officer of the court designated by the administrative judge prior to a final dispositional order pursuant to Juvenile Rules 6 and 7, or as otherwise authorized by law, and after making a probable cause determination that the named juvenile committed the alleged delinquent act.

D. Time Requirements for Detention Hearings:

When a child has been admitted to detention or shelter care, a detention hearing shall be held the next business day but not later than seventy-two hours. Generally, detention hearings are conducted at the Youth Center on Mondays through Fridays for juveniles admitted to the facility over the past 24 hours. Juveniles admitted after 5:00 a.m., are generally scheduled for hearings the following day. In order to ensure compliance with time requirements, alternate or additional scheduling may be set to adjust for legal holidays.

E. Advisement of Rights:

At the commencement of the detention hearing, the Court shall inform the juvenile of the right to counsel and to appointed counsel, if indigent. The Court shall advise the juvenile of the right to remain silent with respect to any allegation of juvenile traffic offense, delinquency or unruliness. The Court shall ascertain that the juvenile has received a copy of the complaint or complaints against him/her and understands the identity and the nature of the charges that form the basis the complaint or complaints.

F. Standard for Detention:

Judicial officers receive on-going training regarding the standards for detention. A neutral and detached judicial officer, a judge or a magistrate, shall review the complaint, accompanying documentation and any other relevant evidence or information and determine whether there is probable cause to conclude that a delinquent act was committed and that the juvenile defendant who is the subject of the complaint committed the delinquent act alleged. The judicial officer shall then apply the factors set forth in Juvenile Rule 7 and determine if it is necessary to detain the juvenile pending further hearing. If the factors set forth in Juvenile Rule 7(A) do not apply or there is insufficient evidence to support a probable cause finding, the juvenile shall be released to an available parent, guardian or other custodian.

G. This rule is not intended to serve as a substitute for the probable cause determination required under Ohio Revised Code section 2152.12.

(Amended eff. 1-1-08, 4-19-16)

RULE 39. Restitution

When an order of restitution does not specify the amount, the clerk's office will send a request to the victim to provide information regarding the amount of the loss and insurance coverage, if any. The clerk's office will notify the defendant of the amount submitted by ordinary mail. If the defendant seeks to dispute the amount, the defendant must submit a written request for a hearing on that issue alone within 30 days of the notice. If no request is received within 30 days, the amount claimed will be considered final and binding. If the victim does not respond within 90 days, the restitution account may be terminated.

Restitution accounts will be opened only for the victim who directly sustained the injury, loss, or expense. Accounts will not be opened for any person or non-public entity who has reimbursed the victim unless by specific order of court.

In the case of multiple defendants, the restitution account will remain open for all defendants until the full amount of restitution has been satisfied regardless if a proportionate amount has been satisfied, unless the victim agrees in writing to release a defendant. No defendant will be considered eligible for sealing of the record until the full amount has been satisfied or the victim executes a release.

Where the amount of restitution exceeds \$2000 for a defendant, the restitution account may be terminated and the parties referred for civil action, or the account may be maintained for \$2000. On specific order of the judge or magistrate, the account may be maintained in excess of \$2000.

(Amended, eff. 1-1-05)

CASE MANAGEMENT PLAN

Pursuant to Sup. R. 5, the following case management plan establishes time frames for the timely disposition of cases. The time frames include time for service. Deviation from the established time frames is permissible to assure a just result.

I. DELINQUENCY, UNRULY, AND TRAFFIC CASES

A. Complaint Filed and Youth Held in Detention

1. A detention hearing will be held not later than 72 hours, or the next court day, whichever is earlier, after a child is placed in detention. Either a determination to set the matter for possible relinquishment of jurisdiction or a plea to the charges will be taken at this hearing [Juv. R. 7(F)(1)].
2. A Rule 30 hearing regarding the relinquishment of jurisdiction will be held not less than 3 days after the detention hearing and not more than 10 days after entry into detention.

3. If the child admits the charges or is adjudicated after a trial, the court will proceed to a dispositional hearing immediately, or if appropriate, a dispositional hearing will be held within 14 days in accordance with section I (A)(5).
4. If the charge was filed at the same time the child entered detention and the child denies the allegations, a trial will be held no later than 10 days after placement in detention. If the child is detained after the charge is filed, the trial will be held no later than 10 days after placement in detention. If a charge is filed and the child is already detained on other charges, the trial will be held within 10 days of the filing of the charge.
5. Continuances of any of the above stages may be granted upon showing of good cause, but the continuances should be no longer than the period necessary to resolve the good cause, and in no case should a continuance be granted without the youth being present, or for a period greater than 14 days.
6. Final disposition for any child in detention will be completed within 90 days of the child's entering into custody.

B. Complaint Filed and Child Not in Detention

1. A plea hearing will be held within 30 days of a complaint being filed, and if possible, within 15 days.
2. If the child admits to charge, the court will proceed to immediate disposition; or if appropriate, a dispositional hearing will be held within 21 days.
3. If the child denies the allegations, a trial will be held within 30 days of the plea hearing, and if possible, within 15 days.
4. Final disposition will be completed within 6 months of the adjudication [Juv. R. 29 (F)(2)].
5. Continuances of any of the above stages may be granted upon showing of good cause, but continuances should be for no longer than the period necessary to resolve the good cause.

II. PARENTAGE AND CHILD SUPPORT CASES

A. Service of process will be sent within 72 hours of the filing of the complaint.

1. A hearing will be scheduled 9 weeks from the date of filing of the complaint to allow for completion of service on the parties.
2. At the pretrial hearing, if the court finds that the defendant was properly served and that the defendant failed to file an answer and failed to appear at the hearing, the court may grant an oral motion to proceed with a default judgment.
3. If defendant admits allegations, the court will proceed immediately to determination of a support order.

4. If a defendant denies the allegations, the court, at the pretrial hearing, will set the date for genetic testing. The date of the testing will be within 21 days of the pretrial hearing. The next pretrial will be within 60 days of the testing date.
5. If genetic tests show exclusion, the court may entertain a motion to dismiss.
6. If genetic tests show inclusion:
 - a. If defendant changes plea to admit, the Court will proceed immediately to determination of a support order;
 - b. If defendant continues to deny, a trial will be held within 30 days.
7. If service of the complaint is not completed within 6 months of filing, the complaint will be dismissed for lack of service.
8. Continuances may be granted upon showing of good cause, but the continuances should be for no longer than is necessary to resolve the good cause.

III. CUSTODY AND PARENTING TIME CASES

- A. Service of process will be sent within 72 hours of the filing of the complaint along with notice of a preliminary hearing. The hearing shall be held within 60 days of the filing.
- B. Pre-trial matters, including completion of discovery, should be resolved at preliminary hearings. Trial will be scheduled within 90 days of the last preliminary hearing.
- C. Continuances may be granted upon showing of good cause, but the continuance should not be longer than necessary to resolve the good cause.
- D. All custody/visitation complaints will be resolved within 9 months of the filing of the complaint.

IV. ABUSE, NEGLECT, AND DEPENDENCY CASES

- A. Absent a voluntary agreement for care, when a child is removed from the home, a hearing will be held the next court date or within 72 hours, whichever is earlier.
- B. When a private agency files a request for permanent commitment based on a permanent surrender, a hearing will be held within 30 days from the filing.
- C. In all other cases, a hearing will be held no later than 7 days after the complaint is filed.
- D. An adjudicatory hearing will be held within 30 days of the complaint being filed.
- E. Disposition will occur no later than 90 days from the date a complaint was filed, unless the parties waive such period.

- F. Continuances may be granted upon showing of good cause, but the continuances should be no longer than is necessary to resolve the good cause.

V. TEMPORARY ORDERS

- A. Motions for emergency orders will be referred for hearing upon filing.
- B. When an ex parte temporary order has been granted, a hearing will be scheduled the following business day or within 72 hours, whichever is earlier.

JURY MANAGEMENT PLAN

I. OPPORTUNITY FOR SERVICE

The opportunity for jury service should 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 in this jurisdiction.

II. JURY SOURCE LIST

- A. The jury source list shall be obtained from the Board of Elections' list of registered voters.
- B. The Hamilton County jury commissioners appointed by the Hamilton County Court of Common Pleas shall select the electors in accordance with the rules of practice of the that court. The jury source list shall be representative and inclusive of the adult population of Hamilton County. The court reserves the right to review the jury source list to assure that it is inclusive and representative, and if necessary, to require appropriate corrective action.
- C. Serious youthful offender cases may be presented to a grand jury impaneled by the Hamilton County Court of Common Pleas or to a grand jury impaneled by the Hamilton County Juvenile Court.

III. RANDOM SELECTION PROCEDURES

Random selection procedures shall be used throughout the jury selection process. The methodology employed shall provide each and every available person with an equal probability of selection. The selection process is to be administered by the jury commissioner as set forth in the Rules of Practice of the Hamilton County Court of Common Pleas.

IV. ELIGIBILITY FOR SERVICE

- A. All persons are eligible for jury service except those who:
 - 1. Are less than 18 years of age.

2. Are not citizens of the United States.
 3. Are not residents of Hamilton County.
 4. Are not able to communicate in the English language.
 5. Have been convicted of a felony and not had their civil rights restored.
- B. The Hamilton County jury commissioner or deputy jury commissioner is responsible for notification of prospective jurors as set forth in Rules of Practice of the Hamilton County Court of Common Pleas.

V. TERM OF AND AVAILABILITY OF JURY SERVICE

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- B. Jurors for juvenile court cases are to report to the jury commissioner's office in the Hamilton County Court of Common Pleas in accordance with the procedures of the jury commissioner.
- C. The juvenile judge's staff or the juvenile court administrator shall communicate with the jury commissioner to determine the availability of jurors as is needed on a case by case basis.

VI. EXEMPTION, EXCUSE AND DEFERRAL

- A. There shall be no automatic excuses or exemptions with the exception of statutory exemptions set forth in the Ohio Revised Code.
- B. Persons who no longer reside in Hamilton County and persons convicted of a felony whose rights have not been restored are disqualified from jury service.
- C. The term of juror service is to be determined by the Hamilton County jury commissioner.
- D. The term of service shall be at a minimum sufficient to complete the trial in juvenile court in which the juror is impaneled.
- E. The juvenile court judge presiding over the trial has the discretion to grant excuses or postponements for good cause shown. Requests for excuses or deferrals should be written or otherwise made of record.

VII. VOIR DIRE

- A. Voir Dire examination should be limited to matters relevant to determining whether to remove a juror for just cause and to determine the juror's fairness and impartiality.
- B. To reduce the time required for voir dire, basic background information shall be available to counsel in writing for each party on the day in which jury selection is to begin.
- C. The trial judge shall conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with purpose of voir dire process.
- E. In all cases the voir dire process shall be held on the record.

VIII. REMOVAL OF THE JURY PANEL FOR CAUSE

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. Such a determination may be made on motion of counsel or by the judge.

IX. PEREMPTORY CHALLENGES

Rules determining procedure for preemptory challenges shall be in accord with the Ohio Rules of Civil and Criminal Procedure adopted by the Supreme Court of Ohio and applicable statutory authority.

X. ADMINISTRATION OF THE JURY SYSTEM

- A. The responsibility for administration of the jury system is vested in the court and the jury commissioner.
- B. All procedures concerning jury selection and service shall be governed by applicable Ohio rules as promulgated by the various courts.
- C. Management of the jury system is to be by the trial judge, the judge's staff and the juvenile court administrator.

XI. NOTIFICATION AND SUMMONING PROCEDURES

Procedures governing notification and summoning of jurors are set forth in the Rules of Practice of the Hamilton County Court of Common Pleas and are administered by the chief deputy jury commissioner.

XII. MONITORING THE JURY SYSTEM

The chief deputy jury commissioner shall collect and analyze information regarding the performance of the jury system as is set forth in the Rules of Practice of the Hamilton County Court of Common Pleas.

XIII. JUROR USE

- A. Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum inconvenience to jurors.
- B. The chief deputy jury commissioner is responsible for management and assignment of jurors and the effective use of jurors.

XIV. JURY FACILITIES

- A. The court shall provide an adequate and suitable environment for jurors.
- B. Jury deliberation room should include space, furnishings and facilities conducive to reaching a fair verdict. The safety and security of the deliberation room shall be ensured by the court.
- C. To the extent feasible, juror facilities are to be arranged to minimize contact between jurors, parties, counsel, and the public.

XV. JUROR COMPENSATION

- A. Persons called for jury service shall receive compensation as established by the Hamilton County commissioners pursuant to R.C. 2313.34.
- B. Such fees shall be paid promptly.
- C. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

XVI. JUROR ORIENTATION AND INSTRUCTION

- A. The jury commissioner's office shall conduct a juror orientation program that is:
 - 1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors, and
 - 2. Presented in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.
- B. The court shall provide some form of orientation or instructions to persons called for service upon first appearance in the court and upon reporting to the courtroom for voir dire.
- C. The trial judge should:
 - 1. Give preliminary instructions to all prospective jurors.
 - 2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including note taking and questions by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles.
 - 3. Prior to the commencement of deliberation, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. These instructions should be made available to the jurors during deliberations.
 - 4. Prepare and deliver instructions that are readily understood by individuals unfamiliar with the legal system.

5. Use written instructions when feasible.
6. Assure that all communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire to the panel's dismissal shall be in writing or on record in open court. Counsel for each party shall be informed of such communication and be given the opportunity to be heard.
7. Before dismissing a jury at the conclusion of a case, the trial judge should:
 - a. Release the jurors from their duty of confidentiality;
 - b. Explain their rights regarding inquiries from counsel or the press;
 - c. Either advise them that they are discharged from service or specify where they must report; and,
 - d. Express appreciation to the jurors for their service, but not comment on the result of the deliberation, or express approval or disapproval of the result of the deliberation.

XVII. JURY SIZE AND UNANIMITY OF VERDICT

Jury size and unanimity in civil and criminal cases shall conform to existing Ohio law.

XVIII. JURY DELIBERATION

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and enhance rational decision-making.
- B. The judge should instruct the jury concerning appropriate procedures during deliberations.
- C. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required.
- D. Training should be provided to personnel who escort and assist jurors during deliberations.

XIX. SEQUESTRATION OF JURORS

- A. A jury should not be sequestered unless for good cause, including but not limited to insulating its members from improper information or influences.
- B. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative.
- C. The judge's courtroom staff and the juvenile court administrator shall have the responsibility to provide for the safety and comfort of the jurors.
- D. The court administrator is responsible for developing procedures to implement and achieve the purposes of sequestration.
- E. Training shall be provided to court personnel who escort and assist sequestered jurors.