

The Hamilton County Juvenile Court has drafted the below amendments to the Hamilton County Juvenile Court's local rules of practice. Changes from the rules adopted on March 2, 2023 are highlighted below. Pursuant to Ohio Sup.R. 5(A)(2), the Court will be accepting comments on the proposed changes beginning today, June 12, 2023 through Monday, July 10, 2023.

Please submit any comments to Administrative Magistrate Sarah Henry via e-mail at [shenry@juvcourt.hamilton-co.org](mailto:shenry@juvcourt.hamilton-co.org) by the end of business on July 10, 2023.

Thank you for your assistance from all of us at the Hamilton County Juvenile Court.

## **RULE 38. General**

### **A. Types of initial hearings**

1. **Day One Hearing:** Day One hearings are the initial hearings in any abuse, neglect, and dependency action. Day One hearings can be scheduled through the Cora Desk at 513-946- 9377. *Ex parte* Emergency Orders will also be scheduled for Day One hearings on the next scheduled business day.
2. Motions for Interim Custody, Motions for Interim Protective Orders, Shelter Care Motions, etc. are addressed at the Day One hearing. Issues related to the appropriateness of a placement, the availability of relatives for placement, supportive services, visitation, school district determinations, paternity, financial support, and completion and submission of any required forms are also addressed at the Day One hearing. At a Day One hearing, the Court may impose any other orders necessary to insure the safety of a child, including but not limited to, any restraint or control of a party's conduct.
3. **Day Seven Hearing:** If any party was not provided notice of the Day One hearing, or did not attend that hearing but may be available at another hearing, the Court may schedule a hearing within approximately one week of the complaint's filing. The purpose of a Day Seven hearing is to insure the objectives set forth in the Day One hearing are met, most importantly notice and service to the parents/legal custodians/guardians.

### **B. Filing of Complaints**

1. When a complainant requests an emergency hearing to take a child into custody pursuant to R.C. 2151.31 and R.C. 2151.314 for a complaint alleging a child is abused, neglected, and/or dependent, the party alleging the conduct shall file a complaint pursuant to R.C. 2151.27 and Juv. R. 10 no later than one hour prior to the scheduled start of the Day One hearing. For an emergency hearing scheduled less than two hours from the time of the request, the complaint shall be filed within one hour of obtaining the time for the Day One hearing.
2. For all Day One hearings scheduled for a complaint alleging a child is abused, neglected, and/or dependent, the party alleging the conduct shall file a complaint pursuant to R.C. 2151.27 and Juv. R. 10 no later than 1 business day prior to the

scheduled start of the hearing.

3. To ensure compliance with Sup.R. 45, the complainant shall underline and use bold font for all references to a child's name in all complaints, motions and supporting affidavits for any child who is the subject of a complaint alleging the child is abused, neglected, and/or dependent.

**C. Information Form.** When requesting a Day One hearing on a complaint alleging a child is abused, neglected, and/or dependent, the complainant shall provide a copy of the Information Form to the Court, the Hamilton County Prosecutor's Office, the Hamilton County Public Defender's Office (GAL Division), and/or ProKids. A copy of the Information Form is available through the Clerk.

**D. Copy of Birth Certificate Required.** A copy of birth certificate for every child who is the subject of a complaint shall be filed with the complaint or within sixty (60) days of the initial filing.

**E. Notice of Emergency Hearing**

1. The party requesting an initial hearing on a complaint alleging a child is abused, neglected, and/or dependent, shall provide notice of the date, time, and location of the scheduled hearing to all parties, including all counsel and guardians *ad litem* who have been appointed or entered an appearance in the case number associated with the filing.

2. Notice to the parties, including all counsel and guardians *ad litem*, shall be initiated by the complainant within one hour of obtaining the date, time, and location of the hearing from the Court. For an emergency hearing scheduled less than two hours from the time of the request, the complainant shall make good faith efforts to provide notice to the parties, including all counsel and guardians *ad litem*. The party requesting the hearing shall provide certification to the Court, prior to or at the start of the hearing, that notification was provided to the party, the means by which notification was made, and/or the efforts that were made to notify the parties, including all counsel and guardians *ad litem* who have been appointed or entered an appearance in the case number associated with the filing.

**F. Service**

1. A Written Request for Service must be filed with the Clerk identifying the type of service requested, the name and address of the person to be served, a time stamped copy of the document to be served, the specific jurisdictional finding sought (abuse, neglect, and/or dependency), and the specific dispositional request. Upon the filing of a Motion for Permanent Custody or a Motion for Planned Permanent Living Arrangement, the Written Request for Service shall include the specific dispositional request.
2. Who must be served
  - a. All persons who are parties to the case as defined in Juvenile Rule 2(Y) must be served, except a child who is the subject of an abuse, neglect, dependency, or custody claim. The Court may make additional orders regarding service.
  - b. Unless otherwise ordered by the Court, service on the party may be achieved by

serving the attorney of record. However, initial complaints, amended complaints containing substantive changes (i.e. modifications of disposition request, additional factual allegations, parties added) and motions to modify a disposition must be served on the party and their attorney.

- c. Sufficient copies shall be provided to the Clerk for each party to be served.
3. When must service be requested
  - a. Unless the party received personal service of the summons and complaint at the initial Day One hearing or subsequent Day Seven hearing, the complainant shall file with the Clerk a Written Request for Service upon all parties to the case within three (3) business days from the filing of a complaint or as otherwise ordered.
  - b. When a request for certified mail service is made, the Clerk will initiate ordinary mail service when the certified mail envelope is returned unclaimed.

#### **G. Scheduling Order**

1. On a complaint alleging abuse, neglect, and/or dependency, the Court will journalize a scheduling order to insure the timely completion of the case. The scheduling order shall include any and all orders the Court deems necessary for the timely resolution of the complaint.
2. Any request for a continuance of the dates ordered must be made pursuant to Rule 19 of these Rules. The Court may issue a revised scheduling order upon the granting of any continuance.

#### **H. Dependency Guardians *ad Litem***

1. A guardian *ad litem* shall be appointed in every case alleging a child to be abused, neglected and/or dependent.
2. All responsibilities, requirements and qualifications of guardians *ad litem* are outlined in Sup. R. 48, as well as Rule 8 of these Rules.

**I. Personal Identifiers.** To ensure compliance with Sup.R. 45, any person filing a pleading in a dependency action shall underline and use bold font for all references to a child's name, or shall use strictly initials where practicable, for any child who is the subject of a complaint alleging the child is abused, neglected, and/or dependent.

#### **J. Discovery**

1. Timely exchange of discovery facilitates settlement, enhances preparation, identifies and narrows the issues in controversy, and expedites the hearing process. Broad and timely exchange of discovery is critical in meeting the short statutory timeframes for adjudicating and disposing of child abuse, neglect, and/or dependency complaints in order to achieve the goal of securing a safe, permanent and nurturing home for every child whether that involves maintenance in the home, return home or placement in an alternative, permanent setting.
2. Discovery authorized by Juv. R. 24 or Civ. R. 26 shall proceed upon the written request of one party to another without a prior court order. Unless otherwise specified by a

party, all requests for discovery are presumed to request the inspection, copying, or photographing of the following discoverable items:

- a. Names and last known addresses of each witness to any of the allegations of the complaint and/or witnesses who will testify at the adjudication or disposition of the complaint;
  - b. Copies of any written statements made by any party or witness to any of the allegations of the complaint and/or witness who will testify at the adjudication or disposition of the complaint;
  - c. Transcriptions, recordings, and summaries of any oral statement of any party or witness to any of the allegations of the complaint and/or witnesses who will testify at the adjudication or disposition of the complaint;
  - d. Any scientific reports or other reports that a party intends to introduce at the adjudicatory or dispositional hearing or that pertains to physical evidence that a party intends to introduce;
  - e. Photographs and any physical evidence which a party intends to introduce at an adjudicatory or dispositional hearing;
  - f. All police reports containing information relevant to any of the allegations of the complaint;
  - g. The Hamilton County Job and Family Services' (HCJFS) case file and provider reports (excluding the referral sources, third party investigation reports, foster parent records, adoption records, attorney-client privileged information and attorney work product);
  - h. Other evidence favorable to the requesting party and relevant to the subject matter involved in the pending action.
  - i. The above referenced documents are expected to be used for the sole purpose of preparation for trial and shall not be disseminated to any person that is not a party to the action.
3. A party requesting discovery shall file the request in a timely manner to allow the opposing party time allotted under this Rule to comply with the request, not impact future hearing dates, and allow for completion of discovery by the scheduling order's discovery completion date in the case. The party from whom discovery is requested shall respond to the request within two (2) weeks.
  4. Should a party request discovery of any item not specifically provided for under this Rule, the party from whom the item is requested shall comply within two (2) weeks of the requestor provide written notification to the requesting party of their intention not to provide said item and their reasoning for doing so.
  5. Parties shall engage in good faith efforts to resolve any dispute that should arise regarding the exchange of discovery. If an unresolvable conflict arises regarding discovery, then a motion shall be filed with the Court. The Court may schedule a hearing or rule on the pleadings.

**RULE 47. "Counsel Only" Designation and Nondisclosure of Requested Discovery**

**A.** In an effort to make discovery exchange more expedient, a party may mark an unredacted,

discoverable item "For Counsel Only." This is applicable, but not limited, to: Statewide Automated Child Welfare System (SACWIS) records; interviews from Cincinnati Children's Mayerson Center for Safe and Health Children; and any other medical or therapy records. The redacted version shall be produced within a reasonable time, not to exceed one week before the hearing at which the party intends to introduce the item.

- B.** When a party has a reasonable and articulable belief that a response to a discovery request would jeopardize the safety of a party, witness, or confidential informant, result in the production of perjured testimony or evidence, endanger the existence of physical evidence, violate a privileged communication, or impede the criminal prosecution of a minor as an adult or of an adult charged with an offense arising from the same transaction or occurrence, the party may take the following action in response to the discovery request:
  - 1. Provide the material to opposing counsel and designate it as "Counsel Only."
  - 2. Refuse to provide the material and certify to the Court the reasons for that refusal.
- C.** Material designated as "counsel only" may not be shown to any party to the case or any other person, but may be disclosed only to the attorneys for the parties, or the agents or employees of the parties' attorneys, and may not otherwise be reproduced, copied or disseminated in any way. Parties' attorneys may orally communicate the content of "counsel only" material to their clients.
- D.** All refusals and "counsel only" designations are reviewable by the Court upon motion of the requesting party. The Court shall promptly set a hearing to determine what, if any, limitations or conditions should be set on the requested material's production pursuant to Juv. R. 24(B). To the extent necessary to protect the interest in non-disclosure, this hearing may be conducted in-camera.