

# **RULES OF PRACTICE HAMILTON COUNTY JUVENILE COURT**

**Adopted April 22, 2004**

**Effective May 1, 2004**

**Revised January 1, 2005**

**Revised November 1, 2005**

**Revised March 2, 2006**

**Revised May 15, 2006**

**Revised January 1, 2008**

**Revised January 1, 2009**

**Revised April 19, 2016**

**Revised July 8, 2016**

**Revised April 18, 2017**

**Revised September 1, 2017**

**Revised March 2, 2023**

**Revised July 10, 2023**

**Revised August 16, 2023**

**Revised October 31, 2023**

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## **TITLE I: GENERAL PROVISIONS**

### **RULE 1. Adoption, Repeal and Amendment of Rules**

The Hamilton County Juvenile Court [hereinafter Court], first promulgated and adopted the Rules of Practice of the Hamilton County Juvenile Court [hereinafter Rules], on May 1, 2004. The current Rules have been filed with the Supreme Court of Ohio are effective TBD. All former Rules are hereby repealed. The Court created these Rules pursuant to the 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 shall be known as the Rules of Practice of the Hamilton County Juvenile Court and shall be cited as “Ham. Juv. R. .”

These Rules shall govern all proceedings in actions brought after the effective 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.

### **RULE 2. Scope and Construction of Rules**

These Rules are intended to provide for the management of proceedings and other functions of the Court, define local practices and procedures, and supplement as well as complement the Ohio Rules of Juvenile Procedure, the Rules of Superintendence for the Courts of Ohio, the Ohio Rules of Civil Procedure, and any controlling statutes or case law.

These Rules shall be applied, construed, and enforced in a manner consistent 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 these Rules, the Rules of Superintendence for the Courts of Ohio, Ohio Rules of Civil Procedure, and the Ohio Rules of Juvenile Procedure may result in the imposition of sanctions. Sanctions that may be imposed include, but are not limited to, the following:

1. The Court may commence the hearing, continue the case, strike the filing from the record, or dismiss the action as the Court deems appropriate;
2. Security personnel, upon Court order or when otherwise deemed necessary by the Officer, may 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 order the non-complying party or attorney to pay attorney’s fees to the aggrieved party;
5. The Court may remove a person’s name from the list of those eligible for appointment as counsel or guardian *ad litem*;

6. The Court may impose any other sanctions consistent with these Rules and authorized by law including Contempt pursuant to R.C. Chapter 2705 and Criminal Trespass pursuant to R.C. 2911.21.

#### **RULE 4. Official Law Journal**

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

#### **RULE 5. Court Facilities, Hours and Security**

- A. Facilities.** This Rule applies to all Court Facilities unless otherwise noted. For purposes of this Rule, Court Facilities includes the Hamilton County Juvenile Courthouse at 800 Broadway, Cincinnati, Ohio, the Hamilton County Juvenile Court Youth Center at 2020 Auburn Avenue, Cincinnati, Ohio, the Hamilton County Juvenile Court Assessment Center at 264 William Howard Taft Road, Cincinnati, Ohio, and any other facility where the Court conducts business, including virtual courtrooms or meeting rooms and community or school locations where Court programs are operated.
- B. Hours.** 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., except on legal holidays or as otherwise ordered by the Administrative Judge. 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 6:00 p.m., Monday through Friday. Telephone *ex parte* emergency orders in abuse, neglect, and dependency cases are processed by the Youth Center Clerk's Office after regular business hours. The Youth Center Clerk's Office can access a duty magistrate after regular business hours to assist with probable cause determinations, intake decisions and pretrial conditions for release from detention.

The sessions of Court at 800 Broadway and the Youth Center shall be conducted Monday through Friday from 8:00 a.m. to 4:00 p.m., except on legal holidays or as otherwise ordered by the Administrative Judge. 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.

In the case of inclement weather and by order of the Administrative Judge, the Court may conduct all hearings remotely. The public and parties will be given as much notice as possible through media outlet postings and outreach.

#### **C. Court Security**

1. Screening: Any person entering the Court Facilities at 800 Broadway, 264 William Howard Taft Road, 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.
2. Smoking: Smoking is prohibited in all Court Facilities.

3. Recording and Electronic Devices: No person, without express permission of the Court, may operate an audio or visual (moving picture or still) electronic device on any floor of 800 Broadway or the Youth Center where judicial proceedings are conducted or where protected court documents are housed. An electronic device includes but is not limited to a cell phone, computer or any other device that is capable of transmitting, receiving or recording messages, images, sounds data or other information by electronic means. Any person who violates this Rule may be subject to sanctions for contempt and criminal or delinquency prosecution and may be removed by security personnel from the facility or from any area described above. Any item or device operated in violation of this Rule may be confiscated no event shall the Court or any court or security personnel be liable for damage to any device confiscated and/or held in accordance with this Rule. Those seeking to record proceedings shall comply with the Media requirements outlined in Rule 18.
4. Firearms and Weapons: In accordance with the Ohio Supreme Court Security Standards and pursuant to R.C. 2923.123(C)(6), no person, except security personnel, judges or law enforcement officers who are on duty and acting within the scope of their assigned responsibilities, may enter or remain in Court Facilities in possession of a firearm or other deadly weapon. Any Court security personnel or law enforcement officers who are a party to a judicial proceeding, a witness, or an interested party outside the scope of their employment shall not bring firearms or other deadly weapons, including but not limited to his/her official firearm, within the Court Facilities. The Court maintains secured gun lockers at 800 Broadway, 2020 Auburn Avenue, and 264 William Howard Taft Road for security personnel and law enforcement who need to store their weapons or firearms.
5. Signs: Signs of any size will not be permitted through security and will be confiscated if discovered, constructed, or displayed at any point.

**D. Mail.** Unless otherwise specified, the Court will send all mail, both domestic and international, First-Class via the United States Postal Service.

#### **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 may appoint counsel for the armed services member. The Court, in its discretion, may continue the case to accommodate a scheduled leave or stay the proceedings pending the military member's availability for trial. During the pendency, the military member will be ordered to cooperate in all discovery procedures and to notify the Court upon his/her return. In any case in which child support payments are owed by a military member, the Court may require that individual to make an allotment from his/her pay and allowances for such support. 42 U.S.C. 665(a).

#### **RULE 7. Email Service and Text Notification**

Hamilton County Juvenile Court collects emails and cell phone numbers through complaints and other court filings pursuant to Civ. R. 11. The court will use emails for service by electronic means pursuant to Civ. R. 5(B)(2)(f). Cell phone numbers provided will be enrolled in a text notification system as a courtesy, but will be given the option to opt out.

**RULE 8. Guardians *ad Litem***

**A. Governance.** The appointment, training, responsibilities and issuing of reports of guardians *ad litem* and the responsibilities of the Court pertaining to guardians *ad litem* shall be governed by Sup. R. 48 and Juv. R. 4.

**B. Application and Background**

1. Requirements for Approval: any person wishing to serve as guardian *ad litem* shall submit all forms and information on the GAL Checklist below to the Office of the Chief Magistrate:
  - a. *Background Questionnaire and Disclosure Statement* form
  - b. Resume/Information sheet
  - c. *Civil Background Check* form (ROI) and Results
  - d. Criminal Background check (BCI/FBI) and Results
  - e. Pre-service Training Certificate
2. Pre-service training: any person wishing to serve as a guardian *ad litem* shall complete 12 hours of preservice training in accordance with Sup. R. 48.04.
3. Provisional approval: pending completion of preservice training, and when under the supervision of Office of the Public Defender or ProKids, a guardian *ad litem* may be provisionally approved prior to completion of preservice credit.
4. Approval: Upon satisfaction of the guardian *ad litem* requirements in section 1 of this Rule, a guardian *ad litem* is added to a list of approved guardians *ad litem* that is maintained by the Court pursuant to Sup. R. 48.07.

**C. Appointment**

1. The Court shall appoint a guardian *ad litem* in accordance with Sup. R. 48.
2. Approved individuals are eligible for appointment as guardians *ad litem*.
3. Once appointed, a guardian *ad litem* becomes a party to the case and is entitled to all rights and notices that are afforded any other party in an action. Guardians *ad litem* are entitled to complete and timely information regarding the person's whereabouts and residence.
4. A guardian *ad litem* may be appointed for adults upon a request from counsel, or on the Court's own motion, upon a demonstration of need.

**D. Responsibilities.** A guardian *ad litem* will comply with all responsibilities as outlined within Sup. R. 48.03, unless otherwise released by the Court.

**E. Training and Annual Reporting**

1. **Annual Certification**: Guardians *ad litem* are required to submit an *Annual Certification* form each year to the Executive Assistant to the Chief Magistrate by January 31<sup>st</sup> and disclose any circumstances that they are aware of that would disqualify them from serving as a guardian *ad litem*.
2. **Annual Training**: In order to be eligible and to remain eligible for appointment, all guardians *ad litem* shall meet the requirements of Sup. R. 48.05 for continuing education. Guardians *ad litem* shall submit proof of completed annual training to comply with Sup. R. 48.05, by

January 31<sup>st</sup> of the following calendar year. Completed training and CLE documentation shall be submitted to the Executive Assistant to the Chief Magistrate.

3. **Training Approval:** Approval of any preservice or continuing education shall be submitted to the Deputy Chief Magistrate of Dependency. The *Application for Court Approval of Guardian ad litem Training* shall accompany any request for approval. The form can be found on the Court's website.

## **F. Reports**

1. All guardians *ad litem* appointed by the Court shall file reports in accordance with Sup. R. 48.06.
2. Pursuant to Sup. R. 48.06(A)(2), all reports of the guardians *ad litem* shall include the following wording: "The guardian *ad litem* report shall be provided to the Court, unrepresented parties, and legal counsel. Any other disclosure of the report must be approved in advance by the Court. Unauthorized disclosure or distribution of the report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration."
3. Reports shall be filed and provided to all counsel and parties at least seven (7) days in advance of the scheduled review hearing unless otherwise directed by the Court.

## **G. Conflict**

1. The Court shall appoint a separate attorney to represent a child in abuse, neglect, dependency, unruly, and delinquency cases in which the wishes of the child differ from the recommendations of the guardian *ad litem*.
2. If an attorney who has been appointed to serve as both guardian *ad litem* and attorney for the child or any other party believes that a conflict exists in the dual appointment, the attorney or party shall immediately notify the Court in writing with notice to the parties or affected agencies and request a separate appointment of a guardian *ad litem* and attorney for the child. The Court shall make any additional appointments or orders necessary to remedy the conflict. The Court may also make such appointment or appointments on its own motion.

## **H. Termination of Appointment**

1. A guardian *ad litem*'s appointment shall be considered terminated when a final judgment has been rendered and no subsequent hearings are scheduled. If an appeal is pending, the guardian *ad litem* appointment shall continue until the conclusion of the appeal.
2. 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.

## **I. Fees.** All filing fees and court costs are waived for a guardian *ad litem*.

## **J. Comments and Complaints regarding Guardians *ad Litem***

1. All comments or complaints regarding guardians *ad litem* practicing before the Court shall be submitted to the Chief Magistrate in writing.
2. A copy of any comments or complaints will be provided to the guardian *ad litem* who is the



subject of the comment or complaint.

3. The Chief Magistrate or their designee shall consider the comments or complaints and issue a disposition in accordance with Sup. R. 48.07(j).
4. The person making the comment or complaint and guardian *ad litem* who is the subject of the complaint shall be notified of the disposition, and a written record shall be maintained in the guardian *ad litem*'s file.

**K. Removal of Guardian *ad Litem***

1. The Court may, on its own motion, remove a guardian *ad litem* for good cause.
2. Motions to remove a guardian *ad litem* shall be referred to the judge or magistrate before whom the matter is pending.

**RULE 9. Special Needs: Interpreters, Translators, Hearing Assisted Devices, etc.**

- A. Requests for reasonable accommodations, such as for individuals with disabilities, special needs or the need for an interpreter/translator, shall made be as soon as the need for accommodations is identified.
  1. Child support/paternity cases contact (513) 946-9354.
  2. Custody/dependency cases contact (513) 946-9377.
  3. Delinquency/unofficial or any other cases contact (513) 946-9329.
  4. Requests made via email should be sent to the email address provided on the Court's website.
- B. If a foreign language interpreter or sign language interpreter is requested, the Court will appoint a Supreme Court certified interpreter. If one is unavailable, the Court will appoint an alternative interpreter in accordance with Sup. R. 88.
- C. The Court will provide foreign language and sign language interpreters or translation for Ancillary Court Services. Ancillary Court Services means any activity, other than a case or court function, that includes the exchange of legal or general court-related information with the public or parties in interest and is paid for or provided by the Court. Ancillary Court Services include, but are not limited to, the following:
  1. Alternative dispute resolution programs;
  2. Evaluations;
  3. Information/Help Desk counters;
  4. Probation or delinquency/unruly/traffic diversion program functions;
  5. Pro se clinics;
  6. Specialized dockets and dedicated-subject-matter dockets;
  7. Communications with the Clerk's Office.
- D. For more information, the Court's *Language Access Plan* is available on the Court's website.

**RULE 10. Reserved**

**TITLE II: RECORDS**

**RULE 11. Case Files**

**A. Inspection of Case Files.**

1. 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.
2. 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.
3. 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.
4. 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.
5. Court Records Exception: All documents listed under Sup. R. 44, including probation and behavioral health reports and custody investigations, are confidential information and shall not be made public. Inspection of the reports and records are governed by Juv. R. 32(C). The records and reports may not be copied unless authorized by order of the Court. The probation records are controlled under R.C. 2151.14.

**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 and any document exempted under section A(1) of this Rule. 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.

**RULE 12. 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. Administrative Authorization.** The Judge, Court Administrator, Administrative Magistrate, or Chief Magistrate may administratively authorize the inspection, reproduction or transcription of any record in the performance of their duties.

**C. 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 to the Clerk, unless the requested record is an *in camera* hearing. *In camera* hearing records may only be released upon the authorization of the assigned Judge or Magistrate, or administratively by the Court Administrator, Administrative Magistrate, or Chief Magistrate.

**D. Reproduction of Audiovisual Record.** A copy of an audio or audiovisual record shall not be made unless by order or permission of a judge, unless administratively released per section B of this Rule. 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. All copies of audio or audiovisual recording shall be considered confidential and shall not be recopied or otherwise disseminated beyond the conditions established by the Court. All copies shall be returned to the office or person who authorized the copying of the recording within seven (7) days of receipt unless time is extended by order of the Court. Each person provided access to the recording shall subject him/herself to the jurisdiction of this Court for the purposes of contempt proceedings in the event of any violation or unauthorized dissemination of the recording.

**E. Transcription of the Record.**

1. When a court reporter is present for the hearing, the transcription of a stenographic record shall be the responsibility of the court reporter who produced the record. When the record of the hearing is made by audio or audiovisual means, the transcription of the record shall be the responsibility of the person assigned to do so by the judge who has administrative responsibility for the case.
2. 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.
3. 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.

**F. Requests for the Transcribed Record**

1. Pending action: A party may directly request the court reporter or the person assigned by the judge to transcribe the record. Payment is required before transcription will begin.
2. Objections/Transfers: If a request for a transcript is made for purposes of objections filed pursuant to Juv. R. 40, regarding a case pending within the Court, or regarding a criminal prosecution that was transferred pursuant to Juv. R. 30, a party seeking the transcript may directly request the court reporter or the person assigned by the judge to transcribe the record. Payment is required before transcription will begin.

3. **Appeal:** If a request for a transcript is made for purposes of appeal, a party seeking the transcript may directly request the court reporter or the person assigned by the judge to transcribe the record. Contact information is available through the Clerk's Office. 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. Payment is required before transcription will begin.
  4. **Non-party/closed action:** Any non-party to any action or any party to a closed action may request a full or partial transcript of the record by filing 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. Payment is required before transcription will begin.
- G.** In the event of failed recording equipment and unavailability of transcript, parties shall submit an agreed upon version of the hearing including facts and arguments made. If an agreement can not be reached, a rehearing will take place as soon as possible.

### **RULE 13. Filing Remotely by Fax or Email**

- A. Applicability.** Pleadings and other papers may be filed with the Clerk's Office by fax or by email subject to the provisions of this Rule.
- B. Prohibited filings.** The following documents will not be accepted for fax or email filing: a petition for writ of habeas corpus; an *ex parte* motion for emergency custody in a custody, visitation, abuse, neglect or dependency case; any document filed pursuant to R.C. 2151.85 (minor's complaint or abortion); Case Plans; Semi-Annual Administrative Reviews; Juvenile Protection Orders.
- C. Original Filing.** A document filed by fax or email shall be accepted as original filing. The person initiating the 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 fax cover sheet or email must be maintained in the person's records and be available for production on request by the Court. The source document filed by fax or email shall be maintained until the case is closed and all opportunities for post-judgment relief are exhausted.
- D.** Documents filed by fax or email will only be deemed filed with Hamilton County Juvenile Court if they are filed using the following:
  1. Fax Number for dependency cases: 513-946-9359
  2. Fax Number for all other case types: 513-946-9450
  3. Email for dependency cases: [dependency\\_filings@juvcourt.hamilton-co.org](mailto:dependency_filings@juvcourt.hamilton-co.org)
  4. Email for all other cases: [clerks\\_office\\_filings@juvcourt.hamilton-co.org](mailto:clerks_office_filings@juvcourt.hamilton-co.org)

**E. Cover Page.** The person filing a document by fax shall also include 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;
7. Indication of the number of pages in the transmission, including the cover page;
8. If a judge or case number has not been assigned, state that fact on the cover page;
9. Name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the 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 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 or email filing.

**F. Length of Document.** Facsimile filings shall not exceed fifty (50) pages in length. Email filings shall not exceed one hundred (100) pages in length.

**G. Signature**

1. A person who wishes to file by fax or email shall send a copy of the signed source document, or send a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person. A party who files a signed document by fax or email represents that the physically signed source document is in the possession or control of the person filing the document.
2. 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.

**H. Exhibits**

1. Each exhibit to an electronically produced document that cannot be accurately transmitted 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 (5) court days following the filing of the electronic document. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the document and/or exhibit.
2. 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.

## **I. Time of Filing**

1. The Clerk's office deadline for in person filings each day is 3:30 p.m.
2. Subject to the provisions of these Rules, all documents sent by fax or email and accepted by the Clerk's Office shall be considered filed as of the date and time the document was received by the Clerk's Office, provided the filing fee has been paid or poverty affidavit received in accordance with Section J of this Rule. The Clerk's Office will be deemed open to receive fax or email transmission of documents twenty-four (24) hours per day, seven (7) days per week, including holidays. 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.
3. The risks of transmitting a document by fax or email to the Clerk's Office shall be borne entirely by the sending party. Anyone using fax or email filing may verify receipt of such filing by contacting the Clerk's Office.
4. For same day hearings, Juvenile Protection Orders must be filed by 1 p.m. and Emergency Orders must be filed by 2 p.m. Any filings beyond those times will be set for a hearing the next business day.

**J. Fees and Costs.** No document filed by fax or email that requires a filing fee shall be accepted by the Clerk's Office for filing until the filing fee has been paid or a poverty affidavit has been received. Court costs and fees may be paid by credit card in person. Money orders and checks are acceptable forms of payment in person or through the mail. Documents tendered to the Clerk's Office without payment of the filing fee, or which do not conform to the 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 fax or email filings.

## **RULE 13.1 Electronically Signed Documents**

### **A. Definitions**

1. An "electronic signature" is one of the following:
  - b. A signature created within the case management system that is associated with the document using a signature pad or secured passcode;
  - c. Other similar device in the presence of a deputy clerk or other court employee.
2. The term "document" includes journal entries, decisions, orders, notices, subpoenas, opinions, and any other filing by a judge, magistrate, or chief deputy clerk of this Court.

- B.** The electronic transmission of a document with an electronic signature by a judge or magistrate that is sent in compliance with procedures adopted by the Court shall constitute filing and journalization of the document for all purposes of the Rules of Superintendence for the Courts of Ohio, the Rules of Civil Procedure, and the Rules of Juvenile Procedure. Electronic transmission of a document means a document that is transmitted through the Court's case management system.

- C. In accordance with security policies prescribed by the Court, the Clerk of Court shall ensure that the electronic signature is attached to or logically associated with a document electronically transmitted to the Clerk of Court for filing, and that the electronic signature is linked to the data in such a manner that any subsequent alteration of the document is detectable. Once an electronically signed document is filed with the Clerk of Court, any alteration of that electronically signed document shall invalidate the electronic signature associated with such document.

### **RULE 13.2 Electronically Produced Traffic Tickets**

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.

### **RULE 14. Reserved**

## **TITLE III: HEARINGS**

### **RULE 15. Counsel of Record**

#### **A. Appearance of Counsel; appearance *pro hac vice***

1. An attorney licensed to practice in Ohio shall file a notice of appearance of counsel within seven (7) days of being retained. An entry appointing counsel shall serve as a notice of appearance of counsel.
2. Beginning Jan. 1, 2011, out-of-state attorneys seeking permission to appear *pro hac vice* in an Ohio proceeding, including proceedings in the Hamilton County Juvenile Court, must first register with the Supreme Court Office of Attorney Services. Online *pro hac vice* registration is available.

**B. Appointment of Counsel.** The Hamilton County Public Defender’s Office provides for the assignment of attorneys for indigent parties who request counsel in certain case types that include delinquency, abuse, neglect and dependency cases. 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.

**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**

1. 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.
2. A party and/or opposing counsel has seven (7) days within which to respond in opposition and to request a hearing on the matter. If no response is received by the Court, the presiding judge or magistrate may proceed to consider the request.
3. An attorney of record shall not be permitted to withdraw less than fourteen (14) days prior to a scheduled hearing except for good cause shown and a finding that the action is not the fault of the party or made for purposes of delay.
4. 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 16. Courtroom Decorum**

- A. Proper decorum in court is necessary for the administration of the Court's business. The Court may conduct hearings in person, remotely via virtual courtrooms, or via telephone. In all hearings the authority to set standards of conduct shall be vested in the presiding judge or magistrate.
- B. Cellular telephones, tablets, laptops, pagers, radios, DVD/compact disc or cassette players, headphones, and other electronic devices shall be turned off prior to the commencement of a hearing and not utilized except with consent of the Court. The taking of photographs, the making of audio/video recordings, and radio, television and internet broadcasting are prohibited within all buildings wherein the Hamilton County Juvenile Court is conducting business, including any virtual hearings conducted by the Court. Counsel of record may use electronic devices provided that the Rules prohibiting photography, recording and broadcasting are not violated.
- C. All counsel shall wear business attire. All parties and witnesses shall wear appropriate attire.
- D. 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 reasonable efforts to engage substitute counsel in the event of an unexpected absence.
- E. 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.

- F. Counsel and parties shall act in a professional and respectful manner. Permission must be sought before approaching the bench or a witness. Argument shall be directed to the Court and not to opposing counsel or parties.
- G. 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. Food and beverages are prohibited in the courtroom during all hearings unless expressly permitted by the presiding magistrate or judge.

#### **RULE 17. Use of Child Restraints During Court Hearings**

Pursuant to Sup. R. 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;
  - 4. Any other factors the judge or magistrate deems 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 (individually 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.
- E. Excepted from this Rule is the restraint or confinement of any charged or adjudicated pregnant female child which is governed by the provisions sets out in R.C. 2152.75.

**RULE 18. Broadcasting, Televising, Photographing, or Recording of Proceedings**

**A. Request to Broadcast, Televis, Photograph, or Record Proceedings**

- 1. Requests to broadcast, televise, photograph, or record court proceedings shall be made in accordance with Sup. R. 12.

- B. Requests for permission to broadcast, televise, photograph, or otherwise record courtroom proceedings shall be submitted in writing as far in advance as is reasonably possible, but not less than 30 minutes prior to the courtroom session to be recorded. The judge or magistrate may waive the advance notice provision for good cause. A copy of the *Application Requesting Permission to Broadcast* form is located on the Court's website. The Judge or Magistrate presiding over the proceedings may request the Hamilton County Sheriff to determine the identity of the person or entity, the IP address of any internet media, to perform criminal background checks and obtain information as determined to be reasonably necessary by the Sheriff to identify the individual or entity. The completed Application Requesting Permission to Broadcast shall be made a part of the record of the proceedings.

- C. **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 to limit disruption to the proceedings. Pooling arrangements are to be made outside of the courtroom and those not following or disputing such arrangements may be excluded from the proceedings at the discretion of the Judge or Magistrate.

- D. **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.

- E. **Decorum.** Proper courtroom decorum shall be maintained at all times by media representatives, including appropriate courtroom attire

- F. **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. The Judge shall inform the victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

- G. **Revocation of permission.** Upon the failure of any media representative to comply with the conditions prescribed by this Rule or the judge, the judge or magistrate may revoke the

permission to broadcast or photograph the trial or hearing.

#### **H. Limitations.**

1. Except when expressly permitted by a Hamilton County Juvenile Judge or Magistrate under this Rule, recordings shall not be made by anyone anywhere in the Courthouse.
2. This Rule shall not be construed to grant media representatives any greater rights than permitted by law. No part of this Rule gives authority for media coverage where it is otherwise limited by these Local Rules or prohibited by law.

#### **RULE 19. Hearing Closure**

- A. 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 public and/or the media shall be afforded an opportunity to present evidence in support of their request to attend said hearing.
- B. 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 20. Exhibits and Evidence**

- A. 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
- B. 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.
- C. Exhibits and evidence are to be introduced on the record and handed to the Magistrate hearing the case in court. Exceptions may be made for remote hearings, with approval from the bench. Child support case managers accept exhibits to accommodate the unique nature of that docket only if two copies are provided to the Court; child support case managers are not able to make copies for parties or attorneys.

#### **RULE 21. Continuances**

- A. Motions for continuances shall be made in accordance with the Sup. R. 41.
- B. 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 court officer of the assigned judge, or to the case manager of the assigned magistrate. If the Court grants the request, the requesting party shall ensure that the date selected is accommodating to the schedules of all other parties

- C. All other requests for continuances shall state the reasons for the request and shall be filed with the Clerk's Office no later than fourteen (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. Continuances may be granted upon a showing of good cause.

**RULE 22. Service by Publication**

- A. All requests for service of publication shall comply with Civ. R. 4.4 and Juv. R. 16.
- B. Service by publication shall be made by newspaper publication. 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 Juv. R. 16(A).

**RULE 23. Motions for Reconsideration**

- A. Any party unable to attend a hearing before a magistrate due to transportation or technological issues, or any party who was unable to attend a hearing before a magistrate for good cause shown, may file a Motion for Reconsideration.
- B. A Motion for Reconsideration shall be filed within seven (7) days of the Magistrate's Order or Decision requested to be reconsidered.
- C. The filing of a Motion for Reconsideration will toll the deadlines for the filing of a Motion to Set Aside or Objection to a Magistrate's Decision as set by Juv. R. 40.
- D. Any Motion for Reconsideration will be reviewed by the magistrate that issued the order or decision requested to be reconsidered.
- E. The magistrate may issue a ruling on any Motion for Reconsideration on the pleadings, or may set the matter for a hearing.

**RULE 24. Reserved.**

**RULE 25. Reserved.**

**TITLE IV: ALTERNATIVE DISPUTE RESOLUTION**

**RULE 26. Mediation**

- B. The Court incorporates by reference herein, R.C. Chapter 2710 "Uniform Mediation Act"

(UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities, and Rule 16-16.43 of the Rules of Superintendence for the Courts of Ohio.

**C. Definitions:**

1. "Mediation" means any process in which a mediator facilitates communication and negotiation between the parties to assist them in reaching a voluntary agreement regarding their dispute.
2. "Mediator" means an individual who conducts mediation. Mediators are not permitted to offer legal advice but may provide information to the parties.
3. "Mediation communication" means a statement, whether verbal, nonverbal, or in a record that occurs during mediation or is made for purposes of considering, conducting, participating in, initiating, continuing or reconvening a mediation.

**D. General Provisions:**

1. The Court uses mediation to benefit the parties and assist in reaching a resolution. Although parties are required to attend mediation when ordered to do so, the parties are not required to reach a resolution.
2. The Court will issue written notice to the parties and non-party participants by entry or through a written notice at the time of the hearing or sent by regular mail.
3. The Court will encourage appropriate referrals to legal counsel and other support services for all parties.
4. Mediation will not be used as an alternative to the prosecution or adjudication of domestic violence.
5. Mediation will not be used to determine issues relevant to judicial protection orders. However, mediation may be used in abuse, neglect, dependency, and custody cases even though that case may result in the termination of the provisions of a protection order.
6. An attorney or other individual designated by a party may accompany the party to and participate in mediation pursuant to R.C. 2710.09.
7. Parties will be fully informed about the mediation process both orally and in writing. The parties and the mediator shall complete the *Hamilton County Juvenile Court Agreement to Mediate* form if they consent to participate in the mediation session.
8. The mediator will conduct all mediations in a safe manner and setting. The mediator may terminate the mediation at any time to ensure the safety of all participants and to ensure that the parties have the capacity to mediate without fear, coercion or control.

**E. Case Selection.** The Court will determine whether a matter is appropriate for the mediation process before scheduling a mediation conference. Mediation may be scheduled upon the filing of a petition or complaint, upon the motion of any party subject to Court approval, or by Court order during any matter pending before the Court.

**F. Attendance/Sanctions for Failing to Attend:**

1. Mediation is a docketed event requiring the appearance of all parties. If the movant fails to appear for mediation without just cause, the matter may be dismissed by the Court. If any

party fails to attend mediation without just cause, the Court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt, or other any other appropriate sanctions imposed by the assigned judge or magistrate.

2. All parties may have their attorney and a support person attend mediation with them subject to the following:
  - a. In abuse, neglect and dependency proceedings, attorneys shall attend mediation unless their appearance is waived by their respective client and approved by the Court. Any waiver of appearance of an attorney may be rescinded at any time.
  - b. In custody and companionship matters, the parties have a right to attend mediation with their counsel, but parties may also waive the presence of counsel at the mediation conference.
  - c. A non-party participant as defined by R.C. 2710.01(D) participating in mediation submits to the Court's jurisdiction to the extent necessary for enforcement of this Rule. Any non-party participant shall have the rights and duties under this Rule as attributed to the parties, except that no evidence privilege shall be expanded.

**G. Confidentiality and Privilege.** All mediation communications as defined in R.C. 2710.01(B) are confidential and are subject to the Rules of Evidence and the privileges set forth in R.C. Chapter 2710 and R.C. 3109.052. The *Hamilton County Juvenile Court Agreement to Mediate* form will be provided to all parties and must be executed at the beginning of the mediation by all persons in attendance who consented to participate in mediation. Mediation communications will not be disclosed without the consent of all mediation participants, unless the information is not privileged pursuant to R.C. 2710.05, may be reported pursuant to R.C. 2710.06(B), or must be reported pursuant to statute.

**H. Provisions Specific to Domestic Violence**

Pursuant to R.C. 3109.052 and Sup. R. 16.23, mediators will comply with the following procedures:

1. Screen for domestic violence before and during mediation. Magistrates will denote any known history of domestic violence on the *Dependency Mediation Referral Form*. Parties complete a *Mediation Questionnaire* at the beginning of the mediation session to assist in identifying concerns related to violence, domestic violence and safety concerns so that it can be properly addressed by the mediator.
2. Encourage appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.
3. Prohibit the use of mediation in any of the following:
  - a. Alternative to the prosecution or adjudication of domestic violence;
  - b. Determination whether to grant, modify or terminate a protection order;
  - c. Determination involving the terms and conditions of a protection order;
  - d. Determination regarding the penalty for violation of a protection order.
4. Nothing in this Rule shall prohibit the use of mediation in a subsequent case even though that case may result in the termination of the provisions of the protection order.
5. When violence or fear of violence is alleged, the mediation may proceed only if the mediator

has specialized qualifications set forth in this Rule and the following conditions are satisfied:

- a. The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process and his or her right to decline participation in mediation or have a support person present;
- b. The parties have the capacity to mediate without fear, coercion or control;
- c. Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation;
- d. Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties;
- e. Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

## **I. Mediation Report**

Unless the scheduled mediation is vacated, a mediation report will be submitted to the Court following the mediation pursuant to R.C. 3109.052.

1. **Mediation Agreement:** If unrepresented parties or parties appearing at mediation with their attorneys reach an agreement in mediation, the mediation report containing the agreement is submitted to the Court for review and approval. If an attorney is not present at the mediation conference and the parties reach an agreement, the attorney will be sent a copy of the proposed mediation agreement by the Court to review prior to the client signing the agreement. Upon approval of counsel, the mediation agreement signed by all parties shall be submitted to the Court for review.
2. **Absence of Mediation Agreement:** If the parties do not reach an agreement in mediation, the mediation report is filed with the Court and the proceedings continue with the presiding judge or magistrate.
3. **Judicial Review in Custody and Companionship Cases:** If parties reach an agreement in mediation, the mediation report containing the agreement is submitted to the Court for review pursuant to R.C. 3109.04. Although it must consider the mediation report, the Court is not bound by the mediation report when allocating parental rights and responsibilities, but will also consider all factors pursuant to R.C. 3109.04(F)(1) and in the best interest of a child. The mediation agreement of the parties becomes an enforceable order of the Court when approved, adopted and/or incorporated by reference in an entry.
4. **Judicial Review in Child Abuse, Neglect and Dependency Cases:** If an agreement is reached during mediation in an abuse, neglect or dependency matter and all parties sign the agreement, a hearing will be conducted immediately after the mediation session to review the agreement. If approved, an entry is generated making the agreement part of the record and an enforceable order of the Court.

- J. Mediator Qualifications and Training.** All mediators employed by the Court or approved by the Court shall meet the qualification of and comply with all training requirements of Sup.R.16.23 and responsibilities set forth in Sup.R.16.22 governing mediators and mediation. The Court appoints the Chief Magistrate to accept and consider written comments and complaints regarding the performance of mediators and a copy of the written comments and complaints shall be provided to the mediator. The Chief Magistrate or their designee will consider the written comments and complaints and submit any recommended actions to the Administrative Judge.

## **K. Mediation Costs**

1. **Mediation Filing Fees:** The Clerk will assess mediation fees on all complaints and motions for the allocation of parental rights and responsibilities, complaints and motions for visitation and companionship, and motions to show cause for contempt of visitation and companionship filed subsequent to a determination of parentage. The mediation filing fees are not refundable.
2. **Mediation Court Costs:** The presiding magistrate or judge may assess mediation court costs when referring parties to mediation. The presiding magistrate or judge may assess additional mediation court costs when mediation conferences involve multiple participants, multiple mediation sessions, or the failure of a party to appear for a scheduled mediation conference.

**RULE 27.     Reserved.**

**RULE 28.     Reserved.**

## **TITLE V:   CUSTODY, PARENTING TIME AND ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES**

\*\*\*References in this Rule to cases involving “allocation of parental rights and responsibilities” shall also include those cases in which legal custody, parenting time, companionship, or visitation rights are at issue has and shall have the same meaning as in R.C. 3109.04 and R.C. 3109.051.\*\*\*

## **RULE 29.     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, the person filing the complaint must make a good faith effort to identify the true and accurate names of the child, mother, father(s), and any other person who has a legal interest in the proceeding. Cases involving siblings shall be given the same case number unless the siblings do not 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 made 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. 3127.23;
  3. *Hamilton County Juvenile Court Information Form*;
  4. If paternity has been established, one of the following:
    - a. A paternity determination of record in the Central Paternity Registry;
    - b. An administrative paternity determination;
    - c. 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*; and
8. *Written Request for Service*.

**C. Emergency Orders (EO's).** Any motion requesting ex parte or emergency orders related to custody is strongly discouraged. There are limited circumstances where such motions may be considered necessary and may be considered by the Court.

1. The Court will only issue an Emergency Order if it is supported by sworn testimony in open court that a grant of emergency custody is necessary to prevent immediate physical or emotional harm.
  - a. The following is a non-exhaustive list in which immediate physical or emotional harm to the child(ren) will occur unless action is taken by the Court: physical abuse, bodily injury, medical neglect, or exposure to domestic violence in the other party's household.
  - b. The following is a non-exhaustive list in which immediate physical or emotional harm is not at issue: the need to enroll the child(ren) in school, the need to obtain an initial custody order, missed visits or parenting time, refusal to return the child(ren) following visitation, and the need to obtain non-emergency medical treatment.
2. A motion for ex parte or emergency relief shall include an affidavit of the moving party that clearly states with particularity:
  - a. What efforts the movant took to provide opposing counsel, the guardian ad litem, and/or self-represented parties of the movant's intent to file so that all parties and counsel may be present at the time of the hearing
  - b. What circumstances cause the movant to believe that an emergency situation exists
  - c. What the harm to the child is or what harm would likely occur if the motion were not granted, and
  - d. What efforts the movant took to resolve the matter prior to filing the motion.
3. An emergency order may only be requested if there is also filed and pending before the Court an accompanying complaint or motion to address matters related to parental rights (excluding child support alone).
4. The Court reserves the right to review all motions and accompanying affidavits at the time of filing and summarily deny a motion for an emergency or ex parte order prior to hearing if the affidavit does not meet the foregoing standards on its face and does not describe an actual emergency or alleged irreparable harm that can only be addressed by an ex parte or emergency order. A motion may also be denied or delayed for further hearing if the Court determines that a good faith effort to notify counsel or self-represented parties has not been made.
5. If a child is being abused or neglected, call the Hamilton County Job and Family Services twenty-four (24) hour hotline at 241-KIDS (513-241-5437). If there is an emergency involving a child contact law enforcement or call 911.
6. Such motions filed prior to 2:30 p.m. will be reviewed the same day if filed on a business day. Motions filed after 2:30 p.m. may be heard on the next business day. If the *ex parte*

motion for a temporary emergency order is granted, and the legal custodian is not present for the initial *ex parte* hearing, it will be set for hearing within three (3) business days. The moving party shall provide notice to all other parties.

**D. Assignment of Cases.** Cases shall be randomly assigned to a magistrate upon the filing of a complaint or petition. The assigned magistrate shall preside over all hearings in the case unless absent from the Court or exigent circumstances require otherwise.

**E. Filing Fee.**

1. The party commencing an action under this Rule shall pay the filing fee at the time of filing.
2. If the party commencing the action is indigent and unable to pay the filing fee, the Clerk may accept the filing if accompanied by a *Financial Disclosure/Fee Waiver Affidavit*. Some form of documentation in support of the affidavit is required. Acceptable forms of documentation include: payroll, paystub, and unemployment records; Social Security and public assistance determinations; tax documents or other records that serve to document the filer's monthly or annual income or lack thereof.
3. If a party who submits a *Financial Disclosure/Fee Waiver Affidavit* does not have documentation to support their affidavit at the time of filing, such party must, within 30 days of filing, file documentation to support the affidavit or pay the filing fee. Failure to do so may result in rejection of the affidavit and an order to pay the filing fee.
4. The judge or magistrate presiding over the case will review the Financial Disclosure/Fee Waiver Affidavit. At the initial hearing, the judge or magistrate may: accept the affidavit and supporting documentation and order the filing fee waived; reject the affidavit and order the payment of the filing fee; or, reject the affidavit as unsupported and order the party to file supporting documentation or pay the filing fee. If a party is ordered by the judge or magistrate to file documentation to support the affidavit or pay the filing fee and fails to do so within the time allotted, the affidavit will be rejected and the action dismissed without further notice or hearing.
5. If a party who is determined to be indigent for purposes of waiving the filing fee has a change in financial status 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.

**F. Failure to Comply.** Failure to comply with the Rules for commencement of an action may delay or preclude the Clerk from accepting the filing of the case.

**RULE 30. Appointment of Guardians *ad Litem* in Private Custody, Parenting Time, or Visitation Proceedings**

- A. Appointment:** A guardian *ad litem* may be appointed upon request and upon the deposit of appropriate fees.
- B. Separate appointments:** A guardian *ad litem* is appointed to represent the best interests of the child. The guardian *ad litem* is not the child's attorney.
- C. Compensation:** The Court shall make a determination of the ability of the parties to pay the

initial deposit and all other guardian *ad litem* fees. The Court may reconsider that determination at any time prior to the conclusion of the case. The hourly rate of compensation for guardian *ad litem* services follows the Reimbursement Standards of the Office of the Hamilton County Public Defender.

- D. Every other month, the guardian *ad litem* may file a motion for fees and shall serve the motion on all parties. At any time prior to the conclusion of the case, a guardian *ad litem* may submit a motion for payment. A guardian *ad litem* shall submit a motion for payment no later than thirty (30) days after the conclusion of their duties. Unless a hearing is requested by a party of the Court within fourteen (14) days after a motion for payment is filed, the Court may set a hearings or rule on the motion.
- E. All responsibilities, requirements and qualifications of guardians *ad litem* are outlined in Sup. R. 48, as well as Rule 8 of these Rules.
- F. **Eligibility:** 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.

## **RULE 31. Pre-Trial Matters**

### **A. Investigation of parties**

1. 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 R.C. 3109.051. Upon request, a copy of any information received from either agency shall be provided to the parties and/or counsel.
2. The Court may also order that a party or the parties submit to a custody investigation to aid the Court in its determination. Custody investigation reports are not public records pursuant to Sup. R. 44. If a custody investigation is ordered, the parties may request a copy of the report for trial preparation. Any copies provided shall be kept confidential and may not be copied or disseminated for any purpose. All copies distributed by the Court must be returned to the Court at the conclusion of the trial or case. Any party who violates this Rule may be subject to contempt proceedings.

**B. Discovery.** Parties shall exchange exhibit and witness lists 7 days before trial.

**C. Temporary Orders Pursuant to Juvenile Rule 13.** Requests for temporary orders pursuant to Juv. R. 13 shall be by written motion unless the Court grants leave for the motion to be made orally. The Court may decide the motion upon review of affidavits in support and opposition and without a hearing. The Court may consider agreed temporary orders if submitted in writing prior to any scheduled hearing.

### **D. Temporary Orders Pursuant to Juv. R. 13(D) and R.C. 2151.31 & 2151.33 (Shelter Care)**

1. If a child is being abused or neglected, call the Hamilton County Job and Family Services twenty-four (24) hour hotline at 241-KIDS (513-241-5437). If there is an emergency involving a child contact law enforcement or call 911.

2. Motions for *ex parte* temporary orders filed pursuant to Juv. R. 13(D), R.C. 2151.31 and R.C. 2151.33, requesting that a child be removed from a legal custodian 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.
3. Such motions filed prior to 2:30 p.m. will be reviewed the same day if filed on a business day. Motions filed after 2:30 p.m. may be heard on the next business day. If the *ex parte* motion for a temporary emergency order is granted, it will be set for hearing within three (3) business days. The moving party shall provide notice to all other parties.

**RULE 32. Trial Matters**

- A. Agreed Entry.** Once a complaint or motion is filed, a proposed agreed entry may be submitted to the Custody Case Management Department on the 8<sup>th</sup> Floor for approval without hearing. All parties and counsel, if any, shall sign the agreement. If the presiding judge or magistrate approves the proposed agreed entry, a decision will be sent to the parties and counsel.
- B. 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.
- C. 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 may be set for an initial hearing to determine that issue at the discretion of the Court.

**RULE 33. 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.

**RULE 34. Reserved**

**TITLE VI: PARENTAGE AND CHILD SUPPORT**

**RULE 35. General**

**A. Parentage/support and custody/companionship**

1. Parentage and support matters shall be designated by a case number commencing with "P" and shall be set before a designated child support magistrate.
2. Custody and companionship matters shall be designated by a case number commencing with "F" and shall not be set before a designated child support magistrate.

**B. Commencement of Action**

1. No action may be commenced without filing the child's birth certificate with the Court.
2. 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 the Child Support Enforcement Agency. A copy of the request for an administrative determination must be attached to the complaint or motion.
3. A party seeking to establish paternity is encouraged to request an administrative determination of paternity from the Child Support Enforcement Agency of the county in which the child, guardian, or legal custodian of the child resides.
4. 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 shall be filed as an objection to an administrative order and will be set for hearing before a magistrate.
5. A IV-D application must be filed with all Complaints to Establish Paternity and/or Support.

**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, legal guardian or custodian at all hearings.

**D. Genetic Testing**

1. The party requesting the establishment of paternity is responsible for selecting an accredited testing facility.
2. The testing facility must require parties to appear in person to submit to genetic testing, must validate parties' identities, and must maintain a chain of custody over the samples.
3. Proof of the chain of custody must be provided to the Court along with the genetic testing results.
4. The party requesting the establishment of paternity is responsible for bearing the costs of genetic testing unless otherwise ordered by the Court.

**E. Modification of Child Support Order.** Motions for modification of a child support order shall state the specific reason for the request.

**F. Agreed Entries.** A proposed agreed entry does not become an order of the Court unless and until the Court has formally adopted it. Proposed agreed entries shall be delivered to the Child Support Case Management Department on the 8<sup>th</sup> Floor.

**RULE 36. Relief from Paternity Determination**

- A.** The establishment of paternity by acknowledgment, administrative action or Court order may only be challenged by motion pursuant to R.C. 3119.961 and/or Civ. R. 60(B) and not by the filing of a paternity complaint.
- B.** A person who files a motion for relief from paternity determination must provide to the Court a DNA test taken no more than six (6) months prior to the date of filing that excludes the

person from paternity, pursuant to R.C. 3119.962(A)(1)(a).

- C. A person who files a motion for relief from paternity determination who does not provide to the Court a DNA test taken no more than six (6) months prior to the date of filing that excludes the person from paternity shall not be entitled to the requested relief.

**RULE 37: Reserved**

**TITLE VII: DEPENDENCY, NEGLECT, AND ABUSE**

**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 39. Telephone *Ex Parte* Orders**

- A. A designated magistrate is available to respond to requests for *ex parte* telephone emergency orders made pursuant to R.C. 2151.31(D). 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 granted, a hearing on the order will be docketed the next business day or within seventy-two (72) hours, whichever is sooner.
- B. Requests for authorization of emergency medical treatment may be referred to a judge.

**RULE 40. Reports**

HCJFS and Guardians *ad Litem* shall file written reports detailing status of and any changes in placement, the progress in each case plan service and behavioral changes sought, educational needs, medical needs, therapeutic needs, visitation, and any additional updates or recommendations that may be relevant to the case. The reports shall be filed for all interim review, termination of custody, and emancipation hearings. The reports shall be filed and provided to all counsel and parties at least seven days in advance of the scheduled review hearing unless otherwise directed by the Court.

**RULE 41. Incarcerated Parents**

With sufficient notice that a parent is incarcerated, the Court will make efforts to arrange for the appearance of the parent at the next hearing.

**RULE 42. Waiver of Time**

The Court may waive the requirement to complete the adjudicatory and dispositional hearings within ninety (90) days if all parties are in agreement and sign any required forms.

**RULE 43. Expedited Hearings**

A party requesting an expedited hearing shall file a motion stating the reasons for the request, serve the Motion on all parties, and submit a courtesy copy of the motion to the court officer of the assigned judge or the case manager of the assigned magistrate. If the request for an expedited hearing is granted, the movant shall exercise due diligence to ensure that the date selected accommodates the schedules of all attorneys and parties, and shall notify all attorneys and parties of the selected date.

**RULE 44. Notice of Case Plan**

When a party is required to provide notice to a child's parents and guardian *ad litem* regarding a case plan amendment pursuant to R.C. 2151.412,, notice shall also be given to all attorneys of record.

**RULE 45. Court Records**

- A. Case documents, as defined in Sup.R. 44(C)(2)(a) shall omit personal identifiers as required by Sup.R. 45.
- B. Pursuant to Sup.R. 44 and 45, public access shall be restricted when required.

**RULE 46. Hamilton County Family Treatment Drug Court**

Pursuant to Rules 36.20 through 36.28 of the Rules of Superintendence for the Courts of Ohio, and Appendix I "Specialized Docket Standards" of the Rules of Superintendence, Hamilton County Juvenile Court created the Family Treatment Drug Court.

- A. **Overview.** Hamilton County Family Treatment Drug Court began operations in September 2002. The goals and objectives of the program are outlined in the Program Description, which is available upon request and is incorporated herein by reference.
- B. **Target Population and Screening.** The target population for admission into the Family Treatment Drug Court includes parents or custodians who lost custody of their child(ren) or are at risk of losing custody of their child(ren) due to drug or alcohol abuse. Legal and clinical eligibility criteria are contained in the Program Description. Any disqualifying factors are also listed in the Program Description and are assessed on a case by case basis. The Family Treatment Drug Court Judge/Magistrate has the ultimate discretion to determine whether a parent or custodian may participate in the Family Treatment Drug Court.

- C. Case Assignment.** Family Treatment Drug Court participants appear on a regular basis for status review hearings before the Family Drug Court Judge or Magistrate.
- D. Guidelines.** Family Treatment Drug Court's Program Description contains the guidelines for participation in the Family Treatment Drug Court, including the operations, policies, and procedures for the Program. Upon acceptance in Family Treatment Drug Court, each participant receives a Participant Handbook and signs a Participant Agreement. These documents are available upon request and are incorporated herein by reference.
- E. Completion and Discharge.** Successful completion of the Family Treatment Drug Court includes completion of all phases of the program, including treatment and aftercare. A participant may be terminated from Family Treatment Drug Court for failure to comply with Family Treatment Drug Court rules and requirements as outlined in the Program Description. If the Family Treatment Drug Court participant is terminated from the program, the underlying abuse, neglect, or dependency case will continue on the traditional docket.

**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.

## **TITLE VIII: DELINQUENCY AND UNRULY CASES**

### **RULE 48. Procedures in Delinquency and Unruly Matters.**

- A. All Delinquency and Unruly matters shall be conducted in accordance with the Rules of Juvenile Procedure.
- B. A child may be represented by legal counsel of their own choosing in any proceeding before the Court.
- C. The Hamilton County Public Defender's Office provides for the assignment of attorneys for all children who request counsel in cases in which the child's liberty interest is at stake. Upon a child's request for appointed counsel, the child shall provide any necessary information and complete such forms or affidavits as that office requires. The child is required to make and maintain contact with court-appointed counsel without delay.
- D. **Legal Representation required.** Any child charged with a felony level offense must be represented by legal counsel. This requirement may not be waived, unless the child has met privately with an attorney to discuss the child's right to counsel and the disadvantages of self-representation.
- E. Remote testimony. Remote testimony is permissible with the agreement of the parties or for good cause shown.

### **RULE 49. Complaints, Arrest Warrants and Detention Hearings**

- A. **Complaints.** Clerks at 800 Broadway, the Youth Center, and the Assessment Center have the responsibility for processing delinquency, unruly and traffic complaints filed by police officers, public or private agencies and private individuals. Parents are strongly encouraged to file unruly complaints at the Assessment Center so that they may avail their family of the additional resources and supports provided there. Clerks shall redirect them to the Assessment Center when feasible.
- B. **Warrants**
  - 1. Warrants for the arrest of a 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.
  - 2. Warrants will be issued in accordance with Hamilton County Juvenile Court Youth Center Policy V4C01P02, Juv. R. 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 Juv. R. 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.
  - 3. Supervisors and a duty magistrate are available twenty-four (24) hours a day, seven (7) 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 Juv.R. 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**

1. 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 (72) hours.
2. Generally, detention hearings are conducted at the Youth Center on Mondays through Fridays for juveniles admitted to the facility over the past twenty-four (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 will do the following:

1. Inform the juvenile of the right to counsel and to appointed counsel, if indigent;
2. Advise the juvenile of the right to remain silent with respect to any allegation of juvenile traffic offense, delinquency or unruliness;
3. Ascertain that the juvenile has received a copy of the complaint(s) against him/her and understands the identity and the nature of the charges that form the basis the complaint(s).

**F. Standard for Detention**

1. Judicial officers receive on-going training regarding the standards for detention.
2. 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.
3. 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 Juv. R. 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 R.C. 2152.12.

**RULE 50. Diversion of Cases**

**A.** Consistent with Juv. R. 9, the Court recognizes "in all appropriate cases formal court action

should be avoided and other community resources utilized to ameliorate situations brought to the attention of the Court."

- B. Cases may be referred for diversion prior to the filing of a complaint, or after the filing of a complaint
- C. 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 may be referred to the official docket for hearing.
- D. Diversion records are not public records. No person shall have access to the case records without a Court order.
- E. **Traffic Diversion.** After review and agreement of the prosecutor, the Court may divert a traffic matter, and upon completion of the program requirements, the Court will dismiss the charge.
- F. **Drug and Alcohol Diversion.** After review and agreement of the prosecutor, the Court may divert any misdemeanor offense arising out of an incident involving the use of drugs or alcohol and upon completion of the program requirements, the Court will dismiss the charge.
- G. **Truancy Diversion.** School districts must comply with R.C. 3313.668 and R.C. 3321.16. A formal filing of a truancy related offense is used only as a last resort. In accordance with R.C. 2151.27(G), upon the filing of a complaint the Court will consider an alternative to adjudication, including diversion.

**RULE 51. Competency Proceedings.**

- A. The purpose of these Rules is to expedite proceedings under sections 2152.51 to 2152.59 of the Revised Code, to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under these sections.
- B. Juvenile competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or by this Rule, unless otherwise agreed to by parties and approved by the Court.
- C. Upon the conclusions of each hearing, the Court shall provide notice in person or by mail to the prosecuting attorney, the child's attorney, the child's guardian *ad litem*, and the child's parents, guardian, or custodian of the date, time and place of the next scheduled hearing. Mailed notice shall not be required of any party or other individual designated in this Rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.
- D. Upon the filing of a suggestion of the child's incompetency or upon the Court's own motion, the Court shall stay all delinquency proceedings pending a determination of competency. If the Court determines that the child is not competent, but could likely be restored to or attain competency, the Court order staying the delinquency proceedings shall remain in effect until such time as the child is restored to or attains competency or the proceeding is dismissed.

- E. In accordance with R.C. 2152.52, a juvenile age fourteen (14) years and older is presumed competent. Motions requesting a competency evaluation filed on behalf of a juvenile age fourteen years or older may be set for a preliminary hearing.

**RULE 52. Juvenile Protection Orders**

**A. Purposes; Prevailing Rules; Standard Forms.**

1. Juvenile Protection Order cases shall be conducted in accordance with Civ. R. 65, R.C. 2151.34, R.C. 3113.31 and Sup. R. 10.05 to facilitate the issuance of civil protection orders against juveniles who engage in certain violent behaviors, domestic violence, or sexually oriented offenses.
2. The Court uses forms substantially similar to the forms promulgated by Sup. R. 10.05, which are available on the Court's website.

**B. No costs or fees are assessed for filing a request for a protection order.**

**C. Every petitioner is afforded the opportunity to be accompanied by a victim advocate in all stages of the proceedings.**

**D. A petitioner may not waive, excuse, or modify any terms set forth in a Juvenile Protection Order. All requests for modification to any existing Juvenile Protection Order shall be made in writing.**

**E. *Ex Parte* Hearings**

1. The Court will conduct emergency hearings on an *ex parte* basis at the request of a petitioner. Petitions filed by 1:00 p.m. will be heard on the same day as filed. Emergency requests for hearings after 1:00 p.m. will be heard on the next business day.
2. The Court may grant any *ex parte* orders pursuant to either R.C. 3113.31 or R.C. 2151.34 if the Court finds it is necessary for the safety and protection of the person(s) subject to the petition.
3. If the Court grants an *ex parte* emergency motion, the Court will schedule the matter for a full hearing within ten (10) days of granting the temporary order.
4. If the *ex parte* emergency order is denied, the matter will be scheduled for a full hearing in accordance with the Rules of Civil Procedure.
5. If an *ex parte* hearing is not requested, the matter will be scheduled for a full hearing. Notice to the Respondent and their guardian shall be made in accordance with the Rules of Civil Procedure for all hearings.

**RULE 53. "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: BWC (body worn cameras) and reports and interviews from Cincinnati Children's Mayerson Center for Safe and

Health Children. 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 act 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 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.

#### **RULE 54. Probation Reports and Behavioral Health Services Reports**

- A. Probation Reports.** Reports and records of the Hamilton County Juvenile Court Probation Department, including social histories and reports of mental or physical examinations, and Behavioral Health Services reports shall be considered confidential information and shall not be made public. The inspection of probation records, behavioral health services reports, or other internal records by attorneys or other interested parties shall be governed by Juv. R. 32(C) and R.C. 2151.14. No person shall be permitted to read the probation records or behavioral health services reports unless proper authorization is given by the Court.
- B. Access to Reports.** By noon, or as early as possible, on the day immediately before dispositional or competency hearings, Probation and Behavioral Health Services will be provide to the attorneys through Kiteworks with a "For Counsel Only" designation and will be available for review by attorneys or any authorized persons in the Juvenile Court Probation Office.
- C. Motion to Release Records.** In the interest of expediency, counsel may file a Motion to Release Records relied upon in formation of reports, a form motion offered for counsel use on the Court's website. Records to be released through this motion are: Behavioral Health Services Referral Form, Youth Information Sheet, OYAS (Ohio Youth Assessment System Training) and/or Social History, Psych Referral History, and Probation rules (reporting and non-reporting). Running probation reports and clinician notes are excluded. Any additional records sought will require individual motions and hearings on a case by case basis pursuant to R.C. 2151.14.



**RULE 55. Delinquency Guardians *ad Litem***

- A. Appointment.** A guardian *ad litem* may be appointed if a parent or custodian fails to appear at a hearing. A guardian *ad litem* shall be appointed where a conflict exists between the child's parent/guardian and the child. A guardian *ad litem* may be appointed upon the request of parties or upon the Court's own motion.
- B. Reports.** All guardians *ad litem* shall file reports at least seven (7) days prior to disposition and at any other appropriate times in accordance with Sup. R. 48.
- C. Fees/Compensation.** All guardian *ad litem* fees in delinquency and unruly cases shall be paid by the Hamilton County Office of the Public Defender.
- D.** All responsibilities, requirements and qualifications of guardians *ad litem* are outlined in Sup. R. 48, as well as Rule 8 of these Rules.

**RULE 56. Safe Harbor**

- A. Purpose.** The purpose of this rule is to establish a procedure whereby children who are potentially victims of human trafficking or are otherwise eligible can be identified by the Court and provided with Safe Harbor diversion pursuant to R.C. 2152.021(F).
- B. Initial identification of a child who may be eligible for Safe Harbor diversion.** At any time after the filing of a complaint alleging that a child is a delinquent child and before adjudication, and upon the motion of any party or upon the Court's own motion, the Court shall undertake proceedings to determine if the child is entitled to Safe Harbor diversion, pursuant to R.C. 2152.021(F). The Court shall promptly appoint a guardian *ad litem* for the child, pursuant to R.C. 2152.021(F)(1).
- C. Stipulation of Safe Harbor diversion eligibility.** The parties may stipulate that a child is eligible for Safe Harbor diversion.
- D. Hearing on Safe Harbor diversion eligibility.** If the parties do not stipulate that a child is eligible for Safe Harbor diversion, the Court shall hold a hearing to determine if the child is eligible for Safe Harbor diversion. During the hearing the court may consider the following:
  - 1. Any evidence admissible under the Ohio Rules of Evidence;
  - 2. An *in camera* interview of the child by the Court in the presence of the guardian *ad litem*, and any other person deemed appropriate by the Court, if the child agrees to such an interview;
  - 3. In-court statements made by law enforcement officers, social workers, therapists, or other relevant persons, regardless of whether such statements would be otherwise admissible under the Ohio Rules of Evidence, so long as such statements are relevant and bear sufficient indicia of reliability;
  - 4. The report, findings, and recommendations of the guardian *ad litem*.

- E. Safe Harbor diversion hearing.** If the parties stipulate that the child is eligible for Safe Harbor diversion or if the Court determines that the child is eligible for Safe Harbor diversion, the Court shall hold a hearing to determine the actions that constitute a method to divert the child from the juvenile court system. The parties may stipulate to the actions that constitute a method to divert the child from the juvenile court system. If the parties do not stipulate to the actions that constitute a method to divert the child from the juvenile court system, the Court shall hear recommendations from the guardian *ad litem*, prosecuting attorney, defense counsel, social workers, therapists, and any other relevant persons as to the appropriate terms of diversion.
- F. Safe Harbor diversion order.** The Court may make any orders regarding placement, services, supervision, diversion actions, and conditions of abeyance, including, but not limited to, engagement in trauma-based behavioral health services or education activities, which the Court considers appropriate and in the best interest of the child. The Court shall make its Safe Harbor diversion order with sufficient specificity to place all parties on notice of the requirements and expectations of diversion. The Court shall hold the complaint in abeyance during the pendency of its diversion order.
- G. Review of diversion.** The court shall hold a review hearing not more than ninety (90) days after its Safe Harbor diversion order is accepted to determine the child's progress in the diversion program. If the child violates the conditions of diversion or does not actively engage in the diversion programs to the court's satisfaction within ninety (90) days, the Court may extend the period of abeyance for not more than three (3) additional ninety (90) day periods. If the Court finds that the child has successfully engaged in the Safe Harbor diversion program, the Court shall dismiss the complaint and order that the records pertaining to the case be expunged immediately. If the child fails to engage in the diversion actions to the Court's satisfaction, the Court shall proceed upon the complaint.

#### **RULE 57. Motion Practice Before Trial**

- A. Expert Testimony.** The timelines for a written report and summary of qualifications shall be disclosed no later than twenty-one days prior to trial, in accordance with Ohio Crim. R. 16(K). This period may be modified by the court for good cause shown.
- B. Motions in Limine.** Unless otherwise allowed by the Court, all motions in limine are to be filed not less than 14 days before trial with the response due 7 days later.
1. The motion will be decided prior to the start of trial
  2. Except for good cause shown, failure to raise before trial will constitute a waiver of the issue
  3. Subject to this rule include, but are not limited to:
    - a) Requests for redactions
    - b) Notice of intention to use 404(B) evidence
    - c) Disputes over access to records until Local rule 54
    - d) Any other evidentiary issue which is known in advance of trial