

# **RULES OF PRACTICE**

## **COLUMBIANA COUNTY JUVENILE COURT**



**Adopted April 1, 2009**

**Effective May 1, 2009**

**Revised April 1, 2017**

**Revised October 17, 2019**

**Revised January 6, 2025**

JAN 06 2025

IN THE COURT OF COMMON PLEAS  
PROBATE/JUVENILE DIVISION  
COLUMBIANA COUNTY, OHIO

By THOMAS M. BARONZZI JUDGE-CLERK  
[Signature]  
Deputy Clerk

IN RE:

LOCAL RULES OF PRACTICE )  
OF THE JUVENILE COURT OF ) CASE NO. 2025MISC0003  
COLUMBIANA COUNTY, OHIO ) JUDGMENT ENTRY

The following rules have been promulgated by the Columbiana County Court of Common Pleas, Juvenile Division, pursuant to Article IV, Section 5(B), of the Ohio Constitution, Rule 5 of the Ohio Supreme Court Rules of Superintendence for Courts of Common Pleas, and Rule 45(A) of the Ohio Rules of Juvenile Procedure. They are adopted to provide for the efficient and expeditious management of business before this Court.

These rules become effective January 6, 2025 hereby amending the prior Columbiana County Juvenile Court Local Rules and are subject to review and amendment, as necessary.

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

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

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

[Signature]  
THOMAS M. BARONZZI  
JUDGE

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**TITLE I: GENERAL PROVISIONS**

**RULE 1.0 ADOPTION AND AMENDMENT OF RULES**

The Columbiana County Juvenile Court hereby promulgates and adopts the following rules of practice pursuant to authority under Article IV, Section 5(B) of the Ohio Constitution, Rule 5 of the Rules of Superintendence for the Courts of Ohio. These rules are effective May 1, 2009 and may be amended from time to time as necessary. These rules shall be known as the Rules of Practice of the Columbiana County Juvenile Court and may be cited as “Col. Juv. R. \_\_\_\_.”

**RULE 1.1 SCOPE AND CONSTRUCTION OF RULES**

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

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

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

**RULE 1.2 SANCTIONS**

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

1. A case may commence without counsel, be continued, or be dismissed, as the court deems appropriate.
2. The court may order security personnel to remove persons in violation from the courtroom, hallway, or building.
3. The court may impose fines and/or incarceration pursuant to a finding of contempt.
4. The court may remove a person’s name from the list of those eligible for appointment as counsel or Court Appointed Special Advocate.

**TITLE II: COURT HOURS AND FACILITIES**

**RULE 2. COURT HOURS AND FACILITIES**

The court facility at 260 W. Lincoln Way, Lisbon, Ohio shall be open for the general transaction of business Monday through Friday from 8:00 a.m. to 4:00 p.m., excepting legal holidays. In addition, the Columbiana County Sheriff’s Office located at 8473 County Home Rd., Lisbon, Ohio in conjunction with The Office of the Clerk of Courts of Columbiana County shall be open to accept bonds in accordance with established policy of the of those agencies.

Any person entering court facilities at 260 W. Lincoln Way is subject to scanning by a metal detector and to a search of any bag, case, or parcel by security personnel. Smoking is prohibited in all court facilities. All cellular phones shall be turned off before entering a court or hearing room.

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

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

### **TITLE III: RECORDS**

#### **RULE 3. CASE FILES**

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

A person requesting inspection of a child's case file shall provide to the clerk adequate proof of identification and/or relationship to the case before being permitted access. Thereafter, the clerk shall allow inspection and examination of a case file and its contents during regular business hours of the court. No original document, case file, or any part of its contents may be removed from the court by any person without written court authorization.

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

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

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

**RULE 4. RECORD OF HEARING**

**(A) Official Record.** A complete record of all testimony or other oral proceeding, excepting informal pre-trials, status conferences, other informal proceedings (unless parties request a record), shall be made in all official cases by means of a court reporter or an audio or audiovisual recording device provided by the court. This record shall be the official record of the case unless a transcript is filed pursuant to division (C) of this rule.

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

**(C) Transcription of the Record.** For hearings before a judge or magistrate, the transcription of an audio record shall be the responsibility of a Deputy Clerk designated by the judge.

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

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

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

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

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

**(D) Reproduction of Audiovisual Record.** No copy of an audio or audiovisual record shall be made unless by order or permission of a judge. Any party requesting reproduction of an audio or audiovisual record shall file a motion with the clerk. The judge or magistrate may schedule a hearing or may rule on the request upon the pleadings.

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

**RULE 5: COMMENCEMENT OF THE CASE**

**(A) Commencement**

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

**(B) Documents Required At Filing**

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

1. Child Custody Affidavit pursuant to R.C. 3127.33.
2. If paternity has been established, one of the following:
  - A paternity determination of record in the Central Paternity Registry(certified copy)
  - An administrative paternity determination order
  - A paternity determination issued by a court(certified copy)
3. The most recent court order regarding custody or support issued by another court
4. Written Request for Service

If the petitioner is unable to secure any of the above documentation after the exercise of due diligence or in the case of an emergency, the petitioner shall file an affidavit identifying the missing document and describing the efforts to secure it or the emergency that requires immediate filing without the document.

**(C) Filing Fee**

The party initiating the action shall submit the filing fee at the time of filing. A schedule of filing fees is available upon request of the Clerk.

**(D) Failure to Comply**

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

**RULE 6. PRE-TRIAL MATTERS**

**(A) Investigations of the Parties**

Upon the filing of a complaint or motion, the court may request information pertinent to the case from the Columbiana County Department of Job Family Services and the Columbiana County Sheriff's Office pursuant to R.C 3109.04 and 3109.051. Upon request, a copy of any information received from either agency shall be provided to the parties and/or counsel.



**(B) Court Appointed Special Advocates**

Court Appointed Special Advocates in custody and parenting time cases shall follow the provisions contained in Rule 22 of these rules unless any provision contained therein is clearly inapplicable.

**(C) Temporary Orders Pursuant To Juvenile Rule 13**

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

Motions for ex parte temporary orders filed pursuant to Juvenile Rule 13(D) shall be in writing and contain an affidavit of personal information & belief of affiant regarding the circumstances that require the court to take immediate action and without notice to opposing parties. Such motions will be referred for hearing the same day if filed at least one hour before the close of business for the day. Motions filed thereafter may be referred for hearing on the following business day. Ex parte' motions should not be filed solely to enforce or obtain companionship.

**(D) Pre-Trial Hearings**

At a pre-trial hearing, the court will review the complaint or motion, check parentage, and assure that all necessary parties have been included and properly served. The court will also inform the parties of their right to counsel and address any other issues pertinent to the case. Unless otherwise specified by the court, all hearings will be scheduled for a 15-minute period. All parties and counsel shall appear and shall be prepared for settlement of all issues at each pre-trial hearing.

Upon review of the filings and the information submitted, the court may question the parties to determine whether mediation, appointment of a Court Appointed Special Advocate, or an expanded custody investigation should be ordered. The court may also require the submission of a pre-trial statement at such times as it deems appropriate.

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

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

**RULE 7. TRIAL MATTERS**

**(A) Trial Scheduling**

The court will schedule a case for trial after it determines that all pre-trial matters have been concluded and that the parties cannot reach an agreement.

**(B) Agreed Entry**

Once a complaint or motion is filed, an agreed entry may be submitted to the clerk's office for approval without hearing. All parties must be represented by separate counsel and all parties and counsel must sign the agreement. The agreement must contain an acknowledgement of service. If the entry establishes or dispenses with child support obligations, cash medical or other insurance orders, support calculation worksheets and cash medical calculations shall be attached to the entry. If approved, a copy of the signed entry will be sent to the parties and counsel. If the agreement is not approved, the case will be scheduled for a pre-trial hearing and the parties and counsel will be notified by mail.

**(C) Shared Parenting**

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

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

- Income Worksheet (child support guideline worksheet)
- Cash medical order worksheet & proposed orders
- Wage Assignment
- Order on Obligor
- Order on Obligee

**(D) Change of Circumstances**

Where a showing of a change of circumstances is required for a motion to change custody or to modify a shared parenting plan, the alleged change of circumstances shall be generally identified in the motion. It shall not be sufficient to simply state that "a change of circumstances has occurred".

**RULE 8. MAGISTRATE**

The Magistrate's duties will include, but will not be limited to, the following:

1. Hear and decide requests for emergency orders, including those requested by the Department of Job and Family Services and the office of the prosecuting attorney; conduct probable cause and adjudicatory hearings.
2. Hear and decide matters that do and do not require a hearing.
3. Authorize continuances.
4. Authorize requests for dismissals made prior to the date of hearing.

The Magistrate's responsibilities shall cover abused, dependant, neglect, delinquency, unruly, traffic, custody, parentage, and support cases.

## **RULE 9.0. DOCUMENTS TO BE FILED WITH PLEADINGS**

A.) Upon the filing of an action for divorce, parentage, child custody, child support or the modification of parental rights and any other action relative to the issue of parenting, the following supporting documents must be filed by the party filing the complaint, petition or motion:

1. In an action for divorce, dissolution or legal separation, a financial affidavit on a form prescribed by the Court. In an action for post decree modification of issues of support, pages three and four may be omitted from the affidavit.

2. A parenting proceeding affidavit on a form prescribed by the Court

B.) Financial affidavits shall be filed by each party with any required pleading or if a pleading is not required, prior to any hearing where the hearing will determine issues of child or spousal support and/or parenting.

C.) The Deputy Clerk of this Court shall reject for filing a complaint for divorce, parentage, child support, or a post-decree motion for modification of child support or, parental rights unless accompanied by the financial affidavits, and where applicable, parenting proceeding affidavits. The Clerk will not hold any such documents pending receipt of non-attached documents. All incomplete filings will be returned to the filer to be presented at one time.

D.) All financial affidavits and parenting proceeding affidavits shall be typed. NO HAND WRITTEN AFFIDAVITS SHALL BE ACCEPTED BY THE CLERK OF THIS COURT FOR FILING.

E.) All forms needed to comply with this rule are available upon request in the Clerk's office. Court staff are not permitted to advise Pro se litigants in preparation of said documents.

## **RULE 9.2. PARENTING CLASSES**

All parties to a divorce with children, parentage determination, or custody determination or motion for change of residential parenting may be required to attend an educational seminar as designated by the Court.

Attendance at this educational seminar may also be required by order of the Court or Magistrate in connection with motions for post-decree relief concerning companionship, including contempt motions and motions for grandparent visitation. The Court or Magistrate may also require any other party, or spouse, or grandparent, to attend this seminar.

It shall be the responsibility of those persons required to attend the seminar to arrange for their attendance, to complete the seminar, and to bear the costs of attending such seminar. Upon completion of the seminar the party required to attend the seminar shall file with the Court an original of the attendance certificate for inclusion in the Court's file. Non-compliance with this Rule may result in contempt of the Court or other sanctions as determined by the Court.

Non-compliance with this Rule by a party who enters no appearance and does not contest the action shall not delay the issuance of a final entry, providing the filing or moving party has filed the attendance certificate. The Court may deny enforcement of the non-complying parties' rights under any final decree until this Rule is complied with. The final entry in a case where there is a non-appearance by a party shall contain the following language: "The (defendant/plaintiff/non-residential parent) shall not exercise companionship rights until that party files an attendance certificate indicating attendance at the seminar, and a judgment entry activating companionship rights."

This Rule shall not apply to agreed modifications of prior parenting orders where both parties either appear at a hearing, or sign the entry agreeing to transfer the parenting of children.

## **RULE 9.4. UNIFORM LOCAL COMPANIONSHIP**

### **COLUMBIANA COUNTY GUIDELINE PARENTING SCHEDULE**

#### **1. GENERAL PARENTING PRINCIPLES**

The Court recognizes that children clearly profit by continued meaningful contact with both parents. Children need the continuing and regular involvement of both parents to feel loved. No specific schedule will satisfy the change in needs of both children and parents over the years. Critical to the success of any schedule is that each parent be flexible, based upon the changing needs of a child, as the child grows older.

This Guideline Parenting Schedule takes into account the changing developmental needs of children. It is recognized that each situation and each child is different. It is preferred that parents tailor the parenting schedule to meet the specific needs of their children.

In all cases, orders, the court will strive to adopt a parenting schedule that is in the child(ren)'s best interests. Any request to deviate from the following parenting schedule shall be supported by the filing of the proper affidavits/evidence. The factors contained in ORC 3109.05.1(D) shall be considered in any proposed deviation from the guideline-parenting schedule. Absent a request for deviation and the filing of affidavits/evidence in support thereof, the court will impose the guidelines set forth below.

A good parenting schedule developed for a family should be based upon the following considerations:

- A. The developmental needs and age of each child.
- B. The psychological attachments of each child.
- C. The way child rearing tasks were shared during the marriage.
- D. The preservation or development of a close relationship with each parent.
- E. A consistent and predictable schedule that minimizes the transition between the households, especially where young children are involved. Failure to consistently exercise parenting time may result in modification of the parenting schedule.
- F. Each child's temperament and ability to handle change.
- G. Parents career demands and work schedules.
- H. The need for periodic review of the plan, noting trouble signs and revising as each child's needs and circumstances change.

For purposes of exercising this parenting schedule, \_\_\_\_\_ is designated the residential parent and \_\_\_\_\_ is designated the non-residential parent.

The policy of the following time allocation is to provide a schedule which is best suited for the particular age of that child(ren).

## 2. WEEKLY SCHEDULE

### A. Birth to Six Months

The non-residential parent shall have parenting time weekly as follows:

Tuesday afternoon and Thursday afternoon for a period not to exceed three hours. Alternate Saturdays and Sundays from 9:00 A.M. until 6:00 P.M. The Court will consider modifications to an overnight schedule as the child's age increases. The Schedule shall continue on a weekly basis until modified by the parties.

### B. Ages Six months through 18 years

Week A: Tuesday or Wednesday afternoon consistent with the non-residential parent's work schedule and/or the children's school schedule if school is in session, and Friday from 6:00 P.M. until Sunday at 6:00 P.M.

Week B: Tuesday and Thursday afternoons consistent with the non-residential parent's work schedule and/or the children's school schedule if school is in session. The parenting time on Tuesday and Thursday afternoons shall consist of not less than three hours, however, shall conform with the children's bedtimes.

Parents should respect a teenager's need to spend time with peers and in organized activities, and less time with each parent, especially during weekends and summer holidays. Quality of time is more important than a rigid schedule. Flexibility in scheduling is necessary. When possible, it is preferable to consider the teenager's wishes, as long as the parents agree.

## 3. ADDITIONAL PARENTING TIME

### A. Holidays

In even number years, the Residential Parent shall be entitled to exercise the Holidays preceded by an asterisk, and the Non-Residential Parent shall exercise all others listed. In odd number years, the Non-Residential Parent shall be entitled to exercise the Holidays preceded by an asterisk and the Residential parent shall exercise all others listed.

- \* New Years - 1/1 at 9:00 a.m. to 1/1 at 6 p.m.
- \* Martin Luther King - Sun 6 p.m. to Mon. 6 p.m.
- \* Presidents Day - Sun 6 p.m. to Mon. 6 p.m.
- \* Easter - Sat. 8:00 p.m. to Sun 6 p.m.
- \* Memorial Day - Sun 6 p.m. to Mon. 6 p.m.
- \* Fourth of July - 9 a.m. to 9 p.m.
- \* Labor Day - Sun 6 p.m. to Mon. 6 p.m.
- \* Halloween - 5 p.m. to 9 p.m.
- \* Thanksgiving - Wed 6 p.m. to Fri. 6 p.m.
- \* Christmas Eve - 12/23 noon to 12/24 at 9 p.m.
- \* Christmas Day - 12/24 at 9 p.m. to 12/26 6 p.m.

Mother's Day/Father's Day companionship shall be with the Mother or Father if they are designated the Residential or Non-Residential Parent under this Rule.

For all other holidays, including religious holidays celebrated by the family which are not included in the above list, the parties shall alternate from year to year with the mother having the even numbered years and the father having the odd numbered years on those particular holidays. For holidays that extend for more than a one day period, the parties shall divide the days as equally as possible in order to permit both parties to spend that holiday time with the children.

For school districts who have Fridays or Mondays off that are not listed in the holiday schedule, that Friday or Monday, the parent whose weekend it is shall have the option of extending their weekend companionship to include the extra day.

#### B. Extended Time

1. Each parent shall be entitled to two weeks of consecutive, uninterrupted parenting time each year. This consecutive two weeks shall not extend the summer parenting time and may be taken during the school year if the parties agree and appropriate arrangements have been made to comply with school regulations.
2. The non-residential parent may be entitled to one half of the summer vacation each year during the summer, two weeks of which may be consecutive and uninterrupted. If the parents are unable to agree as to the summer schedule, the non-residential parent shall be entitled to the first half of the summer. The summer vacation is defined as commencing the day after the children get out of school and continuing until seven (7) days before school begins. During summer companionship, each parent receives weekday companionship as afforded the non-residential parent during the rest of the year. The alternating weekends continue during the summer companionship without interruption except for the two weeks of consecutive uninterrupted parenting time.
3. The child(ren)'s spring break from school (every other year) and one half Christmas break (every year) shall also be spent with the non-residential parent. The parent who has Easter shall have spring break in the same year
4. Extended periods of time are to be arranged as follows: for extended time at Spring Break, by February 15th each year, for extended time in the summer, by May 15th of each year, for extended time at Christmas, by November 1 of each year. Each parent shall notify the other parent in writing of the times desired for these extended periods.
5. Alternating weekends and weekdays shall not be included in the calculation of the Christmas and spring breaks.

## 6. Birthdays

In even number years the Residential Parent shall have the children for their birthdays on the following schedule: if the child is in school on that day, the time will be 5:00 p.m. to 9:00 p.m., if the child is not in school on that day, from 9:00 a.m. to 9:00 p.m. The Non-Residential Parent shall have the children in odd number years on the same time schedule.

The parenting time for birthdays shall include all children of the marriage, not just the child celebrating his/her birthday.

The child/ren shall spend each parent's birthday with that parent unless otherwise ordered by the court or agreement of the parties.

In the event of a conflict, the following is the order of preference: 1st. holidays; 2nd extended periods; 3rd weekends; 4th midweek days. The two week uninterrupted parenting time shall take precedence over summer holidays.

## 4. MISCELLANEOUS

A. The child(ren) and/or residential parent have no duty to wait for more than 30 minutes for the non-residential parent to arrive for parenting time. The non-residential parent who is more than 30 minutes late for a particular parenting time shall forfeit that time. An exception shall be made if the tardiness of the non-residential parent is for just cause (ie. Work schedule) and the residential parent receives both prompt notice and a reasonable estimated arrival time.

B. The non-residential parent who is more than 30 minutes late in returning the child(ren) without calling to make arrangements and without just cause may be subject to contempt.

C. If either parent will be unavailable during his/her scheduled parenting time, regardless of the age of the child(ren), he/she shall offer that parenting time to the other parent. Unavailable means that parent will be gone from his/her home overnight.

D. Make up time shall be given if the child(ren) or non-residential parent is not available at the scheduled time or if the residential parent denies access to the child(ren) without just cause. All make up days shall be rescheduled within 30 days.

E. If the parents are unable to reach an agreement regarding transportation, and unless otherwise provided by court order, the non-residential parent shall provide transportation at the commencement of the visitation period and the residential parent shall provide transportation at the termination of the parenting period. A responsible, licensed adult known to both parents may provide transportation if the parent is unavailable. Any person transporting a child(runs) shall use the proper child restraint seat and/or seat belts as required by law. No person shall consume alcohol or use illegal drugs immediately prior to or during the transportation of a child(ren).

F. Each parent shall have reasonable telephone contact with the child(ren). Reasonable is defined as one time per day.



G. Car Seat: For any and all children required by law to ride in a car seat, the parents shall transfer the car seat with the child as companionship changes occur.

H. Extracurricular Activities: Regardless of where the children are living, their continued participation in extracurricular activities, school related or otherwise, shall continue uninterrupted. It shall be the responsibility of the parent who has the children at the time of the activity to provide the physical and economic cost of transportation to these activities. The residential parent shall provide the non-residential parent with notice of all extracurricular activities, school related or otherwise, in which the children participate, schedules of all extracurricular activities (handwritten by the residential parent if no formal schedule is provided by the activity) and the name of the activity residential parent with notice of all extracurricular activities, school related or otherwise, in which the children participate, schedules of all extracurricular activities (handwritten by the residential parent if no formal schedule is provided by the activity) and the name of the activity leader (including address and telephone number if reasonably available to the residential parent). Failing to do so may result in a finding of contempt with appropriate sanctions. The residential parent shall provide the non-residential parent with a copy of the school calendar.

## 5. STATUTORY NOTICES

A. RELOCATION NOTICE: Pursuant to ORC 3109.051 (G), the parties hereto are hereby notified as follows:

If the residential parent intends to move to a residence other than the last residence of court record, he/she shall file a notice of intent to relocate with this Court. Except as provided in ORC 3109.051(G) (2), (3) and (4), a copy of such notice shall be mailed by the Court to the non-residential parent. On receipt of the notice, the Court, on its own motion or on the motion of the non-residential parent, may schedule a hearing with notice to both parties to determine whether it is in the best interest of the children to revise the visitation schedule for the children. Said notice shall be filed 60 days prior to the relocation.

B. RECORDS ACCESS NOTICE: Pursuant to ORC 3109.051(h) and 3319.321(b) (5) (a), the parties are notified as follows:

Except as specifically modified or otherwise limited by court order, and subject to ORC 2301.35(G) (2) and 3319.321(F), the non-residential parent is entitled to access under the same terms and conditions as the residential parent to any record that is related to the children and to which the residential parent is legally provided access, including school records. Any keeper of a record, public or private, who knowingly fails to comply with this order, is in contempt of Court.

Both parents shall have access to the children's school records. Both parents are encouraged to participate in parent-teacher conferences, school trips, school programs and other school events in which parents are invited to participate. The parent receiving the grade card shall give a copy to the other parent within a reasonable time.

C. DAY CARE CENTER ACCESS NOTICE: Pursuant to ORC 3109.051(I), the parties hereto are hereby notified as follows:

Except as specifically modified or otherwise limited by court order, and in accordance with ORC 5104.011, the non-residential parent is entitled to access to any day care center that is or will be attended by the children with whom visitation is granted, to the same extent that the residential parent is granted access to the center.

D. SCHOOL ACTIVITIES NOTICE: Pursuant to ORC 3109.051(J), the parties hereto are hereby notified as follows:

Accordance with ORC 5104.011, the non-residential parent is entitled to access to any day care center that is or will be attended by the children with whom visitation is granted, to the same extent that the residential parent is granted access to the center.

## 6. SPECIAL CIRCUMSTANCES

A. Domestic Violence: The Companionship Plan may need to be adjusted when there has been domestic violence. Please refer to the most recent revision of the law or consult with an attorney regarding this special circumstance.

B. Re-establishment of Parent-Child Relationship after a Long Absence: When the visitation has not taken place for an extended period of time, both parents should consider the possible adverse effects upon the child and gradually re-introduce an appropriate access plan for the non-custodial parent. A separate schedule has been developed for this purpose. (Rule 9.42)

C. Travel with the Child: Whenever the child travels with either parent, one of the following will be provided to the other parent: an itinerary of travel dates, destinations, and places where the child or traveling parent can be reached; or the name and telephone number of an available third person who would be knowledgeable of the child's whereabouts.

D. Out of Town Access: Plans regarding out of town access are more difficult to suggest because of the effect of such facts as distance, parents' employment schedule, parents' financial ability to pay for more or less frequent trips, and the availability of child care while children are visiting from out of town. These and many other facts necessitate specific arrangements be made. In general, visits would be less often and of longer duration.

E. Travel of Child Alone: Travel alone of a child under the age of 12 years is not recommended.

F. Access to Address and Phone Number: Both parties shall provide each other with their current address and phone number unless doing so would endanger either the child or the parent. If an address or phone number cannot be provided, then the name and number of an available third party would/can reach the child or inaccessible parent in the event of an emergency should be provided.

G. Emergency Medical Treatment: In the event that the child is in need of emergency medical treatment, it shall be the responsibility of either party to obtain treatment for the child and immediately notify the other parent.

## **RULE 9.41. UNIFORM LONG DISTANCE COMPANIONSHIP PLAN**

Liberal companionship arrangements are encouraged, as contact with both parents is important to the children. Specific items in the Journal Entry take precedence over this schedule. Changes or modifications can be made by the Court if need for such is shown. Support payments are not affected by the schedule unless ordered by the Court.

AT SUCH TIMES AND PLACES AS THE PARTIES MAY AGREE.

1. Christmas: Christmas vacation will be divided in half and alternated annually, by half, between the parents. Christmas break shall begin the day school is out and shall terminate the day before school resumes. The parties shall alternate the first half of Christmas break each year.

2. Spring Break: School vacation (the Friday school is out to the day before school recommences, to be coincidental with the days of the school vacation and not to interfere with school) in odd-numbered years of the Saturday before Easter to the Saturday after Easter for preschoolers with no school-aged siblings.

3. Alternative Holiday Plans: Those who wish more frequent contact, and who develop a plan to pay for the transportation, alternate-year Thanksgiving, and half of Christmas vacation each year. The holidays themselves must be alternated, as the parties agree, or Easter and Thanksgiving in the odd-numbered years and Christmas in the even numbered years for the non-residential parent.

4. Summer: One-half of the school summer vacation. Summer school necessary for the child(ren) to pass to the next grade must be attended. The residential parent shall notify the non-residential parent by March 15 of when the summer vacation begins and ends. The non-residential parent must notify the residential parent as to their intentions by April 15.

a. If the parties cannot agree which half of the summer they prefer, in the even-numbered years, the first half of the summer shall be spent at the non-residential home, and in odd-numbered years, the second half.

b. A general itinerary should be provided either parent if more than two days will be spent away from either home when the children are in that parent's care.

5. Telephone: The children must be allowed to have reasonable communication by telephone at least one time per week, with both parents, regardless of with whom the child is currently living. Reasonable shall be defined as one time per day. The non-residential parent shall pay for calls on the weekdays and the residential parent shall pay for calls on the weekends. The child(ren) shall call the non-residential no less than every Sunday evening of each and every week.

6. Vacations: Each parent may arrange an uninterrupted vacation of not more than two weeks with the children. A general itinerary of the vacation shall be provided for the other parent, including dates, locations, addresses and telephone numbers. A Vacation is defined as a trip away from the parents' home. It does not include a parents' vacation time off from work where that parent spends it at home.

b Summer school necessary for the child to pass to the next grade must be attended.

7. Additional Companionship:

a Once a month weekend visit to the non-residential home will be permitted if the child's traveling time does not exceed three hours one way. The residential parent must be notified at least one week in advance.

b Father's Day and Mother's Day can always be spent with the appropriate parent.

c The non-residential parent shall notify the residential parent at least two days in advance of any time the non-residential parent will be in the area and wants a companionship period. Absent extraordinary circumstances, this companionship shall occur.

d The residential parent must notify the non-residential parent at least two days in advance when the residential parent and child(ren) will be in the area of the non residential parent, and companionship must be allowed.

8. Moving: If the residential parent intends to relocate to a new residence, that parent shall cause a Notice of Intent to Relocate to be filed with the Court as provided by Revised Code 3109.51(G)

9. STATUTORY NOTICES

A.) RELOCATION NOTICE: Pursuant to ORC 3109.051 (G), the parties hereto are hereby notified as follows:

If the residential parent intends to move to a residence other than the last residence of court record, he/she shall file a notice of intent to relocate with this Court. Except as provided in ORC 3109.051(G) (2), (3) and (4), a copy of such notice shall be mailed by the Court to the non-residential parent. On receipt of the notice, the Court, on its own motion or on the motion of the non-residential parent, may schedule a hearing with notice to both parties to determine whether it is in the best interest of the children to revise the visitation schedule for the children. Said notice shall be filed 60 days prior to the relocation.

B.) RECORDS ACCESS NOTICE: Pursuant to ORC 3109.051(h) and 3319.321(b) (5) (a), the parties are notified as follows:

Except as specifically modified or otherwise limited by court order, and subject to ORC 2301.35(G) (2) and 3319.321(F), the non-residential parent is entitled to access under the same terms and conditions as the residential parent to any record that is related to the children and to which the residential parent is legally provided access, including school records. Any keeper of a record, public or private, who knowingly fails to comply with this order, is in contempt of Court.

Both parents shall have access to the children's school records. Both parents are encouraged to participate in parent-teacher conferences, school trips, school programs and other school events in

which parents are invited to participate. The parent receiving the grade card shall give a copy to the other parent within a reasonable time.

C.) DAY CARE CENTER ACCESS NOTICE: Pursuant to ORC 3109.051(I), the parties hereto are hereby notified as follows:

Except as specifically modified or otherwise limited by court order, and in accordance with ORC 5104.011, the non-residential parent is entitled to access to any day care center that is or will be attended by the children with whom visitation is granted, to the same extent that the residential parent is granted access to the center.

D.) SCHOOL ACTIVITIES NOTICE: Pursuant to ORC 3109.051(J), the parties hereto are hereby notified as follows:

Except as specifically modified or otherwise limited by the court order, and subject to ORC 3119.321, the non-residential parent is entitled to access, under the same terms and conditions as the residential parent to any student activity that is related to the children to which the residential parent legally is provided access.

10.) Current Address and Telephone Number: Each parent must keep the other informed of his/her current address and telephone number at all times.

11.) Modifications: This schedule can be changed or modified by the Court if need for such is shown.

12.) Car Seat: For any and all children required by law to ride in a car seat, the parents shall transfer the car seat with the child as companionship exchanges occur.

13.) Transportation: Responsibility for transportation costs should be decided in advance and a plan written into an order of the Court. The costs of transportation, in the appropriate case, may be a basis for deviation from the child support schedule.

If the parents are unable to reach an agreement regarding transportation, and unless otherwise provided by court order, the non-residential parent shall provide transportation at the commencement of the visitation period and the residential parent shall provide transportation at the termination of the parenting period. A responsible, licensed adult known to both parents may provide transportation if the parent is unavailable. Any person transporting a child(ren) shall use the proper child restraint seat and/or seat belts as required by law. No person shall consume alcohol or use illegal drugs immediately prior to or during the transportation of a child(ren).

## **RULE 9.42. TRANSITIONAL PLAN FOR COMPANIONSHIP**

### **GENERAL PARENTING PRINCIPLES**

Children clearly profit by continued meaningful contact with both parents. Children need the continuing and regular involvement of both parents to feel loved. No specific schedule will satisfy the change in needs of both children and parents over the years. Critical to the success of any schedule is that each parent be flexible, based upon the changing needs of a child as the child grows older.

This Guideline Parenting Schedule takes into account the changing developmental needs of children. It is recognized that each situation and each child is different. It is preferred that parents tailor the parenting schedule to meet the specific needs of their children.

In all cases, the court will strive to adopt a parenting schedule that is in the child(ren)'s best interests. Any request to deviate from the following parenting schedule shall be supported by the filing of the proper affidavits/evidence. The factors contained in ORC 3109.05.1(D) shall be considered in any proposed deviation from the guideline-parenting schedule. Absent a request for deviation and the filing of affidavits/evidence in support thereof, the court will impose the guidelines set forth below.

A good parenting schedule developed for a family should be based upon the following considerations:

- A. The developmental needs and age of each child.
- B. The psychological attachments of each child.
- C. The way child rearing tasks were shared during the marriage.
- D. The preservation or development of a close relationship with each parent.
- E. A consistent and predictable schedule that minimizes the transition between the households, especially where young children are involved. Failure to consistently exercise parenting time may result in modification of the parenting schedule.
- F. Each child's temperament and ability to handle change.
- G. Parents career demands and work schedules.
- H. The need for periodic review of the plan, noting trouble signs and revising as each child's needs and circumstances change.

For purposes of exercising this parenting schedule, \_\_\_\_\_ is designated the residential parent and \_\_\_\_\_ is designated the non-residential parent.

The policy of the following time allocation is to provide a schedule which is best suited for the particular age of that child(ren).

1. For an initial four week period commencing Saturday/ Sunday \_\_\_\_\_, the Non-Residential Parent shall visit with the child each Saturday/Sunday from 2:00 P.M. to 4:00 P.M. in the Residential Parent's home, or at such alternate time or location as is mutually agreed to by the parties.

2. For the following four week period, commencing \_\_\_\_\_, the Non-Residential Parent shall have visitation each Saturday/Sunday from 1:00 P.M. to 5:00 P.M. outside of the Residential Parent's presence at the Non-Residential Parent's home or that of a member of his or her family.

3. For the following four week period, commencing \_\_\_\_\_, the Non-Residential Parent shall have overnight visitation each Friday/Saturday night from 6:00 P.M. Friday/Saturday to 6:00 P.M. Saturday/ Sunday.

4. At the end of the above twelve-week period, the Non-Residential Parent shall have visitation in accordance with the Court's Companionship Order, a copy of which is attached hereto as Exhibit A. The Court reserves the right to extend the transitional time in the best interests of the child.

Should the Non-Residential Parent fail to observe the schedule set forth in Paragraph 1, then visitation shall not expand as set forth in Paragraph 2. Should there be a failure to observe the schedule as set forth in Paragraph 2, then visitation shall not expand as set forth in paragraph 3. Should there be as failure to observe the schedule set forth in Paragraph 3, then visitation shall not expand as set forth in Paragraph 4.

In order to exercise visitation under this Court's Companionship Order, it is expected that the Non-Residential Parent will provide appropriate accommodations for each child, including but not limited to a car seat and crib if needed.



**RULE 9.5. PARENTING INVESTIGATIONS AND PSYCHOLOGICAL EVALUATIONS**

A) Upon the filing of a complaint for divorce, custody or parental visitation in which the parenting and support of minor children are involved, the Court may direct or the parties may request that a domestic relations investigator make an investigation of the character, family relations, past conduct, and of the home and its surroundings where it is proposed that the children are to live.

B) The Court may, at its discretion, order the parties and minor children to submit to psychological evaluation.

C) Psychological evaluations shall be made at the cost of the requesting party or the filing party and/or pursuant to Order of the Court at any time, including completion of the case; deposit for psychological investigations shall be made directly with the Counseling Center of Columbiana County in such amount as the Court directs, presently to be in the sum of Two Hundred Sixty Dollars (\$260) per person evaluated. The report of the psychological evaluator shall be admissible as upon direct exam for any party requesting admission.

D) Where parenting and the psychological well being or adjustment of the child(ren) is a real issue in the case, the parties may agree or the court may appoint a disinterested psychologist to counsel or evaluate the child(ren). Neither counsel nor the parties shall attempt to influence or otherwise interfere with a neutral determination by the psychologist involved and shall not contact the psychologist, except in reference to the type of evaluation requested and to provide basic case information or scheduling information. Neither counsel shall provide the psychologist with a history of the case or any other factual matters concerning the case. Neither party shall provide a written statement or other history to the psychologist unless requested to do so by the psychologist.

The report of any investigator shall be made in writing and shall be kept in the possession of the Court under seal. Psychological reports shall not be made public, but shall be available for review by the parties, their counsel or the court appointed Court Appointed Special Advocate during regular hours of court. Copies shall not be made or removed from the court without court order.

E) In all cases in which investigations are ordered a notice may, at the request of the investigator, be mailed to each party to appear at a designated time and place for an interview with the investigator. A copy of such notice will be mailed to counsel for each party and it will be the duty of each party to comply with the request for appearance just as it would be necessary to appear for a court ordered hearing.

F) Upon motion or order of the Court ordering a psychological evaluation, the following procedure shall be adhered to:

1) A judgment entry shall be issued by the Court;

2) A file stamped copy of the judgment entry ordering psychological evaluation shall be forwarded to the Counseling Center of Columbiana County or other direct designated evaluator within two (2) days of being filed with the Clerk of Courts; an additional copy of order shall be provided to

all counsel of record who shall thereafter be responsible for insuring that their clients have a copy of said order;

3) Within 10 days the parties shall deposit such sum as directed by the Court directly with the Counseling Center of Columbiana County. Once a deposit is made the party making the deposit shall notify his counsel who shall notify, within five days, the opposing counsel or party that the deposit has been made.

4) Within 10 days of the deposit being made with the Counseling Center of Columbiana County, all counsel shall insure that their clients and their minor children will contact the Counseling Center of Columbiana County or such other agreed upon counselor for the purposes of making an appointment for evaluation; all appointments for psychological evaluation to be made under this Rule shall be at the convenience of the Counseling Center of Columbiana County or such other private counselor as the parties agree and shall be completed as soon as possible;

5) In any case where psychological evaluations have been completed, the Court may not approve any final judgment entry, except upon proof of payment of the evaluation fees in full; the Court may take other appropriate action by way of sanctions or use of its contempt powers.

G) Any party who desires to call as a witness, at a trial or hearing, any court appointed home investigator, psychological evaluator or examiner, shall contact that witness not less than fourteen (14) days prior to the hearing at which the witness is expected to testify, and shall arrange for prepayment of any fees for testifying that the witness requires in order to attend. Such fees shall be paid in advance, or the witness need not appear at any trial or hearing, even if subpoenaed.

In cases of indigency, the court will consider requiring the appearance of the witness without prepayment of fees, if the witness agrees to appear without such fee.

This rule applies only to those persons appointed by the court and does not apply to any witness hired by any party.

## **RULE 9.6. COURT APPOINTED SPECIAL ADVOCATE**

1.) DEFINITION: The Court Appointed Special Advocate is an advocate for the best interests of the minor child/ren. An attorney appointed as a Court Appointed Special Advocate and not as an attorney for the child/ren will advocate for the best interest of the child. (This is distinguished from an advocate role representing the client's wishes which may be contrary to the client's best interests.)

2.) Although this Court has traditionally expressed a preference for CASA's to be attorneys, the Court, in its discretion, may appoint a suitable person and non-attorney CASA in a particular case or cases. The Court Appointed Special Advocates shall attend any mandatory training offered by the court and may attend other CLE's in areas regarding their duties as CASA. All attorney Court Appointed Special Advocates shall have experience in Family Law.

3.) Court Appointed Special Advocates will be appointed upon the request of either party or upon the court's own motion or when required by statute.

4.) Attorney Court Appointed Special Advocates shall be compensated at such hourly rate as established by the Court. No fee for a Court Appointed Special Advocate shall exceed \$1,000 without prior approval of the court. The Court Appointed Special Advocate may submit to the court a request for the deposit of additional fees or a monthly affidavit of fees for approval and court order regarding payment. The request shall be served upon all parties or their counsel if they are represented and if there is no objection an order regarding payments of deposits/ fees may be issued after seven days.

5.) Upon appointment, the Court Appointed Special Advocate shall perform certain basic duties identified below. The feasibility of some of the duties will depend upon the age(s) of the child/ren and the specific circumstances of each case. Therefore, it is within the discretion of the Court Appointed Special Advocate to tailor each to the facts of the individual case.

- a. Interview the child/ren separately,
  - b. Contact the child/ren' school, if any,
  - c. Contact the child's health care providers, if any,
  - d. Observe each parent in the presence of the child,
  - e. Review pleading and consult with each attorney as to positions and issues,
  - f. Investigate and interview as determined necessary,
  - g. Perform home visits (may be combined with the interview process or the home investigation in ordered by the Court)
  - h. Determine the necessity, if any, of evaluations and/or counseling for the child/ren,
  - i. Through the interview process, determine the reasoning ability of each child/ren,
  - j. Prepare and file with the Court, with a copy to counsel, at least 5 days prior to and final adjudication, a written report and recommendation to the Court as to the best interests of the minor child/ren. The report shall be maintained in the non-public record of the Court.
- ALL REPORTS SHALL BE LABELED CONFIDENTIAL IN CONSPICUOUS  
LETTERING ON THE FIRST PAGE.

6.) The Court Appointed Special Advocate shall appear at all hearings unless excused by the Court.

#### **RULE 9.7. IN CAMERA INTERVIEW OF CHILDREN**

In all cases where an in camera interview of a minor child or children has been requested, the Court shall make a record of said interview.

The parents shall have no access to the report of the interview, even if the record has been transcribed for purposes of appeal or objections.

The record or transcript shall be sealed, to be opened only by the Court or upon order of the Court.

Attorneys may have access to the transcript of the child's interview only upon written motion and judgment entry signed by the Court.

### **RULE 9.8. STATUS CONFERENCE**

The purpose of a status conference is to determine area in dispute, establish child support in accordance with the child support guidelines and begin discovery with the exchange of certain information.

In order to accurately establish child support, the parties shall bring with them to the status conference the following documents:

- a. copies of the last three years income tax returns;
- b. the last five pay stubs;
- c. a year to date statement of income in not included on the pay stub;
- d. a breakdown from the employer of overtime or bonuses for the last three years;
- e. costs of health insurance to cover the minor children (difference between single coverage and family coverage);
- f. proof of child support actually being paid for children not in this case;
- g. proof of spousal support actually being paid; and
- h. documentary proof of current incomes from all sources

Copies of documents listed above shall be exchanged between parties or their counsel at the status conference.

### **RULE 9.12. OBJECTIONS TO MAGISTRATE'S DECISION OR ORDER**

- 1.) The filing of timely written objections by any party to an action shall act as an automatic stay of the decision until the Court takes action as delineated in Civil Rule 53.
- 2.) Interim orders are not subject to the automatic stay and shall remain in effect regardless of the filing of objections.
- 3.) Objections shall be in the form of a pleading with appropriate case caption and case number. Objections shall be typed.
- 4.) Objections must be specific and state with particularity the grounds of the objection.
- 5.) Any objection to a finding of fact shall be supported by a transcript of the evidence.
- 6.) Request for a transcript must be at least fifteen (15) days prior to the scheduled hearing on objections. No objection hearing shall be continued because a request for transcript was not timely filed. Once the fifteen-day time limit has passed, a transcript may only be prepared by leave of court.

### **RULE 10. 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.

## TITLE V: HEARINGS

### **RULE 11. COUNSEL OF RECORD**

#### **(A) Appearance of Counsel; appearance pro hac vice**

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

Attorneys not licensed to practice in Ohio may practice before the court only if the court permits an appearance pro hac vice. An attorney seeking such permission shall file a written motion and shall be licensed and in good standing in another state. The court may require local counsel.

#### **(B) Appointment of Counsel**

The Columbiana County Criminal Defense Corporation provides attorneys for indigent parties who request counsel. Upon a party's request for appointed counsel, the party shall provide any necessary information and complete such forms or affidavits as the clerk's office requires to determine eligibility.

#### **(C) Substitution of Counsel**

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

#### **(D) Withdrawal of Counsel**

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

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

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

#### **(E) Discharge of Counsel**

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

### **RULE 12. COURTROOM DECORUM**

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

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

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

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

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

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

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

### **RULE 13. BROADCASTING, TELEVISIONING, PHOTOGRAPHING, OR RECORDING OF PROCEEDINGS**

#### **(A) Request to Broadcast, Televise, Photograph, or Record Proceedings**

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

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

#### **(B) Media Pool**

The judge or magistrate presiding over the hearing may require media representatives interested in recording courtroom proceedings to do so through the pooling of their resources.

#### **(C) Equipment**

The media representative and/or the pool coordinator shall consult with the court in advance of the hearing about the placement of audio and video equipment. All equipment in the courtroom must

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

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

The filming, videotaping, recording, or photographing of a victim, witness, or juror is prohibited without specific authorization of the court. If the subject matter of the proceeding is a child, the name or identity of any party, witness, child, parent, or participant shall not be disclosed unless by specific authorization of the court.

**RULE 14. HEARING CLOSURE**

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

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

**RULE 15. EXHIBITS AND EVIDENCE**

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

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

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

**RULE 16. CONTINUANCES**

When all parties are in agreement with a continuance, one party may file a written request for a continuance on behalf of all. Such request shall state the reason for the request and be signed by all other parties or their counsel. The party filing the request may sign for any counsel or party if

so authorized. The party filing the request shall then submit it to a deputy clerk. If the court grants the request, the requesting party shall assure that the date selected is accommodating to the schedules of all other parties and shall promptly notify all parties and counsel, including but not limited to the Court Appointed Special Advocate, that the hearing has been continued.

All other requests for continuances shall state the reasons for the request and shall be filed with the clerk's office no later than 14 days before the hearing sought to be continued and served upon all other parties. If the reason for the continuance request is a conflict with another scheduled hearing, a copy of the scheduling notice of the other court shall be attached to the motion.

**RULE 17. SERVICEMEN'S CIVIL RELIEF ACT**

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

**RULE 18: SERVICE BY PUBLICATION**

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

**RULE 18.1: LANGUAGE SERVICES**

In any case in which an interpreter is needed, the party shall notify the Juvenile Court Clerk's Office as soon as possible, but no less than 10 days prior to any hearing or proceeding at which the services will be required, specifying the language needed.

Any person serving as counsel for any party, as GAL, or in any other official capacity on any case, who becomes aware that there is a need for interpretive services, shall notify the Court of that need immediately. In no instance shall the need for interpretive services be communicated to the court less than ten (10) days prior to the hearing or trial at which the interpreter is needed.

Certified, qualified, or language skilled interpreters shall be used in all hearings and ancillary proceedings in which a party or witness is non-English speaking or non-hearing. Interpreters shall be utilized in accordance with Superintendence Rules 80-89.



## **TITLE VI: PARENTAGE AND CHILD SUPPORT**

### **RULE 19: PARENTAGE ACTIONS**

#### **(A) Civil Rules Apply**

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

#### **(B) Commencement by Administrative Action**

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

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

#### **(C) Actions Involving Minors**

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

#### **(D) Genetic Testing**

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

#### **(E) Modification of Child Support Order**

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

#### **(F) Motions to Set Aside**

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

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

**RULE 20: COPY OF BIRTH CERTIFICATE REQUIRED**

A copy of the child's birth certificate shall be filed with Court upon request by the Magistrate or Judge presiding over such case.

**RULE 21: TELEPHONE EX PARTE ORDERS**

Such orders will be granted by the Judge or Magistrate upon oral motion by the office of the Prosecuting Attorney for ex parte telephone emergency orders made pursuant to R.C. 2151.31(D). If an ex parte order is made, the hearing on the order will be docketed the next business day or within 72 hours, whichever is sooner.

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

**RULE 22. COURT APPOINTED SPECIAL ADVOCATES**

**(A) Appointment.** A Court Appointed Special Advocate shall be appointed in every case alleging a child to be dependent, neglected, or abused. The following are eligible for appointment as Court Appointed Special Advocates for a child:

1. Attorneys eligible for appointment by the Court as counsel in juvenile court proceedings.
2. A person trained as a Guardian as Litem who is trained and supervised by the staff of this Court.
3. Any other person upon specific order of the court.

Once appointed, a guardian becomes a party to the case and is entitled to all rights and notices that are afforded any other party in an action. Guardians are entitled to complete and timely information regarding the child's whereabouts, residence and access to any and all medical, school, court or Department of Job and Family Services records.

**(B) Authority**

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

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

**(C) Responsibilities**

Court Appointed Special Advocates for children are required to do the following either personally or through the supervisor of the program.

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

**(D) Conflict**

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

Where a Court Appointed Special Advocate of a dependent, neglected child, or abused child discerns a conflict between the desires of the child and recommendations of the Court Appointed Special Advocate, the CASA shall notify the court of the child's desires and may request the court to appoint counsel for the child. Upon verification of the conflict, the court shall appoint an attorney for the child.

**(E) Termination of Appointment**

Though otherwise eligible, the court may deem any person ineligible for future appointment, or may remove any person as a Court Appointed Special Advocate for a child or party.

**RULE 23. INCARCERATED PARENTS**

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

If a parent is incarcerated within the Ohio Department of Rehabilitation and Correction, transportation will be arranged for a parent's appearance for proceedings regarding permanent termination of parental rights only upon motion filed not later than 14 days prior to the hearing and by signature of the magistrate and judge.

**RULE 24. WAIVER OF CASE COMPLETION REQUIREMENT**

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

**RULE 25. EXPEDITED HEARINGS**

A party requesting a hearing prior to the next scheduled hearing shall file a written request stating the reasons for the request, serve all parties, and submit the request to the clerk's office. If the request is granted, the party filing the request shall assure that the date selected accommodates the schedules of other parties.

**RULE 26. NOTICE OF CASE PLAN**

Whenever a party, including a public children service agency or private child placing agency, is required, pursuant to Revised Code 2151.412, to provide notice to a child's parents and Court Appointed Special Advocate regarding a case plan, notice shall also be given to the attorney representing the child's parents; or attorney appointed to represent the child.

**RULE 26.1. NOTICE OF HEARINGS TO FOSTER/KINSHIP CAREGIVERS AND THE RIGHT TO BE HEARD**

(A) In accordance with R.C. §2151.424, the Court will provide notice to foster caregivers and kinship caregivers of their right to attend hearings and the right to be heard concerning the child(ren) in their care.

(B) To facilitate the Court in fulfilling its duty to provide proper notice of hearings to foster caregivers and kinship caregivers a Child Placement Form (Appendix A) shall be completed by the Columbiana County Department of Job and Family Services and filed with the clerk the next business day following the initial placement or no later than seven (7) days after any change in placement of the child(ren).

(C) Information regarding the identity of and contact information for foster caregivers or kinship caregivers provided to assist the Court in fulfilling its duty to give notice under this rule is not accessible to the public, including to any party to a case. The Court shall maintain this information in its family file.

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

### **RULE 27. DIVERSION OF CASES**

After filing, the Court may divert to the unofficial docket a case of a child who has had no previous official charge and no previously diverted cases in the preceding two years. Diverted cases are heard by a Diversion officer and no official record results if the child admits to the charge and complies with the recommendations of the hearing officer. If the child denies the charge or does not comply with the recommendations, the case will be referred to the official docket for hearing. The office of the Prosecuting Attorney may also refer complaints to the court informal diversion docket prior to filing if the complaint is for a non-violent offense and the child has no prior charge within 2 years.

### **RULE 28. DETENTION HEARINGS**

Detention hearings are conducted at the Court facility Monday through Friday for children admitted to the detention center over the past 24 hours or on Monday morning for children admitted over the weekend. Alternate scheduling may be set to adjust for legal holidays.

### **RULE 29. RESTITUTION**

Restitution will be ordered during the dispositional phase of a case and upon a request for restitution as provided by the office of the prosecuting attorney. Restitution shall be paid in the form of a money order made payable to the victim and presented to court administrator who will then document the payment and forward the payment to the victim.

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

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

### **RULE 30. JUVENILE COMPETENCY**

The following rule shall control proceedings for determinations of a juvenile's competency in juvenile delinquency proceedings before the court.

1. In all juvenile delinquency proceedings, the court shall presume and consider all charged juveniles who are 14 years old or older to be competent to understand the nature and objective of the proceedings and/or to assist in his or her defense until and unless proven to be incompetent due to mental illness, intellectual disability, developmental disability, or a lack of mental capacity.

2. Upon the court's own motion, motion of the State or any party, the court may order hearing and evaluations for the assessment of a juvenile's competency.
3. Upon the action of the court or motion of any party for the determination of competency, the court shall do the following:
  - A. Order stay of the Delinquency proceedings.
  - B. Within 15 days the court shall with or without hearing make a determination of incompetency, or set a hearing for the determination of whether there is a reasonable basis to order competency evaluation of the Juvenile. If hearing is held the court shall rule on its determination of reasonable basis within 10 days following the hearing.
  - C. Make a finding of incompetency of the juvenile without hearing or evaluation if the prosecuting attorney, the child's attorney, and at least one of the Juvenile's parents, guardians or custodians, agree to the determination, or based upon a past determination that the child was incompetent and could not attain competency.
  - D. Appoint the Juvenile whose competence is in question an attorney if the child is indigent and cannot obtain counsel.
4. Upon stipulation of, or the court finding reasonable basis for competency evaluation, the court shall:
  - A. Order a competency evaluation of the juvenile by an evaluator who is qualified and who meets the criteria as proscribed by ORC 2152.54.
  - B. Order the Juvenile to cooperate in the evaluation and competency proceedings
  - C. Order the release and access of all relevant private and public records relating to the juvenile, including prior competency evaluations and reports from any prior delinquent child proceedings
  - D. Order the evaluator to complete the evaluation and submit a written report to the court as soon as possible but within 45 days of the order. (Authorize one extension of reasonable time for return of the written report for good cause shown)
5. Upon receipt of the Report of Competency Evaluation, the Court shall do the following:
  - A. Order the Report held by the court under seal but accessible for review by the prosecuting attorney, the child's attorney, the child's parents guardian or custodian, and court staff.
  - B. Upon the written objection by a party to the contents of the Report of Competency Evaluation, the court shall order an additional evaluation of the juvenile by a qualified evaluator be completed within 45 days. This re-evaluation shall be at the juvenile's expense unless the juvenile is indigent. If the juvenile is indigent the re-evaluation shall be at the court's expense.
  - C. Hold a hearing to determine the child's competence not less than 15 days but within 30 days after receipt of the Competency Report or re-evaluation report.

- D. Upon notice to all parties the court may contact the competency evaluator for clarification regarding the content of the report. All parties may participate in the conference.
6. At the hearing to determine competency, the court shall:
    - A. Admit the report of competency evaluation as the court's own exhibit after all parties have had an opportunity to cross-examine the evaluator regarding the contents of his or her report.
    - B. Make a ruling determining the juvenile's competency after all evidence including the Report of Determination of Competency, and the Court's own observations of the child's conduct and demeanor in the courtroom. The written ruling on competency should be entered on the Court's docket within 15 business days following the hearing but not later than 30 days.
  7. If the Juvenile is found by the court to be competent, then the court shall lift the previously ordered stay and proceed with the Delinquency proceedings.
  8. If the Juvenile is found by the court to be incompetent, then the court shall do each of the following:
    - A. Within 90 days the court shall dismiss the delinquency charge with prejudice unless the court also finds there is reason to believe that the juvenile may be able to attain competency within the time proscribed by ORC 2152.59 for the charged offense.
    - B. Refer the juvenile to the DJFS, children's services division for further referral or services.
    - C. Order the Juvenile to participate in competency attainment services, if the court finds that the child could likely attain competency.
    - D. Provide competency attainment service provider with a copy of the Report(s) of Competency Determination within 10 days of ordering competency attainment services.
  9. The Competency Attainment Service Provider shall:
    - A. Provide the court with a written report of the provider's plan to restore the juvenile to competency. All parties shall receive a copy of the provider's plan.
    - B. Submit a progress report to the court:
      1. every 30 days
      2. on termination of services,
      3. if the provider determines the child is not cooperating,
      4. if the provider determines that the current setting of treatment is not the least restrictive setting,
      5. when the child has achieved the plan goals,
      6. when the provider determines that the juvenile will not achieve the plan goals within the time period proscribed by ORC 2152.59

10. Upon receipt of the Competency Attainment Provider's report:

- A. The court shall make such orders as may be necessary and appropriate to address the progress or conditions reported by the provider.
- B. If the goals of the plan are achieved and the child has attained competency, then the court shall proceed with the Delinquency proceedings.

## **TITLE VIX: JUVENILE TRAFFIC AND TOBACCO OFFENSES**

### **RULE 31. JUVENILE TRAFFIC AND TOBACCO OFFENSES**

**(A) Traffic and Tobacco Violations.** Traffic and tobacco violations shall be forwarded to the Court by the police department issuing said violation.

**(B) Use of Electronically Produced Ticket.** The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Columbiana County Juvenile Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

**(C) Traffic Arraignments, Pre-trials and Trials.** Upon the filing of a uniform complaint, an arraignment shall be held. Traffic arraignments are typically held one Friday per month. Upon entering a denial at the arraignment, a pre-trial will be set as well as a trial, if necessary. All juveniles must appear with a parent or custodian at all hearings, even if the offender was a juvenile at the time of the offense but has since attained 18 years of age.

**(D) Traffic Violations Bureau.** Pursuant to Ohio Traffic Rule 13.1, the Court hereby establishes a Juvenile Traffic Violation Bureau to operate in the manner prescribed in Ohio Traffic Rules 13 and 13.1. The Juvenile Judge shall serve as violations clerk and shall appoint deputy clerks to conduct the business of said bureau as necessary.

Juvenile traffic offenses that may be disposed of by said violations bureau may include non-moving violations such as expired tags, seat belt violations, and other minor moving and non-moving violations at the discretion of the Court except:

1. An offense listed in Traffic Rule 13(B)(1) to (5) and (7) to (9);
2. A second or subsequent moving offense;
3. An offense that involves an accident; and,
4. A 16-year-old traffic violator who is within the first six months of receiving their driver's license.

Upon the filing of a uniform complaint determined to be subject to said violations bureau or a juvenile alleged to have violated the tobacco law pursuant to O.R.C. §2151.87, the Clerk may enclose with the notice of hearing another notice advising the alleged offender and their parents or guardians of the procedure for executing waiver of appearance in court, the entry of a plea of



admission in writing in lieu of appearance, the applicable fines and costs for their specific offense, notice of financial responsibility laws of Ohio, and the possible disposition of the proceeding.

If said minor enters an admission in writing to the allegations of the complaint and is able to present proof of financial responsibility required by O.R.C.§4509 and pay the applicable finds and court costs, said waiver shall constitute an admission to the violation and a waiver of the juvenile's rights to trial before the court, to cross-examine witnesses who appear against them, to subpoena witnesses on their behalf, to remain silent, and to appointed counsel.

If the child is unable to provide appropriate proof of financial responsibility required by O.R.C.§4509, the child is ineligible to participate in this waiver procedure and must appear before the Court for hearing and disposition.

If the child and parents or guardians avail themselves of this waiver privilege, they must do so in strict compliance with the written instructions and this rule.

**(E) Diversion Program.** At arraignment, if it appears:

1. That the alleged offender is a juvenile between the ages of 15 and 18 years at the time of the offense;
2. That this is the first traffic offense for the offender;
3. That the offense is minor, i.e. a violation involving the assessment of two or less points by the Bureau of Motor Vehicles, or;
4. That the offense is a speeding violation alleging a speed of less than 20 miles per hour above the speed limit, or;
5. That the offense does not allege operating a vehicle without an operator's license or operating without proper safety equipment, passing a school bus, or speeding in a school zone, or;
6. That the offense does not involve a traffic accident with another vehicle or a pedestrian;

then the Magistrate may determine that the citation is eligible for the Court's traffic diversion program. If the minor and parents or guardians choose to participate in this diversion program, then the minor will enter a plea of admission at arraignment which will be held in abeyance. Upon payment of any applicable court costs and completion of a Court approved First Time Offender's driving class, the citation will be dismissed. Failure to complete any aspect of the traffic diversion program in a timely manner will result in a disposition hearing being set and this Court proceeding on the admission previously held in abeyance.

**TITLE X: COURT SECURITY**

**RULE 32: USE OF CHILD RESTRAINTS DURING COURT HEARINGS**

Pursuant to Ohio Supreme Court Rules of Superintendence 5.01, the Columbiana 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) and any other factors the judge or magistrate deem appropriate in making the individualized determination to apply physical restraints during the hearing.
- (C) The judge or magistrate shall permit the child who is the subject of a juvenile court proceeding (by himself or herself or through counsel), the child's spouse, if any, the child's parent or parents; or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child's custodian, guardian or Court Appointed Special Advocate; 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 absence 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) Notwithstanding the express provisions of this Rule 32, nothing in this Rule shall be construed or applied as to infringe upon the inherent authority and duty of this Court to preserve or protect the safety of persons and to maintain order and decorum in all judicial proceedings.

## **TITLE XI: COURT TECHNOLOGY**

### **RULE 33: TECHNOLOGY PLAN**

In accordance with Superintendence Rule 5(E), the Court shall adopt and maintain a court technology plan which will include:

- (1) A comprehensive strategy for implementing and maintaining technology solutions for conducting remote hearings, electronic service, the acceptance of electronic signatures, and any other technology-related solution utilized by the court or division; and
- (2) Procedures for notifying and providing instructions to the public on how to use the technology solutions implemented by the court or division and how the solutions will comply with any accessibility accommodation requirements, including any applicable requirements of the “Americans with Disabilities Act.”

This plan will be available from the Juvenile Court Clerk’s Office and posted on the Court’s website at [www.ccjcourt.com](http://www.ccjcourt.com).

### **RULE 34: CERTIFIED MAIL**

The clerk of courts is authorized to use electronic return receipts from the United States Postal Service for certified mail service. Electronic proof of service for certified or express mail sent by the Court shall be deemed in compliance with the service requirements of the Ohio Civil Rules [including Civ.R. 4.1(2)]. The use of electronic return receipts is not mandatory.

### **RULE 35: ELECTRONIC FILING OF DOCUMENTS**

Electronic transmission to the court (via fax machine or e-mail) of pleadings, motions, and other papers shall not constitute filing until such time as the mechanism to accept such filings is completed. When the mechanism is available through the court’s case management software, notice will be provided to the Columbiana County Bar Association and posted on the court’s website at [www.ccjcourt.com](http://www.ccjcourt.com).

Upon the ability to accept e-filings pursuant to Civil Rule 5, the Court, in its discretion, may allow facsimile and electronic filings during regular business hours of the Court as set forth in Local Rule 2. Any documents received after regular business hours shall be deemed filed the following business days. All pleadings filed electronically are subject to the following:

- (A) All pleadings filed by facsimile or electronically must conform to the filing requirements outlined in Rule 5.
- (B) A document filed by facsimile or electronically shall be accepted as the effective original and shall be filed by the party or their attorney or record. All risks of transmission shall be borne by the sender.
- (C) Any signature on documents transmitted by facsimile or electronically shall be considered that of the attorney or party that it purports to be for all purposes. If it is established that the documents were transmitted without authority, the Court may order the filing stricken.

- (D) The filing date of any documents transmitted by facsimile or electronically during regular business hours shall be the time and date the document was received by the juvenile court's fax machine or court computer. Any documents received after regular business hours shall be deemed filed the following business day. Technological difficulties will not excuse late filings.
- (E) Any document filed by facsimile or electronically may be rejected by the Juvenile Court unless the filer has complied with the mechanism established by the Court for payment of filing fees.
- (F) Papers, pleadings, and other documents that are incomplete may be refused for filing or, if filed, may be stricken.
- (G) A Judgment Entry or Decision issued by the Judge or Magistrate may be signed manually or with an electronic signature. Electronic transmission of a document with an electronic signature by the Judge or Magistrate sent in compliance with the procedures adopted by this court shall be accepted as a filing for the document for all purposes of the *Ohio Rules of Civil Procedure*, the *Ohio Rules of Superintendence*, the *Ohio Rules of Juvenile Procedure*, and the Local Rules of this Court.

## **CASE MANAGEMENT PLAN**

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

### **I. DELINQUENCY, UNRULY, AND TRAFFIC CASES**

#### **A. Complaint Filed and Youth Held in Detention**

1. A detention hearing will be held not later than 72 hours, or the next court day, whichever is earlier, after a child is placed in detention. [Juv. R. 7(F)(1)].
2. Within 10 days an arraignment or a Rule 30 relinquishment of jurisdiction hearing will be held.
3. If the child admits the charges or is adjudicated after a trial, the court may proceed to a dispositional hearing immediately, or if appropriate, a separate dispositional hearing will be scheduled depending upon the recommendations made at the time of adjudication. Final disposition for any child in detention will be completed within 90 days of entering the detention facility.
4. If the charge was filed at the same time the child entered detention and the child denies the allegations, a trial will be held no later than 15 days after placement in detention. If the child is detained after the charge is filed, the trial will be held no later than 15 days after placement in detention. If a charge is filed and the child is already detained on other charges, the trial will be held within 15 days of the filing of the charge.
5. Continuances of any of the above stages may be granted upon showing of good cause, but the continuances should be no longer than the period necessary to resolve the good cause.
6. Final disposition for any child in detention will be completed within 90 days of the child's entering into custody.

#### **B. Complaint Filed and Child Not in Detention**

1. An arraignment will be held within 30 days of a complaint being filed, and if possible, within 15 days.
2. If the child admits to charge, the court may proceed to immediate disposition. Otherwise, a dispositional hearing will be held upon receipt of all pertinent information.
3. If the child denies the allegations, an adjudicatory hearing will be held within 30 days of the arraignment, and if possible, within 15 days.

4. Final disposition will be completed within 6 months of the adjudication [Juv. R. 29 (F)(2)].
5. Continuances of any of the above stages may be granted upon showing of good cause, but continuances should be for no longer than the period necessary to resolve the good cause.

## **II. PARENTAGE AND CHILD SUPPORT CASES**

- A. Service of process will be sent within 72 hours of the filing of the complaint.
  1. A hearing will be scheduled no sooner than six (6) weeks from the date of filing of the complaint to allow for completion of service on the parties.
  2. At the pretrial hearing, if the court finds that the defendant was properly served and that the defendant failed to file an answer and failed to appear at the hearing, the court may grant an oral motion to proceed with a default judgment.
  3. If defendant admits allegations, the court will proceed immediately to determination of a support order.
  4. If a defendant denies the allegations, the court, at the pretrial hearing, will set the date for genetic testing. The date of the testing will be within 21 days of the pretrial hearing. The next pretrial will be within 60 days of the testing date.
  5. If genetic tests show exclusion, the court may entertain a motion to dismiss.
  6. If genetic tests show inclusion:
    - a. If defendant changes plea to admit, the Court will proceed immediately to determination of a support order;
    - b. If defendant continues to deny, a trial will be held within 30 days.
  7. If service of the complaint is not completed within 6 months of filing, the complaint will be dismissed for lack of service.
  8. Continuances may be granted upon showing of good cause, but the continuances should be for no longer than is necessary to resolve the good cause.

## **III. CUSTODY AND PARENTING TIME CASES**

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

- D. All custody/visitation complaints will be resolved within 9 months of the filing of the complaint.

**IV. ABUSE, NEGLECT, AND DEPENDENCY CASES**

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

**V. TEMPORARY ORDERS**

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

## **JURY MANAGEMENT PLAN**

### **I. OPPORTUNITY FOR SERVICE**

The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in this jurisdiction.

### **II. JURY SOURCE LIST**

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

### **III. RANDOM SELECTION PROCEDURES**

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

### **IV. ELIGIBILITY FOR SERVICE**

- A. All persons are eligible for jury service except those who:
  - 1. Are less than 18 years of age.
  - 2. Are not citizens of the United States.
  - 3. Are not residents of Columbiana County.
  - 4. Are not able to communicate in the English language.
  - 5. Have been convicted of a felony and not had their civil rights restored.
- B. The Columbiana County jury commissioner or deputy jury commissioner is responsible for notification of prospective jurors as set forth in Rules of Practice of the Columbiana County Court of Common Pleas General Division.



**V. TERM OF AND AVAILABILITY OF JURY SERVICE**

- A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
- B. Jurors for juvenile court cases are to report to the Juvenile Court facility located at 260 West Lincoln Way Lisbon, Ohio.
- C. The juvenile judge's staff or the juvenile court administrator shall communicate with the jury commissioner to determine the availability of jurors as is needed on a case by case basis.

**VI. EXEMPTION, EXCUSE AND DEFERRAL**

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

**VII. VOIR DIRE**

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

## **VIII. REMOVAL OF THE JURY PANEL FOR CAUSE**

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual shall be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

## **IX. PEREMPTORY CHALLENGES**

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

## **X. ADMINISTRATION OF THE JURY SYSTEM**

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

## **XI. NOTIFICATION AND SUMMONING PROCEDURES**

Procedures governing notification and summoning of jurors are set forth in the Rules of Practice of the Columbiana County Court of Common Pleas General Division and are administered by the jury commissioner.

## **XII. MONITORING THE JURY SYSTEM**

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

## **XIII. JUROR USE**

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

**XIV. JURY FACILITIES**

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

**XV. JUROR COMPENSATION**

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

**XVI. JUROR ORIENTATION AND INSTRUCTION**

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

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

## **XVII. JURY SIZE AND UNANIMITY OF VERDICT**

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

## **XVIII. JURY DELIBERATION**

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

## **XIX. SEQUESTRATION OF JURORS**

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

### **APPENDIX A.**

**TO RULE 26.1 FOR FOSTER CAREGIVER/RELATIVE/KINSHIP CAREGIVER NOTICE**

**NON-PUBLIC: INTENDED FOR COURT PERSONNEL ONLY**

**Information contained in this form must not be made available to the public or any party.**

**CHILD PLACEMENT FORM**

**In re:** \_\_\_\_\_  
(Full Name)

**Case No.:** \_\_\_\_\_

**D.O.B.** \_\_\_\_\_

**Magistrate/Judge:** \_\_\_\_\_

- The above captioned child has been placed with the Foster Caregiver or Kinship Caregiver listed below and this caregiver should be provided with notice of future hearings in compliance with R.C. §2151.424. Any previous Foster Caregiver or Kinship Caregiver should no longer be provided with notice of hearings.
- The above captioned child is no longer placed with a Foster Caregiver or Kinship Caregiver and therefore any previous Foster Caregiver or Kinship Caregiver should no longer be provided with notice of hearings in compliance with R.C. §2151.424.

Caregiver Name: \_\_\_\_\_

- Foster
- Kinship

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Placement Information Provided by: \_\_\_\_\_

Date Information Provided: \_\_\_\_\_

***This form shall be completed or updated and submitted to the Clerk's Office the next business day following the initial placement or no later than 7 days after any change in placement of the above captioned youth.***