

THE SUPREME COURT *of* OHIO



Desktop Guide for Juvenile Court Clerks

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## Desktop Guide for Juvenile Court Clerks



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## **Table of Contents**

- i. Introduction
- ii. Acknowledgments

### **Best Practices**

- 1. Creation and Establishment of Juvenile Courts
  - 2. Functions and Duties of Clerk's Office
  - 3. Assignment of Visiting Judges
  - 4. Jurisdiction
  - 5. Juvenile Judge as Clerk of His/Her Own Court
  - 6. Magistrates
  - 7. Employees, Compensation and Bond
  - 8. Fees and Costs
  - 9. Bonds
  - 10. Data Entry and Assignment of Case Numbers
  - 11. Complaints
  - 12. Tobacco Law and Violations
  - 13. Filings
  - 14. Motions
  - 15. Hearings: Time and Notice
  - 16. Temporary Orders
  - 17. Voluntary Surrender of Custody Actions
  - 18. Service
  - 19. Time Guidelines
  - 20. Records
  - 21. Expunging and Sealing of Juvenile Records
  - 22. Reports and Information
  - 23. Court Appointments
  - 24. Controlling the Docket
  - 25. Jury Trials
  - 26. Juvenile Traffic Cases
  - 27. Fiscal Management
  - 28. Appellate Procedure
  - 29. New Legislation Applicable to Juvenile Courts
  - 30. Sex Offender and Child-Victim Registration and Notification
  - 31. Court's Relationships with Other Agencies
  - 32. Website
  - 33. Exhibits and Evidence
  - 34. Abortion Consent – Unmarried Minors
  - 35. Consent to Marry
  - 36. Power of Attorney/Caretaker Affidavit
  - 37. Interpreter Services
- R. References
- A. Appendix A: Court Performance Standards
  - B. Appendix B: Reporting Requirements
  - C. Appendix C: Court Phone and Fax Numbers
  - D. Appendix D: Other Useful Websites
  - E. Appendix E: Forms
  - F. Appendix F: Glossary
  - G. Appendix G: Acronyms and Commonly Used Phrases
  - H. Appendix H: Interpreter Services Bench Card
  - I. Index

## Introduction

*“It is important to acknowledge that there is not one best practice for all courts. The size of the court, the geographic area the court serves, and the demographics of the community are some of the things which might impact the best practices of a court.”*

*—Washington State Commission on Justice*

It is difficult to come up with one best practice for all courts across the state of Ohio. With that in mind, this manual was created based not only on statutes and rules that clerks need to be aware of, but also on the ideas of knowledgeable juvenile clerks from different counties throughout Ohio. While judges have final discretion, we believe the recommendations in this manual will help juvenile courts from across the state develop practices and procedures that work. At the very least, we hope this manual will serve as a starting point from which juvenile clerks can implement practices and procedures that are most effective for them.

Additional training for court personnel is provided free of charge through The Supreme Court of Ohio’s Judicial College. Training brochures are regularly mailed to courts; or the training calendar may be accessed at The Supreme Court of Ohio’s website under “Judicial College” (Reference 1).

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## 1. Creation and Establishment

## 1. Creation and Establishment of Juvenile Courts

The first juvenile court was established in 1899 in Cook County, Illinois, and during the early part of the 20<sup>th</sup> century, the establishment of juvenile courts spread rapidly (see Reference 2). States began realizing that they needed specialized tribunals to deal with problems that were created by the truancy and child labor laws around the turn of the century and that juvenile courts were the answer (id).

The Cuyahoga County Juvenile Court was the first juvenile court in Ohio and was established in 1902. Article IV, Section 1, of the Ohio Constitution established the Ohio courts of common pleas. Section 2151.07 of the Ohio Revised Code states that the juvenile court is a court of record within the court of common pleas. Depending upon the county in Ohio, the juvenile court can be a separate division from or part of the family, probate, or domestic relations court. The division or separation is created by statute. The juvenile court usually has jurisdiction over various case types including: abortion consent; abused, neglected, and dependent children; unruly and delinquent children; and traffic offenders under the age of eighteen. The juvenile court may also have jurisdiction over matters involving parentage, custody of children, child support and visitation, consent to marry, adults charged with contributing to the delinquency, neglect, and unruliness of children, failure to send a child to school and child endangering.

The judge of juvenile court is directly responsible for the functioning of the juvenile court (see Reference 3). The Ohio Revised Code § 2151.12 is the authority that establishes that the juvenile judge is his/her own clerk of court. This section also outlines the requirements for the division of domestic relations or juvenile division to designate the clerk of common pleas to keep the records of the juvenile court.

If, in a division of domestic relations of a court of common pleas that exercises the powers and jurisdiction conferred in Chapters 2151 and 2152 of the Revised Code, the judge of the division, both judges in a two-judge division, or a majority of the judges in a division with three or more judges and the clerk of the court of common pleas agree in an agreement that is signed by the agreeing judge or judges and the clerk and entered into formally in the journal of the court, the clerk of courts of common pleas shall keep the records filed with the court pursuant to Chapter 2151 or 2152 of the Revised Code or pursuant to any other section of the Revised Code that requires documents to be filed with a juvenile judge or a juvenile court (O.R.C. § 2151.12).

Whenever the juvenile judge, or a majority of the juvenile judges of a multi-judge juvenile division, of a court of common pleas, juvenile division, and the clerk of the court of common pleas agree in an agreement that is signed by the judge and the clerk and entered formally in the journal of the court, the clerks of courts of common pleas shall keep the records of those courts (O.R.C. § 2151.12).

In all other cases, the juvenile judge shall be the clerk of the judge's own court (O.R.C. § 2151.12). However, judges rarely have time to perform the necessary administrative duties because the judge has a number of other responsibilities including conducting hearings, trials, and dispositions. Therefore, the judge usually appoints *ex officio* a deputy clerk of courts to ensure that the administrative duties central to the functioning of the court system are carried out in a timely fashion. This manual is designed to help clerks understand and

carry out their duties and responsibilities in accordance with the applicable statutes and rules that govern the juvenile court systems in Ohio.



## **2. Functions and Duties of Clerk's Office**

Generally, the clerk has a wide range of administrative duties that vary from state to state and county to county. The list may include, but is not limited to:

1. filing documents;
2. handling the court docket;
3. disbursing funds;
4. receiving payments for fines, court costs and restitution;
5. supervising the processing of fines and forfeitures;
6. maintaining records;
7. responding to requests for information;
8. processing required reports and information that reflect case management



### 3. Assignment of Visiting Judges

Ohio law vests the Chief Justice of the Supreme Court with the authority to assign visiting judges (O Const. art. IV, § 5(A)(3) and O Const. art. IV, § 6(C)). Generally, illness or other emergencies, disqualification, reasonable vacations, and overburdened dockets give rise to the need for the assignment of a visiting judge.

Before requesting a visiting judge, the local court of common pleas shall attempt to resolve the need for a visiting judge by first looking within its ranks. The first step in that process shall be conducted by the administrative judge of the division needing assistance. The administrative judge is vested with the authority to assign cases to other judges of that judge's division. In the event that the other judge(s) of that division, or the judge of a single judge division, is unable to hear the case, the administrative judge shall request the presiding judge of the court of common pleas to assign a judge from another division of that court to the case (Sup. R. 3 and Sup. R. 4; see also O.R.C. § 2151.07).

The presiding judge of the court of common pleas is vested with the authority to assign cases to other judges of that court (Sup. R. 3). In the event that no judges of the court of common pleas in which the case is pending are available to hear the case, the administrative judge of the division may request the Chief Justice of the Supreme Court to assign a visiting judge. To request a visiting judge, the administrative judge of the division shall make a written request to the Chief Justice on behalf of the division or any of its judges (Guidelines for Assignment of Judges, Guideline 4). The request shall state the reason the court requires the assistance of an assigned judge and whether the assignment shall be for one or more specific cases (and provide the case style and number) or for a specific period of time (a "blanket assignment") (Guidelines for Assignment of Judges, Guideline 4). In the event of a blanket assignment, the administrative judge is free to assign entire cases, or only specific proceedings in cases, to the visiting judge, at the pleasure of the administrative judge.

Except in instances where the requesting administrative judge recuses herself or himself, the requesting administrative judge is encouraged to locate an available and consenting visiting judge and suggest the name of that judge to the Chief Justice in the request.

The Chief Justice shall review the request and, if appropriate, the Chief Justice will assign a visiting judge. In blanket assignments, the Chief Justice will assign a sitting judge for a period no longer than six months and a retired judge for a period no longer than three months (Guidelines for Assignment of Judges, Guideline 2).

In the case of specific assignments, the assignment shall continue until the conclusion of the case, including any post-judgment proceedings, unless and until the case is reassigned (Guidelines for Assignment of Judges, Guideline 11).

Retired assigned judges are compensated for their time by the Supreme Court, but reimbursed for their expenses by the county court to which they were assigned (O Const. art. IV § 6(C) and Guidelines for Assignment of Judges, Guideline 14). Sitting judges shall receive compensation and be reimbursed for their expenses by the county court to which they were assigned (O.R.C. § 141.07). See also O.R.C. § 2151.07.



## 4. Jurisdiction

Pursuant to section 2151.23 of the Ohio Revised Code, the juvenile court has exclusive original jurisdiction as follows:

1. Concerning any child who on or about the date specified in the complaint, indictment, or information is alleged to have violated section 2151.87 of the O.R.C. or an order issued under that section or to be a juvenile traffic offender or a delinquent, unruly, abused, neglected, or dependent child and, based on and in relation to the allegation pertaining to the child, concerning the parent, guardian, or other person having care of a child who is alleged to be an unruly or delinquent child for being a habitual or chronic truant (O.R.C. § 2151.23(A)(1));
2. Subject to division (V) of section 2301.03 of the O.R.C., to determine the custody of any child not a ward of another court of this state (O.R.C. § 2151(A)(2));
3. To hear and determine any application for a writ of habeas corpus involving the custody of a child (O.R.C. § 2151(A)(3));
4. To exercise the powers and jurisdiction given the probate division of the court of common pleas in Chapter 5122 of the O.R.C., if the court has probable cause to believe that a child otherwise within the jurisdiction of the court is a mentally ill person subject to hospitalization by court order, as defined in section 5122.01 of the O.R.C. (O.R.C. § 2151.23(A)(4));
5. To hear and determine all criminal cases charging adults with the violation of any section of this chapter (O.R.C. § 2151.23(A)(5));
6. To hear and determine all criminal cases in which an adult is charged with a violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, section 2919.222[2919.22.2], division (B) of section 2919.23, or section 2919.24 of the O.R.C., provided the charge is not included in an indictment that also charges the alleged adult offender with the commission of a felony arising out of the same actions that are the basis of the alleged violation of division (C) of section 2919.21, division (B)(1) of section 2919.22, section 2919.23, or section 2919.24 of the O.R.C. (O.R.C. § 2151.23(A)(6));
7. Under the interstate compact on juveniles in section 2151.56 of the O.R.C. (O.R.C. § 2151.23(A)(7));
8. Concerning any child who is to be taken into custody pursuant to section 2151.31 of the O.R.C., upon being notified of the intent to take the child into custody and the reasons for taking the child into custody (O.R.C. § 2151.23(A)(8));
9. To hear and determine requests for the extension of temporary custody agreements, and requests for court approval of permanent custody agreements that are filed pursuant to section 5103.15 of the O.R.C. (O.R.C. § 2151.23(A)(9));
10. To hear and determine applications for consent to marry pursuant to section 3101.04 of the O.R.C. (O.R.C. § 2151.23(A)(10));
11. Subject to division (V) of section 2301.03 of the O.R.C., to hear and determine a request for an order for the support of any child if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic violence, or an action for support brought under Chapter 3115 of the O.R.C. (O.R.C. § 2151.23(A)(11));
12. Concerning an action commenced under section 121.38 of the O.R.C. (Resolution of agency disputes concerning services or funding) (O.R.C. § 2151.23(A)(12));

13. To hear and determine violations of section 3321.38 of the O.R.C. (Failure to send child to school) (O.R.C. § 2151.23(A)(13));
14. To exercise jurisdiction and authority over the parent, guardian, or other person having care of a child alleged to be a delinquent child, unruly child, or juvenile traffic offender, based on and in relation to the allegation pertaining to the child (O.R.C. § 2151.23(A)(14));
15. To conduct the hearings, and to make the determinations, adjudications, and orders authorized or required under sections 2152.82 to 2152.85 and Chapter 2950 of the O.R.C. regarding a child who has been adjudicated a delinquent child and to refer the duties conferred upon the juvenile court judge under sections 2152.82 to 2152.85 and Chapter 2950 of the Ohio Revised Code to magistrates appointed by the juvenile court judge in accordance with Juvenile Rule 40 (O.R.C. § 2151.23(A)(15)).

Except as provided in division (I) of section 2301.03 of the O.R.C., the juvenile court has original jurisdiction under the O.R.C.:

1. To hear and determine all cases of misdemeanors charging adults with any act or omission with respect to any child, which act or omission is a violation of any state law or any municipal ordinance (O.R.C. § 2151.23(B)(1));
2. To determine the paternity of any child alleged to have been born out of wedlock pursuant to section 3111.01 to 3111.18 of the O.R.C. (O.R.C. § 2151.23(B)(2));
3. Under the uniform interstate family support act in Chapter 3115 of the O.R.C. (O.R.C. § 2151.23(B)(3));
4. To hear and determine an application for an order for the support of any child, if the child is not a ward of another court of this state (O.R.C. § 2151.23(B)(4));
5. To hear and determine an action commenced under section 3111.28 of the O.R.C. (action to rescind paternity acknowledgment based on fraud, duress or material mistake of fact) (O.R.C. § 2151.23(B)(5));
6. To hear and determine a motion filed under section 3119.961 [3119.96.1] of the O.R.C. (filing of motion for relief from paternity determination or support order; transfer of action) (O.R.C. § 2151.23(B)(6));

The juvenile court, unless it is a separate division of the court of common pleas or an independent juvenile court, has jurisdiction to hear, determine, and to make a record of any divorce or legal separation action that involves the custody or care of children and that is filed and certified by the court of common pleas with all the papers filed in the action to the juvenile court for trial, provided no certification of that nature shall be made to any juvenile court unless the juvenile judge first consents (O.R.C. § 2151.23(C)). After certification and consent is given, the juvenile court shall proceed as if the action had originally been brought in that court, except spousal support or support past due at the time of certification, over which the juvenile court has no jurisdiction (O.R.C. § 2151.23(C)). The juvenile court has jurisdiction to hear and determine all matters regarding support and custody of children duly certified by the court of common pleas to the juvenile court after a divorce decree has been granted with the exception provided in division (I) of section 2301.03 of the O.R.C. (O.R.C. § 2151.23(D)). This jurisdiction extends to the modification of judgment and decrees of the court of common pleas as they relate to the support and custody of children (O.R.C. § 2151.23(D)).

With the exception of division (I) of section 2301.03 of the O.R.C., the juvenile court has jurisdiction to hear and determine the case of any child certified to the court by any court of competent jurisdiction if the child otherwise comes within the jurisdiction of the juvenile court (O.R.C. § 2151.23(E)).

The juvenile court shall exercise its jurisdiction in child custody matters in accordance with sections 3109.04, 3109.21 to 3109.36, and 5103.20 to 5103.28 and in accordance with section 3109.05 of the O.R.C., if the matter concerns child support (O.R.C. § 2151.23(F)).

If a juvenile court makes or modifies an order for child support, it shall comply with Chapters 3119, 3121, 3123, and 3125 of the O.R.C. (O.R.C. § 2151.23(G)). If any person required to pay child support under an order made by a juvenile court on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the court that makes the finding, in addition to any other penalty or remedy imposed, shall assess all court costs arising out of the contempt proceeding against the person and require the person to pay any reasonable attorney's fees of any adverse party, as determined by the court, that arose in relation to the act of contempt (O.R.C. § 2151.23(G)).

If a child that was fourteen to eighteen years old is charged with an act that would be an offense if committed by an adult at the time the of the alleged act, and if the case is transferred pursuant to O.R.C. § 2152.12 for criminal prosecution, the juvenile court does not have jurisdiction to hear or determine the case after it has been transferred (O.R.C. § 2151.23(H)). The court to which the case is transferred has jurisdiction to hear and determine the case in the same manner as if the case had originally been brought to that court, including jurisdiction to accept a plea or verdict and to enter a conviction judgment under the Rules of Criminal Procedure against the child for the commission of the offense that was the basis of the transfer, whether the conviction is for the same or a lesser degree of the offense charged, for the commission of a lesser-included offense, or for the commission of another offense (O.R.C. § 2151.23(H)).

If a person under eighteen allegedly commits an act that would be a felony if committed by an adult and if the person is not taken into custody or apprehended until after the person reaches twenty-one, the juvenile court does not have jurisdiction to hear or determine any portion of the case charging the person with committing the act (O.R.C. § 2151.23(I)).



## **5. Juvenile Judge as Clerk of His/Her Own Court**

Pursuant to O.R.C. § 2151.12, the juvenile judge is the clerk of the judge's own court unless the judge or a majority of the judges of a multi-judge juvenile division signs an agreement with the clerk of the court of common pleas that the clerk of court of common pleas will keep the records of the court and the agreement is formally entered in the journal of the court.

In counties in which the judge is the clerk of the judge's own court, before entering upon the duties of office as the clerk, the judge must execute and file with the county treasurer a bond in an amount that is determined by the board of county commissioners, with sufficient surety to be approved by the board, conditioned for the faithful performance of duties as clerk (O.R.C. § 2151.12). The bond is to be given for the benefit of the state, county, or any person who suffers loss by reason of a default in any conditions of the bond (O.R.C. § 2151.12).



## 6. Magistrates

The court may appoint one or more magistrates pursuant to Rule 40 of the Ohio Rules of Juvenile Procedure. Magistrates first appointed on or after July 1, 2001 must be attorneys admitted to practice in Ohio (O.R.J.P. 40(A)). The court shall not appoint any person who has contemporaneous responsibility for working with, or supervising the behavior of, children who are subject to dispositional orders of the appointing court or any other juvenile court as magistrate (id). The court by order can refer any of the following to a magistrate: (1) pretrial or post-judgment motion or proceeding in any case, except a case involving the determination of a child's status as a serious youthful offender (O.R.J.P. 40(C)(1)(a)(i)); (2) the trial of any case not to be tried to a jury, except the adjudication of a case against an alleged serious youthful offender (O.R.J.P. 40(C)(1)(a)(ii)); (3) upon the unanimous written consent of the parties, the trial of any case to be tried to a jury, except the adjudication of a case against an alleged serious youthful offender (O.R.J.P. 40(C)(1)(a)(iii)).

O.R.C. § 2151.85(B)(1) prohibits the court from referring any portion of a abortion consent hearing to a "referee". The statute was enacted in 1986 and has not been amended to change referee to magistrate.

The magistrate shall regulate all proceedings in every hearing as if by the court and do all acts and take all measures that are necessary or proper for the efficient performance of the magistrate's duties under the order (O.R.J.P. 40(C)(2)). The magistrate may: (1) issue subpoenas for the attendance of witnesses and the production of evidence (O.R.J.P. 40(C)(2)(a)); (2) Rule upon the admissibility of evidence, unless otherwise directed by the order of reference (O.R.J.P. 40(C)(2)(b)); (3) Put witnesses under oath and examine them (O.R.J.P. 40(C)(2)(c)); (4) Call the parties to the action and examine them under oath (O.R.J.P. 40(C)(2)(d)); (5) In cases involving direct or indirect contempt of court, when necessary to obtain the alleged contemnor's presence for hearing, issue an attachment for the alleged contemnor and set bail to secure the alleged contemnor's appearance (O.R.J.P. 40(C)(2)(e)).

Pursuant to Rule 40(C)(3)(a), unless otherwise specified in the order of reference, the magistrate may enter orders effective without judicial approval in the following situations:

1. Appointment of an attorney or guardian *ad litem*;
2. Taking a child into custody;
3. Detention hearings;
4. Temporary orders;
5. Extension of temporary orders;
6. Summons and warrants;
7. Preliminary conferences;
8. Continuances;
9. Deposition orders;
10. Orders for social histories and physical and mental examinations;
11. Other orders necessary to regulate the proceedings;

A person may appeal from any interim order given by a magistrate within ten days of the order by filing a motion to set the order aside, stating the objections with particularity (O.R.J.P. 40(C)(3)(b)).

If the magistrate finds a person in contempt, he/she may impose appropriate sanctions by a written order that states the facts and certifies that the magistrate saw or heard the conduct that constitutes contempt (O.R.J.P. 40(C)(3)(c)). The order must be filed and a copy provided by the clerk to the appropriate judge of the court (id). The person found in contempt can make a motion to obtain immediate review of the order by a judge, or the judge or magistrate may set bail pending the review (id).

All orders of a magistrate must be in writing, signed by the magistrate, identified as a magistrate's order in the caption, filed with the clerk, and served on all parties or their attorneys (O.R.J.P. 40(C)(3)(e)). Local rule may require the objection to include a copy of the order under objection.

A magistrate promptly shall conduct all proceedings necessary for decision and then prepare, sign, and file the decision with the clerk, who shall serve copies on all parties or their counsel (id). All objections to the decision must be filed within fourteen days of the filing of the decision (O.R.J.P. 40(E)(3)(a)). If any party files an objection within the fourteen-day period, an additional ten-day period is given for other parties to file an objection (id). Local rule may require the objection to include a copy of the order under objection.

The magistrate's decision will be effective when adopted by the court as noted in the journal record (O.R.J.P. 40(E)(4)(a)). The court may adopt a magistrate's decision and enter judgment without waiting for timely objections, but the filing of timely written objections operates as an automatic stay of execution of judgment until the court disposes of the objections and vacates, modifies, or adheres to the judgment (O.R.J.P. 40(E)(4)(c)). The court may make an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified (id). An interim order must not extend more than twenty-eight days from the date of its entry, unless within that time and for good cause shown, the court extends the interim order for an additional twenty-eight days (id).



## **7. Employees, Compensation, and Bond**

O.R.C. § 2151.13 is the authority that gives the juvenile judge the power to appoint any bailiffs, probation officers, or other employees that are necessary; and the judge may designate their titles, and fix their duties, compensation, and expense allowances. The juvenile court can authorize a deputy clerk to administer oaths when necessary in the discharge of his/her duties by making an entry on its journal (O.R.C. § 2151.13). The compensation and expenses of court employees and the judge's salary and expenses are to be paid in semimonthly installments by the county treasurer from the money appropriated for the operation of the court, upon the warrant of the county auditor, certified to by the judge (O.R.C. § 2151.13). The judge can require an employee to give bond in an amount of one thousand dollars or more, conditioned for the honest and faithful performance of his/her duties (O.R.C. § 2151.13). The sureties on such bonds are to be approved in the manner prescribed in section 2151.12 of the O.R.C. If the judge requires a bond from an employee, the judge will not be personally liable for the default, misfeasance, or nonfeasance of that employee (O.R.C. § 2151.13).

The Chief Deputy Clerk should be involved in the hiring of deputy clerks. (See Reference 4.)



## 8. Fees and Costs

The juvenile court shall assess and collect the same fees as are allowed the clerk of the court of common pleas for similar services (O.R.C. § 2151.54). No fees or costs shall be assessed in cases of delinquent, unruly, dependent, abused, or neglected children except as required by section 2743.70 or 2949.091 of the O.R.C. or when specifically ordered by the court (id).

When a jury is called, in addition to standard court costs that type of case would incur and by the authority of Ohio Revised Code, a court shall also assess a fee for calling a jury in each cause (O.R.C. § 2303.20). If a jury has been sworn, the fees paid for seated and non-seated jurors shall also be assessed as costs (O.R.C. § 2947.23).

The expense of transportation of children to places to which they have been committed, and the transportation of children to and from another state by police or other officers, acting upon order of the court, shall be paid from the county treasury upon specifically itemized vouchers certified to by the judge (id). If a child is adjudicated to be a delinquent child or a juvenile traffic offender and the juvenile court is required by other sections of the O.R.C. to impose a specified sum of money as court costs in addition to other court costs required or permitted by law to impose, the court shall not waive the payment of the additional court costs that the section of the O.R.C. requires the court to impose unless the court determines that the child is indigent and the court either waives the payment of all court costs or enters an order in its journal stating that no court costs are to be assessed in the case (id).

### ***Expense for summons, warrants, citation, subpoenas, and other writs***

When a summons, warrant, citation, or other writ [to appear as a witness] is issued for a sheriff, marshal, constable, or police officer, the expense in serving the same is to be paid by the county, township, or municipal corporation in the manner prescribed for the payment of sheriffs, deputies, assistants, and other employees (O.R.C. § 2151.19).

### ***Expenses pursuant to order of the Juvenile Court***

Any expenses ordered by the juvenile court for the care, support, maintenance, education, orthopedic, medical, or surgical treatment, or special care of a dependent, neglected, abused, unruly, or delinquent child or of a juvenile traffic offender, except the part of the expense that the state or federal government, parents, guardians, or person charged with the child's support pays, shall be paid from the county treasurer upon specifically itemized vouchers, certified by the judge (O.R.C. § 2151.36). The court is not responsible for expenses resulting from the commitment of children to any home, public children services agency, private child placing agency, or other agency, association, or institution, unless the court authorized the expenses at the time of the commitment (id).

If the court subjects any person to be subject to a physical or mental examination, the compensation of physicians, psychologists, and psychiatrists and the expenses of the examinations are to be paid by the county treasurer upon specifically itemized vouchers, certified by the judge (O.R.C. § 2151.53).

***Additional fees the Juvenile Court may charge***

If the juvenile judge determines that for the efficient operation of the juvenile court, additional funds are required to computerize the court, to make available computerized legal research services, or both, the judge shall (a) if he/she is clerk of the court, charge one additional fee not to exceed three dollars on the filing of each cause of action or appeal, or (b) if the clerk of the court of common pleas serves as the clerk of the juvenile court, authorize and direct the clerk to charge one additional fee of not more than three dollars on the filing of each cause of action or appeal (O.R.C. § 2151.541(A)(1)). All money collected must be paid to the county treasurer, who will place the money in a separate fund to be disbursed, upon an order of the juvenile judge, in an amount no greater than the actual cost to the court of producing and maintaining computerization of the court, computerized legal research services, or both (O.R.C. § 2151.541(A)(2)). If the court determines the funds are more than sufficient, the court can declare a surplus in the fund and expend surplus funds for other appropriate technological expenses of the court (O.R.C. § 2151.541(A)(3)).

If the juvenile judge is the clerk of the juvenile court, he/she may determine that additional funds are required to computerize the clerk's office, and upon the determination, he/she may charge an additional fee of not more than ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under O.R.C. sections 2303.20(A),(P),(Q),(T), and (U). All moneys must be paid to the county treasurer to be disbursed upon order of the juvenile judge and subject to appropriation by the board of county commissioners, in an amount not greater than the actual cost to the juvenile court of procuring and maintaining computer systems for the clerk's office (O.R.C. § 2151.541(B)(1)). If the juvenile judge determines that these additional funds are needed for the efficient operation of his/her court, the board of county commissioners may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the juvenile court (O.R.C. § 2151.541(B)(2)). The moneys additionally may be expended to pay debt charges on and financing costs related to any general obligation bonds issued as they become due (id).

The court of common pleas may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession (O.R.C. § 2303.201(E)(1)).

If a court issues an order pursuant to O.R.C. § 3109.052 requiring mediation, it also may order the parents to file a mediation report within a specified period of time and order the parents to pay the cost of mediation, unless either or both of the parents file a motion requesting that the court waive that requirement. Upon the filing of a motion requesting the waiver of that requirement, the court, for good cause shown, may waive the requirement that either or both parents pay the cost of mediation or may require one of the parents to

pay the entire cost of mediation. Any mediation procedures adopted by local court rule for use under the division shall include, but are not limited to, provisions establishing qualifications for mediators establishing standards for the conduct of the mediation.

Pursuant to O.R.C. § 3109.053 “...in any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, the court may require, by rule or otherwise, that the parents attend classes on parenting or other related issues or obtain counseling, before the court issues an order allocating the parental rights and responsibilities for the care of the minor children...If a court in any proceeding requires parents to attend classes on parenting or other related issues or to obtain counseling, the court may require that the parents’ children attend the classes or counseling with the parents. If the court orders the parents to attend classes or obtain counseling, the court shall impose the cost of the classes and counseling and may allocate the costs between, the parents, except that if the court determines that both parents are indigent, the court shall not impose the cost of the classes or counseling on the parents.”

In every case reported as provided in section 2301.20 of the Revised Code, there shall be taxed for each day’s service of the official or assistant shorthand reporters a fee of twenty-five dollars, to be collected as other costs in the case. The fees so collected shall be paid quarterly by the clerk of the court of common pleas in which the cases were tried into the treasury of the county and shall be credited by the county treasurer to the general fund. (O.R.C. § 2301.21)

#### ***Reimbursement for costs of children in custody of court or agency***

The juvenile judge may enter into an agreement with the Department of Job and Family Services pursuant to O.R.C. § 5101.11 for the purpose of reimbursing the court for foster care maintenance costs and associated administrative and training costs incurred on behalf of a child eligible for payments under Title IV-E of the “Social Security Act,” and who is in the temporary or permanent custody of Children’s Services or subject to a disposition issued under O.R.C. § 2151.354(A)(5) or O.R.C. § 2152.19(A)(6)(a)(ii) and (A)(7) (O.R.C. § 2151.152). The agreement governs the responsibilities and duties the court shall perform in providing services to the child (id). Federal funding is contingent upon courts meeting all applicable eligibility requirements. The judicial determination removing the child from the home must contain contrary to the welfare language and a determination within 60 days that the agency made reasonable efforts to prevent removal of the child from his/her home. For continuing reimbursement, there must be a judicial determination that the agency made reasonable efforts to finalize the child’s permanency plan within 12 months of the date the child entered care and every 12 months thereafter. Noncompliance will result in lost federal revenue intended to assist these children in providing a safe, stable living environment, finding permanency and ensuring their well-being (see Reference 5).

#### ***Appropriation for court expenses and care of children***

The juvenile judge shall annually submit a written request for an appropriation to the board of county commissioners that sets forth estimated administrative expenses of the juvenile court the judge considers reasonably necessary for the operation of the court, including reasonably necessary expenses of the judge and officers and employees as the judge may designate in attending conferences at which juvenile or welfare problems are discussed, and such sum each year as will provide for the maintenance and operation of the detention facility, the care, maintenance, education, and support of neglected, abused, dependent,

and delinquent children, other than children eligible to participate in the Ohio Works First program, and for necessary orthopedic, surgical, and medical treatment, and special care as may be ordered by the court for any neglected, abused, dependent, or delinquent children (O.R.C. § 2151.10). The board must conduct a public hearing with respect to the written request and shall appropriate the sum of money each year as it determines, is reasonably necessary to meet the administrative expenses of the court (id). All disbursements shall be upon specifically itemized vouchers, certified by the judge (id).

If the judge considers the appropriation determined by the board to be insufficient, the judge must commence an action in the court of appeals for the judicial district for a determination of the duty of the board to appropriate the amount of money in dispute (id). The court of appeals must give this appeal first priority over all other action pending on the docket (id).

In an effort to resolve appropriation disputes prior to taking action with the court of appeals, conflict resolution services are available to government officials, providing the parties are agreeable to mediate the issue (See Reference 6).

***Contract for services for children on probation***

Pursuant to O.R.C. § 2151.151, the juvenile judge has the authority to contract with any agency, association, or organization, which may be of a public or private, profit or non-profit nature, or with any other individual for supervisory or other services to children placed on probation who are under the custody or supervision of the court.



## 9. Bonds

Although juveniles do not have a constitutional right to bond as adults do (with the exception of juveniles subject to Serious Youthful Offender proceedings), many Juvenile Courts have adopted rules similar to those governing the General Division of the Court of Common Pleas. These rules can be found in Chapter 2937 of the Revised Code and Criminal Rule 46. Matters concerning bond for contempt cases can be found in Chapter 2705 or the Revised Code.

### ***Appearance Bonds***

An Appearance Bond is posted to secure a person's appearance in court. Appearance bonds may be posted in four (4) ways:

1. Parental Bond (Juveniles only)
2. Own Recognizance [OR],
3. Unsecured Appearance Bond [UAB]
4. Stated Monetary Amount [Cash, Ten Percent, Property, Bondsman Surety]

1. **PARENTAL BOND:** Even though a Parental Bond may specify a dollar amount (usually \$500), money is not required to post this type of bond. The parent is to sign the bond with the amount of "parental dollars" written in the space provided on the bond. If the child was properly notified of the hearing and fails to appear at the next hearing, the bond may be forfeited. The money is collectible at forfeiture. This type of bond applies to juveniles only.

2. **OWN RECOGNIZANCE (OR):** The defendant's signature on the bond is the only requirement.

3. **UNSECURED APPEARANCE BOND (UAB):** Sometimes called a Personal Recognizance, an Unsecured Appearance Bond is similar to the Parental Bond. A specified dollar amount is ordered, but not posted. The surety is to sign the bond with the amount of "Unsecured Appearance Bond dollars" written in the space provided on the bond. The money is collectible at forfeiture.

4. **MONETARY BOND:** This type of bond requires some type of exchange (cash, property, or power of attorney [bondsman]) from the surety to secure the defendant's appearance in court.

Other instances in which a case may require Bond are:

**TRAFFIC CASES:** Bond may be posted at 10%, full cash, property or bondsman surety. If the case is a moving traffic violation, the surety must pay the RRF and GRF. RRF and GRF do not apply to non-moving violations.

**UNRULY CASES:** Bond may be posted at 10%, full cash, property or bondsman surety. RRF and GRF do not apply to bonds posted for unruly cases.

**MISDEMEANOR CASES (DELINQUENCY AND ADULT):** Bond may be posted at 10%, full cash, property or bondsman surety with RRF and GRF.

FELONY CASES (DELINQUENCY): If the charge would be a NON-CAPITAL FELONY if charged as an adult, Bond may be posted at full cash, property or bondsman surety with RRF and GRF. 10% may be posted ONLY if it is specified in the entry.

If the charge would be a CAPITAL FELONY if charged as an adult, Bond is to be posted in the amount and form stated on the entry only.

CONTEMPT CASES: Bond may be posted at 10%, full cash, property or bondsman surety.

### ***Performance Bonds***

A Performance Bond, unlike an Appearance Bond, is not to ensure someone's appearance in court. A Performance Bond is ordered to ensure some type of action on the behalf of the defendant. This type of bond is usually posted for a set period of time and if at the end of that time period, the act has been performed, the defendant may file a motion to have the bond released.

FAILURE TO SEND PERFORMANCE BOND O.R.C. § 3321.38: When the parent of a child has been charged with Failure to Send their child to school and has been found guilty of that offense, the Judge or Magistrate may order that parent to post a performance bond on that case. This bond is not to ensure the parent's appearance in court, but rather to ensure that the parent sends the child to school.

PARENTAL PERFORMANCE BOND O.R.C. § 2151.359(A)(2) & O.R.C. § 2152.61(B): When a juvenile has been adjudicated for an unruly or delinquent offense and the Judge or Magistrate in the case feels that the parent has not exerted control and authority over the child sufficient to prevent the unruly or delinquent behavior, the Judge or Magistrate may order the parent to post a Parental Performance Bond in an amount not to exceed \$500.00. Any future adjudication may result in full or partial forfeiture of the bond.

### ***Forfeiture of Bond (O.R.C. § 2151.50)***

When, as a condition of suspension of sentence under section 2151.49 of the Revised Code, bond is required and given, upon the failure of a person giving such bond to comply with the conditions thereof, such bond may be forfeited, the suspension terminated by the juvenile judge, the original sentence executed as though it had not been suspended, and the term of any sentence imposed in such case shall commence from the date of imprisonment of such person after such forfeiture and termination of suspension. Any part of such sentence which may have been served shall be deducted from any such period of imprisonment. When such bond is forfeited, the judge may issue execution thereon without further proceedings.

If a surety bond is posted by bondsman and the case is disposed of through sentencing, the Journal Entry must state that the bond is released. Do not collect 10%. Even if bond is revoked and case is disposed. A copy of the Journal Entry must go to the bondsman along with the originally submitted colored bond paper. Make a copy of the colored bond paper and retain it in the Court's file.

If a private individual posts bond, the money must be put on deposit. If the case is disposed of through sentencing, the JE must state that the bond is released. Collect 10%. In order to do that, you need to complete a "deposit application form". Complete the form to indicate how much is available and what to keep/what to refund/who to refund to. The refund must go back to whoever deposited the money. This may not be the defendant.

Note that if the bond is revoked, it may be applied to any owed fines and costs by the defendant.



## 10. Data Entry and Assignment of Case Numbers

Although there are no statutory requirements that govern the time limit for entering information in to the system after filing, each court should estimate time guidelines that facilitate the timely disposition of cases. Juvenile courts should strive to complete the data entry within three (3) business days of the filing.

Rule 43 of the Ohio Rules of Superintendence specifies the case numbering system that is to be used for municipal and county courts. Although the juvenile courts are a division of the courts of common pleas (with the exception of Hamilton County) and therefore are not directly governed by Rule 43, this case numbering system can benefit juvenile courts when used as a guideline for numbering cases.

All cases should be categorized (such as, civil, criminal, or traffic) and all cases should be serially numbered within one of the three categories on an annual basis (Ohio Rule 43(A) of Superintendence). This is at the court's discretion, but is encouraged as a best practice. All cases should also be identified by year (id). However, juvenile court cases can be broken down further into more categories. The suggestion for internal delineation is to identify cases by the Supreme Court Form D prefixes.\* This has been recommended as the Supreme Court is moving to standardize all courts and case numbers. Standardized case numbers will be effective upon enactment of an anticipated amendment to the rules of superintendence. The new case numbering will be as follows: [County Number and Court Number] [Four Digit Year] [Any series of up to twelve locally assigned letters and numbers to uniquely identify the case in accordance with the local rules of court.]

For example: 5703 A 2005-012345 01 identifies Montgomery County (57) Juvenile Court (03), Delinquency (A), Case Number 2005-012345, count 1.

If a defendant is charged with felonies and misdemeanors (including traffic offenses), arising from the same act or transaction, or series of acts or transactions, the defendant may be assigned separate case numbers. The cases may be divided so one case represents the felonies, while the one case represents each other type of offense (Ohio Rule 43(A)(3) of Superintendence). The category selected for the case number and the case type designator should be that of the offense having the greatest potential penalty (id). However, if separate case numbers are assigned for each offense by the same juvenile, there should be a good tracking system utilized by the court from which the court can easily track all cases in which a juvenile is or has been involved.

\*Supreme Court Report Categories, Form D

A – Delinquency	J – UIFSA
B – Traffic	K – ‘All Others’ (Abortion Consent, Marriage Consent)
C – Dependency, Neglect, Abuse	U - Unofficial
D – Unruly	
E – Adult	
F – Permanent Custody	
G – Custody, Change of Custody, Visitation (Parenting Time)	
H – Support	
I – Parentage	



## 11. Complaints

Pursuant to Rule 9(b) of the Ohio Rules of Juvenile Procedure, information that a child is within the court's jurisdiction may be informally screened prior to the filing of a complaint to determine if filing a complaint is in the child's and the public's best interest. Rule 9(a) states that formal court action should only be used in limited situations, and the court should use other community resources to address matters brought before the court. Therefore, the court could have an intake department or person who assesses the situation before a formal complaint is filed.

Rule 10 of the O.R.J.P. specifies who can file a complaint, where to file a complaint and what must be contained in a complaint before it can be filed. "Any person having knowledge of a child who appears to be a juvenile traffic offender, delinquent, unruly, neglected, dependent, or abused may file a complaint with respect to the child in the juvenile court of the county in which the child has a residence or legal settlement, or in which the traffic offense, delinquency, unruliness, neglect, dependency, or abuse occurred" (O.R.J.P. 10(A)).

Persons filing complaints that a child appears to be an unruly or delinquent child for being an habitual or chronic truant and the parent, guardian, or other person having care of the child has failed to cause the child to attend school may also file the complaint in the county in which the child is supposed to attend public school (O.R.J.P. 10(A)).

If a person wants to file a complaint to determine the custody of a child, the child must not be a ward of another court in the state (O.R.J.P. 10(A)). If a person is entitled to the custody of a child, but has been unlawfully deprived of custody, that person can file a complaint requesting a writ of habeas corpus (O.R.J.P. 10(A)). If the complaint involves a custody matter, it should be filed in the county where the child is or was last known to reside (O.R.J.P. 10(A)), keeping in mind that the best interest of the child may prevail. In any other matter over which the juvenile court has jurisdiction pursuant to the Ohio Revised Code, any person with standing can file a complaint in the county where the child is or was last known to be (O.R.J.P. 10(A)).

In a removal action, the complaint shall be filed in the county where the foster home is located (O.R.J.P. 10(A)).

If a case involving a child is transferred or certified from another court, the certification from the court that transferred the case is the complaint (O.R.J.P. 10(A)). However, the juvenile court can order that the certification must be supplemented upon its own motion or the motion of a party (O.R.J.P. 10(A)).

The general form of a complaint must satisfy all three requirements listed in O.R.J.P. 10(B):

1. It must state in ordinary and concise language the essential facts that bring the proceeding within the jurisdiction of the court. In juvenile traffic offense and delinquency proceedings, the complaint must contain the numerical designation of the statute or ordinance that is alleged to have been violated.
2. It must contain the name and address of the parent, guardian, or custodian of the child, or if that information is unknown, it must state that it is unknown.
3. It must be made under oath.

For cases involving juvenile traffic offenses, a Uniform Traffic Ticket will be used as the complaint (O.R.J.P. 10(C)).

If the complaint is asking for permanent or temporary custody of a child or planned permanent living arrangement, it must state that permanent or temporary custody or planned permanent living arrangement is sought (O.R.J.P. 10(D), (E) and (F)).

If a complaint for writ of habeas corpus involving the custody of a child is based on a lawful court order, a certified copy of the order must be attached to the complaint (O.R.J.P. 10(G)).

**SPECIAL NOTES:** Additional documents, such as ‘Application for IV-D Services’ or those specified in local rules may be required with the filings listed above. Also, many Clerks Offices are not permitted to deny filing on the basis of jurisdiction, as this is considered to be a legal question which may only be determined by the Judge and/or Magistrate assigned to the case.

### ***Transfer of Complaints***

Under O.R.J.P. Rule 11, courts that receive complaints filed against a juvenile whose county of residence is outside their county shall adhere to the following procedures. (‘County of residence’ refers to the juvenile’s residence, not the parents’ residence.)

1. If a charge against a juvenile takes place and a complaint is filed in a county of the state other than the child’s county of residence, that court, on its own motion or a motion of a party, may transfer the complaint to the juvenile’s home county. A court may opt to adjudicate or dispose of a complaint prior to transferring it to the juvenile’s home county for further proceeding as required. The court of the juvenile’s residence shall then proceed as if the original complaint had been filed in that court. Transfer may also be made if the residence of the child changes.
2. A transfer is required if other proceedings involving the child are pending in the juvenile court of the county of residence, except for a removal action.
3. In the interests of justice and for the convenience of the parties, the adjudicatory hearing shall be held in the county where the complaint originated. After adjudication, the proceeding may be transferred to the county of residence for disposition.
4. *Certified copies* of all legal and social records pertaining to the proceeding shall accompany the transfer (i.e., a certified copy of an Order of Transfer, together with certified copies of the complaint [which include traffic citations], officer statements, diagrams, witness statements, and any social history included in the transferring court’s files).



## 12. Tobacco Law Violations

O.R.C. §2151.87 prohibits juveniles from using, consuming, possessing, purchasing, accepting, or receiving cigarettes, other tobacco products, or papers used to roll cigarettes.

Exceptions to this law include: (1) when a child is accompanied by a parent, legal guardian, or spouse who is at least 18; (2) if the child is participating with a law enforcement agency in an inspection or compliance check; or (3) if in the course of the child's employment it is within the scope of his/her duties to receive tobacco products as part of his or her required duties.

Courts may treat violations of the tobacco law as formal charges with dispositional consequences (explained below) or refer violators to an informal diversion program, including as part of that option attendance at a youth smoking educational program.

If the case is treated as a formal charge, the punishment for a violation of this statute allows the juvenile court to include as part of their dispositional consequences either or both of the following: (1) require the child to attend a youth smoking education program or other smoking treatment program approved by the court, if one is available; or (2) impose a fine of not more than \$100 plus court costs.

Section (D) of this statute indicates that the juvenile court shall not adjudicate a child a delinquent or unruly child for violations of sections (B)(1), (2), (3), or (4) or (C) of this law. The statute also does not state that a violation of this section is considered a misdemeanor. Questions have been raised as to the use of a standard form when citing a juvenile.

Court entries should reflect the status of "juvenile tobacco offender". These cases are reported on the Supreme Court Report as unruly cases, since they are offenses applicable only to a juvenile. Most courts are assessing court costs accordingly. The State Auditor has not indicated to courts where the fine money for this violation should be disbursed. Some courts transfer these funds to their county general fund while others are keeping the funds on deposit in their court bank account awaiting a definitive ruling.



## 13. Filings

Rule 57 of the Rules of Superintendence for the Courts of Ohio sets out the requirements for filings:

1. Filings must be on eight and one-half by eleven-inch paper, without backings, of stock that can be microfilmed.
2. Filings must contain the name, address, telephone number, and attorney's Supreme Court Registration Number of the individual counsel representing the fiduciary. If there is no counsel representing the fiduciary, then the name, address, and telephone number of the fiduciary must be included.

Pursuant to Ohio Rule of Superintendence, each court shall require an attorney to include the attorney registration number issued by the Supreme Court of Ohio on all documents filed with the court (Ohio Rule of Superintendence 6). Each court shall use the attorney registration number issued by the Supreme Court of Ohio as the exclusive number or code to identify attorneys who file documents with the court (id).

If the filing does not conform to the requirements above, the filing may be refused (Ohio Rule of Superintendence 57(B)). Furthermore, a fiduciary must notify the court of his/her current address or the fiduciary can be removed (Ohio Rule of Superintendence 57(C)).

Filings that contain partially or wholly illegible signatures of counsel, parties, or officers administering oaths may be refused, or, if filed, may be stricken, unless the typewritten or printed name of the person whose signature is illegible is indicated clearly on the filing (Ohio Rule of Superintendence 57(D)).

All pleadings, motions, or other filings must be typed or printed in ink and should be captioned correctly (Ohio Rule of Superintendence 57(E)).

Rule 8 of the Ohio Rules of Juvenile Procedure provides the rules on facsimile transmission filings. Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the court shall order the filing stricken (O.R.J.P. 8(A)). The court must specify the days and hours during which the court will receive electronically transmitted documents and when documents received electronically will be considered filed (O.R.J.P. 8(B)). The clerk may reject any document filed electronically that requires a filing fee unless the person filing the document has complied with the method established by the court for payment of the filing fee (O.R.J.P. 8(C)). Rule 58 of the Rules of Superintendence for the Courts of Ohio requires a deposit upon the filing of any action or proceeding. The deposit must be in the amount that is set by the local rules of court, and Rule 58 specifies that additional deposits may be required (Ohio Rule 58 of Superintendence). If a litigant claims inability to pre-pay or give security for costs, then the litigant must complete an Affidavit of Poverty pursuant to O.R.C. § 2323.30 or O.R.C. § 2323.31 to substantiate the inability to pay or secure costs. The Affidavit of Poverty must be filed with the pleadings. Pursuant to §2151.352, a \$25.00 fee may be assessed at the time of filing or within 7 days of filing an Affidavit of Poverty in certain civil matters. This \$25.00 fee will be assessed as counsel may be appointed to the indigent client.

### ***Pro se filings***

Juvenile courts across Ohio differ on the practices used for pro se filings. Some courts have greater restrictions on what will and will not be accepted. However, courts are regularly hearing cases involving unrepresented litigants (Family Law Reform: Minimizing Conflict, Maximizing Families, Ohio Task Force on Family Law and Children). Therefore, accessible standardized forms should be available along with easy to understand instructions (id). This would help unrepresented parents and also court clerks, who are limited in the assistance they can provide (id). It is difficult for clerks who handle pro se filings, because clerks can be exposed to liability for giving legal advice. Drawing the line between what information a clerk is allowed and not allowed to give is extremely difficult. Even answering a question that seems to be only a procedural question can actually be interpreted as practicing law or giving legal advice. Availability of standardized forms that are easy to understand would limit the liability of court personnel. Furthermore, the court should consider pro se packets in different languages to suit the needs of the community. Standardized forms would enhance uniformity in the juvenile courts. Courts should also consider providing pro se forms on the Internet.

Following are some ideas of what courts should consider including in the instructions for pro se litigants:

- What it means to be filing pro se, including that the litigant knowingly, intelligently and voluntarily is deciding that he/she does not want or need an attorney, and that the litigant will be acting on his/her own behalf in the courtroom;
- The court staff cannot provide legal advice, and that if the litigant wants to seek legal advice, he/she should consult a lawyer;
- Risks involved by proceeding pro se, including not understanding the law and court procedures, not being prepared appropriately, etc.;
- What information has to be typed;
- What forms to be completed and instructions for completing them;
- Which forms must be signed in front of a notary;
- Where to take the completed forms;
- What the filing fee is and if indigent, that the filing fee can be waived; however a \$25.00 fee may be assessed at the time of filing an affidavit of indigency for appointed counsel services;
- What is further required of the litigant;
- A pro se entry compliance checklist, which is to be completed by the pro se office or by court personnel who handle the pro se filings. Therefore, if the court official checks the forms (for completion ONLY), he/she can designate what forms or documents must be provided before filing;
- A statement that if the pro se filing is accepted, that a hearing notice will be sent;
- Additionally, explanation of hearing procedures should be included, which explains notice that will be given, where the hearing is held, postponement of hearings, and what happens if the litigant does not attend the hearing.



## 14. Motions

A motion is a request or application (sometimes referred to as a petition or prayer) filed with a court (or in some cases an oral motion made during a court hearing) on a pending case for the purpose of obtaining an order or rule directing something to be done in favor of the applicant.

Often accompanying a written motion is a memorandum in support, which is either made a part of the body of the motion or filed as a separate pleading. Its purpose is to further explain/support why the petitioner feels the court should grant the motion. The memorandum could include citations of case law or reference to previous orders of the court or extenuating circumstances in support of their request.

When written motions are filed with the court, the petitioner should serve opposing counsel/parties with a copy of the motion and indicate at the bottom of the motion when and how opposing parties were served (referred to as a certificate of service).

Any time a motion is filed by a party the court may set the matter for hearing on the merits of the motion, choose to deal with it in court if there is an upcoming hearing already scheduled or bypass a hearing and respond either by a written order granting or denying the motion. However a motion is considered, the results of the court's decision to either grant or deny the motion should be captured in a formal written order/entry.

The Court may also put orders into place on a pending case upon the court's own motion. A simple example would be if the court found it necessary to continue a case due to the unavailability of the judge or magistrate. They could put on an order to continue the case to another date "upon the court's own motion".



## **15. Hearings: Time and Notice**

The Ohio Rules of Juvenile Procedure require some hearings to be held right away, while others can be scheduled for a later date. When the hearing should be scheduled will depend upon the type of the case. Therefore, clerks should be aware of the rules that govern the time in which the case must be heard so they can adjust the court calendar accordingly.

### ***General hearings***

The juvenile court may conduct its hearings in an informal manner and may adjourn its hearings from time to time (O.R.J.P. 27(A)). The court may excuse the attendance of the child at the hearing in neglect, dependency, or abuse cases (O.R.J.P. 27(A)).

In serious youthful offender proceedings, hearings shall be open to the public, but in all other proceedings, the court may exclude the general public from any hearing except for persons with a direct interest in the case and persons who demonstrate at a hearing a countervailing right to be present (O.R.J.P. 27(A)(1)). Cases involving children shall be heard separate and apart from the trial of cases against adults, except for cases involving chronic or habitual truancy (O.R.J.P. 27(A)(2)). The court shall hear and determine all cases of children without a jury, except for the adjudication of a serious youthful offender complaint, indictment, or information in which trial by jury has not been waived (O.R.J.P. 27(A)(3)).

### ***Adjudicatory hearings***

The date for the adjudicatory hearing shall be set when the complaint is filed or as soon thereafter as is practicable (O.R.J.P. 29(A)). If the child who is the subject of a complaint that does not request a serious youthful offender sentence is in detention or shelter care, the hearing shall be held not later than fifteen days after the filing of the complaint (O.R.J.P. 29(A)). Upon a showing of good cause, the adjudicatory hearing may be continued and detention or shelter care extended (O.R.J.P. 29(A)). If the complaint alleges abuse, neglect, or dependency, the hearing shall be held no later than thirty days after the complaint is filed (O.R.J.P. 29(A)). If there is good cause shown, the adjudicatory hearing may extend beyond thirty days either for an additional ten days to allow any party to obtain counsel or for a reasonable time beyond thirty days to obtain counsel or for a reasonable time beyond thirty days to obtain service on all parties or complete any necessary evaluations (O.R.J.P. 29(A)). However, the adjudicatory hearing shall be held no later than sixty days after the complaint is filed (O.R.J.P. 29(A)). The failure of the court to hold an adjudicatory hearing within any time period set forth in Rule 29 of the Ohio Rules of Juvenile Procedure does not affect the ability of the court to issue any order otherwise provided for in statute or rule and does not provide any basis for contesting the jurisdiction of the court or the validity of any order of the court (O.R.J.P. 29(A)).

### ***Dispositional hearings***

Where a child has been adjudicated as an abused, neglected, or dependent child, the court shall not issue a dispositional order until after it holds a separate dispositional hearing (O.R.J.P. 34(A)). The dispositional hearing for an adjudicated abused, neglected, or dependent child shall be held at least one day but not more than thirty days after the adjudicatory hearing is held (O.R.J.P. 34(A)). The dispositional hearing may be held immediately after the adjudicatory hearing if all parties were served prior to the adjudicatory

hearing with all documents required for the dispositional hearing and all parties consent to the dispositional hearing being held immediately after the adjudicatory hearing (O.R.J.P. 34(A)). Upon the request of any party or the guardian *ad litem* of the child, the court may continue a dispositional hearing for a reasonable time not to exceed the time limit set forth under Rule 34(A) of the Ohio Rules of Juvenile Procedure (O.R.J.P. 34(A)). The dispositional hearing shall not be held more than ninety days after the date on which the complaint was filed (O.R.J.P. 34(A)). If the hearing is not held within the ninety-day period, the court, on its own motion or the motion of any party or the guardian *ad litem* of the child, shall dismiss the complaint without prejudice (O.R.J.P. 34(A)). The dispositional hearing should be heard by the judge or magistrate who presided at the adjudicatory hearing, if possible (O.R.J.P. 34(B)). After the conclusion of the hearing, the court must enter a judgment within seven days and a copy of the judgment must be given to any party requesting a copy (O.R.J.P. 34(C)). If a child is placed on probation, the child shall receive a written statement of the conditions of probation (O.R.J.P. 34(C)). If the judgment is conditional, the order must state the conditions (O.R.J.P. 34(C)). If the child is not returned to the child's home, the court shall determine the school district that shall bear the cost of the child's education and may fix an amount of support to be paid by the responsible parent or from public funds (O.R.J.P. 34(C)).

As part of its dispositional order, the court shall journalize a case plan for the child (O.R.J.P. 34(F)). The agency required to maintain a case plan shall file the plan with the court prior to the child's adjudicatory hearing but not later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed in shelter care (O.R.J.P. 34(F)). The plan shall specify what additional information, if any, is necessary to complete the plan and how the information will be obtained (O.R.J.P. 34(F)). All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child (O.R.J.P. 34(F)). If all parties agree to the content of the case plan and the court approves it, the court shall journalize the plan as part of its dispositional order (O.R.J.P. 34(F)). If no agreement is reached, the court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child (O.R.J.P. 34(F)).

Any public or private agency or any party, other than a parent whose parental rights have been terminated, may at any time file a motion requesting that the court modify or terminate any order of disposition (O.R.J.P. 34(G)). The court shall hold a hearing upon the motion as if the hearing were the original dispositional hearing and shall give all parties and the guardian *ad litem* notice (O.R.J.P. 34(G)). The court, upon its own motion and upon proper notice to all parties and any interested agency, may modify or terminate any order of disposition (O.R.J.P. 34(G)).

### ***Dispositional review hearings***

A court that issues a dispositional order in an abuse, neglect, or dependency case may review the child's placement or custody arrangement, the case plan, and the actions of the public or private agency implementing that plan at any time (O.R.J.P. 36(A)). A court that issues a dispositional order shall hold a review hearing one year after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care (O.R.J.P. 36(A)). The court shall schedule a review hearing at the time that it holds the dispositional hearing (O.R.J.P. 36(A)). The court shall hold a similar review hearing no later

than every twelve months after the initial review hearing until the child is adopted, returned to the child's parents, or the court otherwise terminates the child's placement or custody arrangement (O.R.J.P. 36(A)). The court shall schedule each subsequent review hearing at the conclusion of the review hearing immediately preceding the review hearing to be scheduled (O.R.J.P. 36(A)). Review hearings may also be conducted by a magistrate (O.R.J.P. 36(A)).

The court may appoint a citizens' review board to conduct review hearings, subject to the review and approval by the court (O.R.J.P. 36(B)).

Each agency required to prepare a case plan for a child shall complete a semiannual administrative review of the case plan no later than six months after the earlier of the date on which complaint in the case was filed or the child was first placed in shelter care (O.R.J.P. 36(C)). After the first administrative review, the agency shall complete semiannual administrative reviews no later than every six months (id). The agency shall prepare and file a written summary of the semiannual administrative review that shall include an updated case plan (id). If the agency, parents, guardian, or custodian of the child and guardian *ad litem* stipulate to the revised case plan, the plan shall be signed by all parties and filed with the written summary of the administrative review no later than seven days after the completion of the administrative review (id). If the court does not object to the revised case plan, it shall journalize the case plan within fourteen days after it is filed with the court (id). If the court does not approve the revised case plan or if the agency, parties, guardian *ad litem*, and the attorney of the child do not agree to the need for changes to the case plan and to all of the proposed changes, the agency shall file its written summary and request a hearing (id). The court shall schedule a review hearing to be held no later than thirty days after the filing of the case plan or written summary or both, if required (id). The court shall give notice of the date, time, and location of the hearing to all interested parties and the guardian *ad litem* of the child (id). The court will then approve or modify the case plan, return the child home with or without protective supervision and terminate temporary custody or determine which agency shall have custody, if the child is in permanent custody determine what actions would facilitate adoption, and journalize the terms of the updated case plan (id).

### ***Detention and/or shelter care hearings***

If a child is admitted to detention or shelter care, a detention hearing should be held promptly, not later than seventy-two hours after the child is placed in detention or shelter care or the next court day, whichever is earlier, to determine whether detention or shelter care is required (O.R.J.P. 7(F)(1)). Reasonable oral or written notice of the time, place, and purposes of the detention hearing shall be given to the child and to the parents, guardian, or other custodian, if that person or those persons can be found (O.R.J.P. 7(F)(1)). Prior to the hearing, the court shall inform parties of the right to counsel and to appointed counsel if indigent and the child's right to remain silent with respect to any allegation of a juvenile traffic offense, delinquency, or unruliness (O.R.J.P. 7(F)(2)).

If a parent, guardian, or custodian did not receive notice of the initial hearing and did not appear or waive appearance at the hearing, the court shall rehear the matter promptly (O.R.J.P. 7(G)). If the child is placed in detention or shelter care, the guardian *ad litem* and any party can file a motion with the court requesting that the child be released (O.R.J.P.

(G)). Upon the filing of the motion, the court shall hold a hearing within seventy-two hours (O.R.J.P. 7(G)).

***Out of county removal hearings***

Upon the filing of a removal action, the court in which the complaint is filed shall immediately contact the court that issued the original dispositional order for information necessary for service of summons and issuance of notice of the removal hearing (O.R.J.P. 39(A)). The court that issued the original dispositional order shall respond within five days after receiving the request (id). Summons shall be issued pursuant to Rules 15 and 16 of the Ohio Rules of Juvenile Procedure (id). Notice of the removal hearing shall be sent by first class mail, as evidenced by a certificate of mailing filed with the clerk of court, to the following, not otherwise summoned, at least five days before the hearing:

1. The court issuing the dispositional hearing;
2. The guardian *ad litem* for the child;
3. Counsel for the child;
4. The placing entity;
5. The custodial entity;
6. The complainant;
7. The guardian *ad litem* and counsel presently representing the child in the court that issued the original dispositional order;
8. Any other persons the court determines to be appropriate.

The removal hearing shall be held not later than thirty days after service of summons is obtained (O.R.J.P. 39(B)). If, after the removal hearing, the court grants relief in favor of the complainant, the court shall send written notice of such relief to the juvenile court that issued the original dispositional order (id).



## 16. Temporary Orders

Rule 13(B)(2) of the O.R.J.P. states that upon the filing of an abuse, neglect, or dependency complaint, any party may by motion request that the court issue any of the following temporary orders:

1. An order granting temporary custody of the child to a party;
2. An order for taking the child into custody pending the outcome of the adjudicatory and dispositional hearings;
3. An order granting, limiting, or eliminating visitation rights;
4. An order for the payment of child support and continued maintenance of any medical, surgical, or hospital policies of insurance for the child that existed at the time of the filing of the complaint, petition, etc.;
5. An order requiring a party to vacate a residence that will be lawfully occupied by the child;
6. An order that requires a party to attend a counseling program;
7. A restraining order that restricts the conduct of a party that would not be in the best interests of the child.

Any of the above orders may be granted *ex parte* (without notice) if it would be in the best interest and welfare of the child (O.R.J.P. 13(B)(3)). However, if the court issues an *ex parte* order, the court must hold a hearing to review the temporary order within seventy-two hours after the order is issued or before the end of the next court day after the day on which it was issued, whichever is first (O.R.J.P. 13(B)(3)). A guardian *ad litem* must be appointed prior to the hearing (O.R.J.P. 13(B)(3)). The court shall give written notice of the hearing by means reasonably likely to result in the party's receiving actual notice and include all of the following:

1. The date, time, and location of the hearing;
2. The issues to be addressed at the hearing;
3. A statement that every party to the hearing has a right to counsel and to court appointed counsel, if the party is indigent;
4. The name, telephone number, and address of the person requesting the order;
5. A copy of the order, except when it is not possible to obtain it because of the exigent circumstances in the case (O.R.J.P. 13(B)(3)).

If an *ex parte* order is not granted by the court, the court must hold a shelter care hearing on the motion within ten days of the motion being filed (O.R.J.P. 13(B)(5)).

If the court proceeds without notice because it appeared to the court that the interest and welfare of the child necessitated the court to proceed immediately, it must give notice of the action the court has taken to the parties or other affected persons and provide them an opportunity for a hearing regarding the continuing effects of the action (O.R.J.P. 13(E)).

If an agency files a motion for extension of temporary custody, termination of temporary custody order, or modification of a custody order, a hearing must be scheduled and notice must be given to all parties in accordance with O.R.J.P. 14.



## 17. Voluntary Surrender of Custody Actions

### **Temporary Custody**

A person with custody of a child may enter into an agreement with any public or private children services agency giving the agency temporary custody for a period of up to thirty days without approval of the juvenile court (O.R.J.P. 38(A)(1)). The agency may request the court to grant a thirty-day extension of the original agreement (id). A case plan shall be filed at the same time the request for extension is filed (id). At the expiration of the original thirty-day extension period, the agency may request the court to grant an additional thirty day extension (id). The agency must file an updated case plan at the same time it files the request for additional extension (id). At the expiration of the additional thirty day period, or at the expiration of the original thirty day extension period if no additional thirty day extension was requested, the agency shall either return the child to the custodian or file a complaint requesting temporary or permanent custody and a case plan (id).

An agreement between the custodian of a child and any public or private children services agency for the temporary custody of a child may be for a period of sixty days if executed solely for the purpose of obtaining the adoption of a child less than six months of age (O.R.J.P. 38(A)(2)). The agency may request the court to extend the temporary custody agreement for thirty days (id). A case plan must be filed at the same time the request for extension is filed (id). At the expiration of the thirty-day extension, the agency shall either return the child to the child's custodian or file a complaint with the court requesting temporary or permanent custody and a case plan (id).

### **Permanent Custody**

A person with custody of a child may make an agreement with court approval surrendering the child into the permanent custody of a public children service agency or private child placing agency (O.R.J.P. 38(B)(1)). A public children service agency *shall* request and a private child placing agency *may* request the juvenile court of the county in which the child had residence or settlement to approve the permanent surrender agreement (id). The agency requesting the approval shall file a case plan at the same time it files its request for approval of the permanent surrender agreement (id).

An agreement for the surrender of permanent custody of a child to a private service agency is not required to be approved by the court if the agreement is executed solely for the purpose of obtaining an adoption of a child who is less than six months of age on the date of the execution of the agreement (O.R.J.P. 38(B)(2)).

One year after the agreement for permanent custody is entered and every subsequent twelve months after that date, the court shall schedule a review hearing if a final decree of adoption has not been entered for a child who is the subject of an agreement for the surrender of permanent custody (id).



## 18. Service

Summons shall be served pursuant to Civil Rules 4(A), (C), and (D), 4.1-4.3, 4.5, and 4.6. The summons shall direct the party served to appear at a stated time and place. Where service is by certified mail, the time shall not be less than seven days after the date of mailing (O.R.J.P. 16(A)).

When the residence of a party is unknown and cannot be ascertained by reasonable diligence, service must be made by publication (O.R.J.P. 16(A)). Before service by publication is made, an affidavit of a party or party's counsel must be filed with the court and the affidavit must state that service of summons cannot be made because the residence of the person is unknown to the affiant and cannot be ascertained with reasonable diligence and shall settle for the last known address of the party to be served (O.R.J.P. 16(A)). Service by publication upon a non-custodial parent is not required in delinquent child or unruly cases when the person alleged to have legal custody of the child has been served with summons pursuant to O.R.J.P. 16, but the court may not enter any order or judgment against any person who has not been served with process or served by publication unless that person appears (O.R.J.P. 16(A)).

Service by publication shall be made by newspaper publication, by posting and mail, or by a combination of these (O.R.J.P. 16(A)). The court shall determine which methods should be used by local rule (O.R.J.P. 16(A)). If service by publication is made by newspaper publication, upon the filing of the affidavit, the clerk shall serve notice by publication in a newspaper of general circulation in the county in which the complaint is filed, and if no newspaper is published in the county, then publication shall be in a newspaper published in an adjoining county (O.R.J.P. 16(A)). The publication shall contain the name and address of the court, the case number, the name of the first party on each side, and the name and last known address, if any, of the person or persons whose residence is unknown (O.R.J.P. 16(A)). The publication shall also contain a summary statement of the object of the complaint and shall notify the person to be served that the person is required to appear at the time and place stated (O.R.J.P. 16(A)). The time stated shall not be less than seven days after the date of publication (O.R.J.P. 16(A)). The publication shall be published once and service shall be complete on the date of publication (O.R.J.P. 16(A)).

After the publication, the publisher or the publisher's agent shall file with the court an affidavit showing the fact of publication together with a copy of the notice of publication (O.R.J.P. 16(A)). The affidavit and copy of the notice shall constitute proof of service (O.R.J.P. 16(A)).

If service by publication is made by posting and mail, upon the filing of the affidavit the clerk shall cause service of notice to be made by posting in a conspicuous place in the courthouse in which the division of the common pleas court exercising jurisdiction over the complaint is located and in additional public places in the county that have been designated by local rule for the posting of notices pursuant to Rule 16(A) of the O.R.J.P. (O.R.J.P. 16(A)). The number of additional public places to be designated shall be either two places or the number of state representative districts that are contained wholly or partly in the county in which the courthouse is located, whichever is greater (O.R.J.P. 16(A)). The notice shall contain the same information required in a newspaper publication (O.R.J.P. 16(A)). The notice shall be posted in the required locations for seven consecutive days (O.R.J.P.

16(A)). The clerk also shall cause the summons and accompanying pleadings to be mailed by ordinary mail, address correction requested, to the last known address of the party to be served (O.R.J.P. 16(A)). The clerk shall obtain a certificate of mailing from the United States Postal Service (O.R.J.P. 16(A)). If the clerk is notified of a corrected or forwarding address of the party to be served within the seven day period that notice is posted pursuant to O.R.J.P. 16, the clerk shall cause the summons and accompanying pleadings to be mailed to the corrected or forwarding address (O.R.J.P. 16(A)). The clerk shall note the name, address, and date of each mailing in the docket (O.R.J.P. 16(A)).

After the seven days of posting, the clerk shall note on the docket where and when notice was posted (O.R.J.P. 16(A)). Service shall be complete upon the entry of posting (O.R.J.P. 16(A)).

### ***Summons and warrants***

After a complaint is filed, the court shall issue a summons directed to the child, the child's parents, guardian, or custodian, and any other necessary parties, and the summons must require the parties to appear in court at a fixed time to answer the complaint (O.R.J.P. 15(A)). If the summons is issued for a child who is under fourteen years of age and is alleged to be delinquent, unruly, or a juvenile traffic offender, it shall be served upon the child's parents, guardian, custodian or other person with whom the child lives (O.R.J.P. 15(A)). If the child lives with someone other than the child's parent or guardian, then the parents or guardian should be summoned (O.R.J.P. 15(A)). A copy of the complaint must accompany the summons (O.R.J.P. 15(A)). If the child is alleged to be abused, neglected, or dependent, the child should not be summoned unless the court directs otherwise (O.R.J.P. 15(A)).

O.R.J.P. 15(B) requires that the summons contain the following:

1. The name of the party or person with whom the child may be or, if unknown, any name or description by which the person or party can be identified with reasonable certainty.
2. A summary statement of the complaint and in juvenile traffic offense and delinquency proceedings, the numerical designation of the applicable statute or ordinance.
3. A statement that any party is entitled to representation and that if any party is indigent, that party may request a court appointed attorney pursuant to O.R.J.P. 4(A).
4. An order to the party or person to appear at a stated place and time with warning that if the party or person fails to appear, that party may lose valuable rights or be subject to court sanctions.
5. An order to the parent, guardian, or other person having care of a child alleged to be an unruly or delinquent child for being an habitual or chronic truant, to appear personally at the hearing and all proceedings, and an order directing the person having physical custody or control of the child to bring the child to the hearing, with warning that if the child does not appear, the parent, guardian or person caring for the child may be subject to court sanctions, including contempt.
6. A statement that if a child is found to be abused, neglected, or dependent and the complaint seeks an order of permanent custody, an order of permanent custody would cause the parents, guardian, or custodian to be divested of all parental rights and privileges permanently.

7. A statement that if the child is adjudicated abused, neglected, or dependent and the complaint seeks an order of temporary custody, an order of temporary custody will cause the removal of the child from the legal custody of the parents, guardian, or other custodian until the court terminates the order of temporary custody or permanently divests the parents of their parental rights.
8. A statement that if the child is adjudicated abused, neglected, or dependent and the complaint seeks an order for a planned permanent living arrangement, an order for a planned permanent living arrangement will cause the removal of the child from the legal custody of the parent, guardian or other custodian.
9. A statement, in a removal action, of the specific disposition sought.
10. The name and telephone number of the court employee designated by the court to arrange for the prompt appointment of counsel for indigent persons.

The court may endorse upon the summons an order directed to parents, guardian or other person with the child to appear before the court personally and to bring the child with them to hearing (O.R.J.P. 15(C)).

If it appears that the summons will be ineffective or the welfare of the child requires that the child be brought to the court, a warrant may be issued against the child accompanied by a copy of the complaint (O.R.J.P. 15(D)). The warrant must contain the name of the child or, if unknown, a description of the child by which the child can be identified with reasonable certainty, a summary statement of the complaint or numerical designation of the applicable statute or ordinance (in juvenile traffic offense and delinquency proceedings) (O.R.J.P. 15(E)). Furthermore, a copy of the complaint must be attached to the warrant and the warrant must command that the child be taken into custody and brought before the court without unnecessary delay (O.R.J.P. 15(E)).

When a summons, warrant, citation or subpoena is issued to any officer, including sheriff of any county or any marshal, constable, or police officer, the expense in serving the same shall be paid by the county, township, or municipal corporation in the manner prescribed for the payment of sheriffs, deputies, assistants, and other employees (O.R.C. § 2151.19).

### ***Subpoenas***

Form and issuance of subpoenas are governed by Rule 17 of the O.R.J.P., which requires that every subpoena:

1. State the name of the court from which it is issued, the title of the action, and the case number;
2. Command each person to whom it is directed, at a time and place specified in the subpoena, to do one or more of the following:
  - a. Attend and give testimony at a trial, hearing, proceeding, or deposition;
  - b. Produce documents or tangible things at a trial, hearing, proceeding or deposition;
  - c. Produce and permit inspection and copying of any designated documents that are in the possession, custody, or control of the person;
  - d. Produce and permit inspection and copying, testing, or sampling of any tangible things that are in the possession, custody, or control of the person.
3. Set forth the text of division (D) and (E) of Rule 17 of the O.R.J.P. (discussed below).

A command to produce and permit inspection may be joined with a command to attend and give testimony, or may be issued separately (O.R.J.P. 17(A)(1)(c)).

The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service (O.R.J.P. 17(A)(2)). An attorney who has filed an appearance on behalf of a party in an action also may sign and issue a subpoena on behalf of the court in which the action is pending (O.R.J.P. 17(A)(2)). If the issuing attorney modifies the subpoena in any way, the issuing attorney shall give prompt notice of the modifications to all other parties (O.R.J.P. 17(A)(3)).

The court shall order at any time that a subpoena be issued for service on a named witness upon an ex parte application of a party and upon a satisfactory showing that the presence of the witness is necessary and that the party is financially unable to pay the witness fees (O.R.J.P. 17(B)). If the court orders the subpoena to be issued, the costs incurred by the process and the fees of the witness so subpoenaed shall be paid in the same manner that similar costs and fees are paid in case of a witness subpoenaed in behalf of the state in a criminal prosecution (O.R.J.P. 17(B)).

A subpoena may be served by a sheriff, bailiff, coroner, clerk of court, constable, probation officer, or a deputy of any [of the aforementioned], by an attorney or the attorney's agent, or by any person designated by order of the court who is not a party and is not less than eighteen years of age (O.R.J.P. 17(C)). Service of a subpoena upon a person named in the subpoena shall be made by delivering a copy of the subpoena to the person, by reading it to him or her in person, or by leaving it at the person's usual place of residence, and by tendering to the person upon demand the fees for one day's attendance and mileage allowed by law (O.R.J.P. 17(C)). The person serving the subpoena shall file a return of the subpoena with the clerk (O.R.J.P. 17(C)). If the witness being subpoenaed resides outside the county in which the court is located, the fees for one day's attendance and mileage shall be tendered without demand (O.R.J.P. 17(C)). The return may be forwarded through the postal service or otherwise (O.R.J.P. 17(C)).

A party or attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena (O.R.J.P. 17(D)(1)).

A person who is commanded to produce documents or other things is not required to appear in person at the place of production or inspection unless that person is commanded to attend and give testimony at a trial, hearing, proceeding, or deposition (O.R.J.P. 17(D)(2)(a)). A person commanded to produce under O.R.J.P. 17 may serve upon the party or attorney designated in the subpoena written objections to production. The objections must be served within fourteen days after service. If objection is made, the party serving the subpoena shall not be entitled to production except pursuant to an order of the court that issued the subpoena. If objection has been made, the party serving the subpoena, upon notice to the person commanded to produce, may move at any time for an order to compel the production. An order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the production commanded.

On timely motion, the court from which the subpoena was issued shall quash or modify the subpoena, or order appearance or production only under specified conditions, if the subpoena does any of the following:

1. fails to allow reasonable time to comply;
2. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies;
3. requires disclosure of a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial if the fact or opinion does not describe specific events or occurrences in dispute and results from study by that expert that was not made at the request of any party;
4. subjects a person to undue burden.

If a person who is requested to produce documents or other tangible things is subjected to undue burden, that person may file a motion, but that person must have attempted to resolve any claim of undue burden through discussions with the issuing attorney first, and the motion must be supported by an affidavit of the subpoenaed person or certificate of the subpoenaed person's attorney that efforts were made to resolve the claim of undue burden (O.R.J.P. 17(D)(4)). If a motion is made under (c) or (d) above, the court shall quash or modify the subpoena unless the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated (O.R.J.P. 17(D)(5)).

A person responding to a subpoena to produce documents shall, at the person's option, produce the documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the subpoena (O.R.J.P. 17(E)(1)). A person producing documents pursuant to a subpoena for them shall permit their inspection and copying by all parties present at the time and place set in the subpoena for inspection and copying (O.R.J.P. 17(E)(1)).

When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim (O.R.J.P. 17(E)(2)).

Failure by any person without adequate excuse to obey a subpoena served upon that person may be in contempt of the court from which the subpoena issued (O.R.J.P. 17(F)). A subpoenaed person or that person's attorney who frivolously resists discovery under Rule 17 of O.R.J.P. may be required by the court to pay the reasonable expenses, including reasonable attorney's fees, of the party seeking the discovery (O.R.J.P. 17(F)). The court from which the subpoena was issued may impose upon a party or attorney in breach of the duty imposed by O.R.J.P. 17(D)(1) an appropriate sanction that may include, but is not limited to, lost earnings and reasonable attorney's fees.

All issues concerning subpoenas shall be resolved prior to the time otherwise set for hearing or trial (O.R.J.P. 17(H)).



## **19. Time Guidelines**

### ***Computation***

In computing any period of time prescribed or allowed by the O.R.J.P., by local rules of any court, by order of court, or by any applicable statute, the date of the act or event from which the designated period of time begins shall not be included (O.R.J.P. 18(A)). The time period begins with the immediately following day. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday (O.R.J.P. 18(A)). Such extension of time includes, but is not limited to, probable cause, shelter care, and detention hearings (O.R.J.P. 18(A)).

Except in the case of probable cause, shelter care, and detention hearings, when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in computation (O.R.J.P. 18(A)).

### ***Enlargement***

When an act is required or allowed to be performed at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if application therefore is made before expiration of the period originally prescribed or of that period as extended by previous order, or (2) upon motion permit the act to be done after expiration of the specified period if the failure to act on time was the result of excusable neglect or would result in injustice to a party, but the court may not extend the time for taking any action under Rule 7(F)(1), Rule 22(F), Rule 29(A) and Rule 29(F)(2)(B) of the Ohio Rules of Juvenile Procedure, except to the extent and under conditions stated in them (O.R.J.P. 18(B)).

### ***Expiration of term***

The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the expiration of a term of court and the expiration of a term of court in no way affects the power of a court to do any act in a juvenile proceeding (O.R.J.P. 18(C)).

### ***Motions/affidavits***

A written motion, other than one which may be heard ex parte, and notice of the hearing therefore, shall be served not later than seven days before the time specified for the hearing unless a different period is fixed by rule or order of the court (O.R.J.P. 18(D)). For cause shown such an order may be made on ex parte application (O.R.J.P. 18(D)). When a motion is supported by affidavit, the affidavit shall be served with the motion, and opposing affidavits may be served not less than one day before the hearing unless the court permits them to be served at a later time (O.R.J.P. 18(D)).

### ***Additional time after service by mail***

Whenever a party has the right or is required to do an act within a prescribed period after the service of notice or other paper upon the person and the notice or other paper is served upon the person by mail, three days shall be added to the prescribed period (O.R.J.P. 18(D)). This does not apply to service of summons (O.R.J.P. 18(E)).



## 20. Records

Section 2151.12 of the Ohio Revised Code specifies that the juvenile court clerk, whether the judge of the court or the clerk of the common pleas court by agreement or statute, shall be responsible for all records filed with the court pursuant to any section of the Revised Code that requires documents to be filed with a juvenile judge or a juvenile court.

According to O.R.C. § 2151.18 and 2152.71, the juvenile court shall maintain records of all official cases brought before it, including, but not limited to, an appearance docket, a journal, arrest and custody records, complaints, journal entries, hearing summaries. The court shall maintain a separate docket for traffic cases and shall record all traffic cases on the separate docket instead of on the general appearance docket.

Pursuant to Juvenile Rule 32(B), 37(B) and O.R.C. § 2151.14, juvenile court records, the records of social, mental, and physical examinations pursuant to court order, and records of the juvenile court probation department are *not* public records under O.R.C. § 149.43.

Both legal and social history information is included in juvenile court records. Social history records may contain the personal and family history of a child or any other party to a juvenile proceeding and may include the prior record of the person with the juvenile court, or any other court. The parents of any child affected, if living, or the nearest of kin if the parents are deceased, may inspect these records, either in person or by counsel. Counsel may inspect the social history a reasonable time before any hearing at which it is utilized, although the court may, for good cause, deny inspection, limit its scope or order that the contents of the history not be disclosed to specified persons.

As with juvenile court proceedings involving children, the concept of confidentiality applies to juvenile court records involving children. As a general rule, no public use may be made of any juvenile court record except in the course of an appeal or as authorized by court order. The purpose of this rule is to keep juvenile court records involving children confidential, since their welfare is a primary consideration.

If confidential information is kept in a computer, the court should implement procedures to protect the material from unauthorized access.

### ***Record checks and copies of records***

Individual courts may set their own policies and procedures with regard to record checks and copies of records by local rule. Most juvenile courts will comply with record requests made by military personnel, employers or others upon receipt of a release signed by the person who is the subject of the record.

To comply with *Court Performance Standard 1.5, Affordable Costs of Access*, the court should not charge more for record checks or copies than it costs the court to supply them.

According to *Court Performance Standard 2.2, Compliance with Schedules*, courts have a responsibility to provide services in a timely and expeditious manner. Therefore, record checks and copies should be made available as soon as possible to anyone entitled to the information. Absent special circumstances, it should not take more than twenty-four hours to provide this information.

The Attorney General is permitted to obtain all juvenile court records relative to a delinquent child in order to comply with the Victims' Reparation Act.

***Confidentiality of public children services agency or private child placing agency personnel***

Pursuant to O.R.C. § 2151.142(B)(1), officers and employees, or a person related to such by consanguinity or affinity, of a public children services agency, private child placing agency, juvenile court, or law enforcement agency should not have their residential addresses disclosed to anyone because they are considered confidential information. If this information is contained in public records kept by any of the above, they shall not be considered information that is subject to inspection or copying as part of a public record.

If a journalist requests the residential address of the persons listed above, the juvenile court may be able to disclose the address only if all the following apply:

1. The request is in writing, signed by the journalist, includes the journalist's name and title, and includes the name and address of the journalist's employer;
2. The request states that the disclosure would be in the public interest;
3. The request adequately identifies the person whose address is requested;
4. The public children services agency, private child placing agency, juvenile court of law enforcement agency receiving the request is one of the following:
  - (a) The agency or juvenile court with which the official in question serves or
  - (b) The agency or juvenile court that has custody of the records of the agency with which the official in question serves or with which the employee in question is employed.

***Record retention schedule for juvenile courts***

The record retention schedules for juvenile divisions of the courts of common pleas should be in accordance with Rule 26.03 of the Rules of Superintendence for the Courts of Ohio.

**Index, docket and journal:** The index, docket and journal of a juvenile court shall be retained permanently.

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

**Case Files:**

Delinquency and adult records: Delinquency and adult records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Documents admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty years after the final order of the juvenile division.

Juvenile by-pass records: Juvenile by-pass records shall be maintained in two separate and secure files. The first file shall contain the first page of the form complaint and other relevant documents and the second file shall contain the second page of the form complaint bearing the signature of the complainant. Each file shall be retained for two

years after the final order of the juvenile division, or if an appeal is sought, for two years after the filing of the appeal.

Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency, and URESA (UIFSA) records: Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency and URESA (UIFSA) records shall be retained for two years after the child who is the subject of the case obtains the age of majority. If post-decree motions have been filed, records shall be retained for one year after the adjudication of the post-decree motion or the date specified for case files in division (H)(3) of Rule 26.03, whichever is later.

Search warrant records: Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

Traffic, unruly, and marriage consent records: Unruly and marriage consent records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Minor misdemeanor traffic records shall be retained for five years after the final order of the juvenile division. Misdemeanor traffic records shall be retained for twenty-five years after the final order of the juvenile division. All other traffic records shall be retained for fifty years after the final order of the juvenile division.

Individual courts may address additional record retention issues by local rule.



## 21. Expunging & Sealing of Juvenile Records

Sealing and Expunging Juvenile Records has historically been an area of confusion among juvenile court clerks. House Bill 137 was introduced into the 126<sup>th</sup> General Assembly in an attempt to reduce that confusion and streamline the process of sealing and/or expunging a juvenile record. The Bill was signed by the governor on July 11, 2006, with an emergency clause and became effective on October 12, 2006. The following is a summary of the law pertaining to Juvenile Court Clerks.

### ***Seal***

"Seal a record" means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records accessible only to the juvenile court (O.R.C. § 2151.355 (B)).

The records of a case in which a person was adjudicated a delinquent child for committing a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code shall not be sealed (O.R.C. § 2151.356 (A)).

### ***"Automatic" sealing***

The Juvenile Court shall promptly order the immediate sealing of records pertaining to a juvenile in any of the following circumstances (O.R.C. § 2151.356 (B)(1)):

1. If the court receives a record from a public office or agency pertaining to a juvenile who was arrested or taken into custody for allegedly committing a delinquent or unruly act, no complaint was filed against the person, and the person was not brought before or referred to the court for the commission of the act;
2. If a person was brought before or referred to the court for allegedly committing a delinquent or unruly act and the case was resolved without the filing of a complaint against the person;
3. If a person was charged with violating division (E)(1) of section 4301.69 of the Revised Code and the person has successfully completed a diversion program under division (E)(2)(a) of section 4301.69 of the Revised Code with respect to that charge;
4. If a complaint was filed against a person alleging that the person was a delinquent child, an unruly child, or a juvenile traffic offender and the court dismisses the complaint after a trial on the merits of the case or finds the person not to be a delinquent child, an unruly child, or a juvenile traffic offender;
5. If a person has been adjudicated an unruly child, that person has attained eighteen years of age, and the person is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child.

### ***"Discretionary" sealing***

The juvenile court shall consider the sealing of records pertaining to a juvenile upon the court's own motion or upon the application of a person if the person has been adjudicated a delinquent child for committing an act other than a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code, an unruly child, or a juvenile traffic offender and if, at the time of the motion or application, the person is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child. The motion or application may be made at any time after two years after the later of the following (O.R.C. § 2151.356 (C)(1)):

1. The termination of any order made by the court in relation to the adjudication;
2. The unconditional discharge of the person from the department of youth services with respect to a dispositional order made in relation to the adjudication or from an institution or facility to which the person was committed pursuant to a dispositional order made in relation to the adjudication.

The court shall promptly notify the prosecuting attorney of any proceedings to seal records initiated pursuant to an application. The prosecuting attorney may file a response with the court within thirty days of receiving notice of the sealing proceedings. If the prosecuting attorney does not file a response with the court or if the prosecuting attorney files a response but indicates that the prosecuting attorney does not object to the sealing of the records, the court may order the records of the person that are under consideration to be sealed without conducting a hearing on the motion or application. If the court decides in its discretion to conduct a hearing on the motion or application, the court shall conduct the hearing within thirty days after making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration. If the prosecuting attorney files a response with the court that indicates that the prosecuting attorney objects to the sealing of the records, the court shall conduct a hearing on the motion or application within thirty days after the court receives the response. The court shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration (O.R.C. § 2151.356 (C)(2)).

The juvenile court shall provide verbal notice to a person whose records are sealed if that person is present in the court at the time the court issues a sealing order, that explains what sealing a record means, states that the person may apply to have those records expunged, and explains what expunging a record means. The juvenile court shall provide written notice to a person whose records are sealed by regular mail to the person's last known address, if that person is not present in the court at the time the court issues a sealing order and if the court does not seal the person's record upon the court's own motion, that explains what sealing a record means, states that the person may apply to have those records expunged, and explains what expunging a record means (O.R.C. § 2151.356 (D)(1)).

Upon final disposition of a case in which a person has been adjudicated a delinquent child for committing an act other than a violation of section 2903.01, 2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code, an unruly child, or a juvenile traffic offender, the juvenile

court shall provide written notice to the person that does all of the following (O.R.C. § 2151.356 (D)(2):

1. States that the person may apply to the court for an order to seal the record;
2. Explains what sealing a record means;
3. States that the person may apply to the court for an order to expunge the record;
4. Explains what expunging a record means.

If the court orders the records of a person sealed, the person who is subject of the order properly may, and the court shall, reply that no record exists with respect to the person upon any inquiry in the matter, and the court, except as provided in O.R.C. 2151.357(D), shall do all of the following (O.R.C. § 2151.357 (A)):

1. Order that the proceedings in a case described in divisions (B) and (C) of section 2151.356 of the Revised Code be deemed never to have occurred;
2. Except as provided in division (C) of section 2151.357, delete all index references to the case and the person so that the references are permanently irretrievable;
3. Order that all original records of the case maintained by any public office or agency, except fingerprints held by a law enforcement agency, DNA specimens collected, and DNA records derived from DNA specimens, be delivered to the court;
4. Order each public office or agency, upon the delivering of records to the court, to expunge remaining records of the case that are the subject of the sealing order that are maintained by that public office or agency, except fingerprints, DNA specimens, and DNA records;
5. Send notice of the order to seal to any public office or agency that the court has reason to believe may have a record of the sealed record;
6. Seal all of the records delivered to the court under division (A)(3) of section 2151.357, in a separate file in which only sealed records are maintained.

Each entry regarding a sealed record in the index of sealed records shall contain all of the following (O.R.C. § 2151.357 (C)):

1. The name of the person who is the subject of the sealed record;
2. An alphanumeric identifier relating to the person who is the subject of the sealed record ;
3. The word "sealed";
4. The name of the court that has custody of the sealed record.

Any entry regarding a sealed record in the index of sealed records shall not contain either of the following:

1. The social security number of the person who is subject of the sealed record;

2. The name or a description of the act committed.

The court may maintain a manual or computerized index of sealed records (O.R.C. § 2151.357 (C)). Inspection of records that have been ordered sealed may be made only by the following persons or for the following purposes (O.R.C. § 2151.357 (E)):

1. By the court;
2. If the records in question pertain to an act that would be an offense of violence that would be a felony if committed by an adult, by any law enforcement officer or any prosecutor, or the assistants of a law enforcement officer or prosecutor, for any valid law enforcement or prosecutorial purpose;
3. Upon application by the person who is the subject of the sealed records, by the person that is named in that application;
4. If the records in question pertain to an alleged violation of division (E)(1) of section 4301.69 of the Revised Code, by any law enforcement officer or any prosecutor, or the assistants of a law enforcement officer or prosecutor, for the purpose of determining whether the person is eligible for diversion under division (E)(2) of section 4301.69 of the Revised Code;
5. At the request of a party in a civil action that is based on a case the records for which are the subject of a sealing order, as needed for the civil action. The party also may copy the records as needed for the civil action. The sealed records shall be used solely in the civil action and are otherwise confidential and subject to the provisions of this section.

### ***Expunge***

"Expunge" means to destroy, delete, and erase a record, as appropriate for the record's physical or electronic form or characteristic, so that the record is permanently irretrievable (O.R.C. § 2151.355 (A)).

### ***"Automatic" expungement***

The juvenile court shall expunge all sealed records five years after the court issues a sealing order or upon the twenty-third birthday of the person who is the subject of the sealing order, whichever date is earlier (O.R.C. § 2151.358 (A)).

### ***"Discretionary" expungement***

Upon application by the person who has had a record sealed, the juvenile court may expunge a sealed record (O.R.C. § 2151.358 (B)).

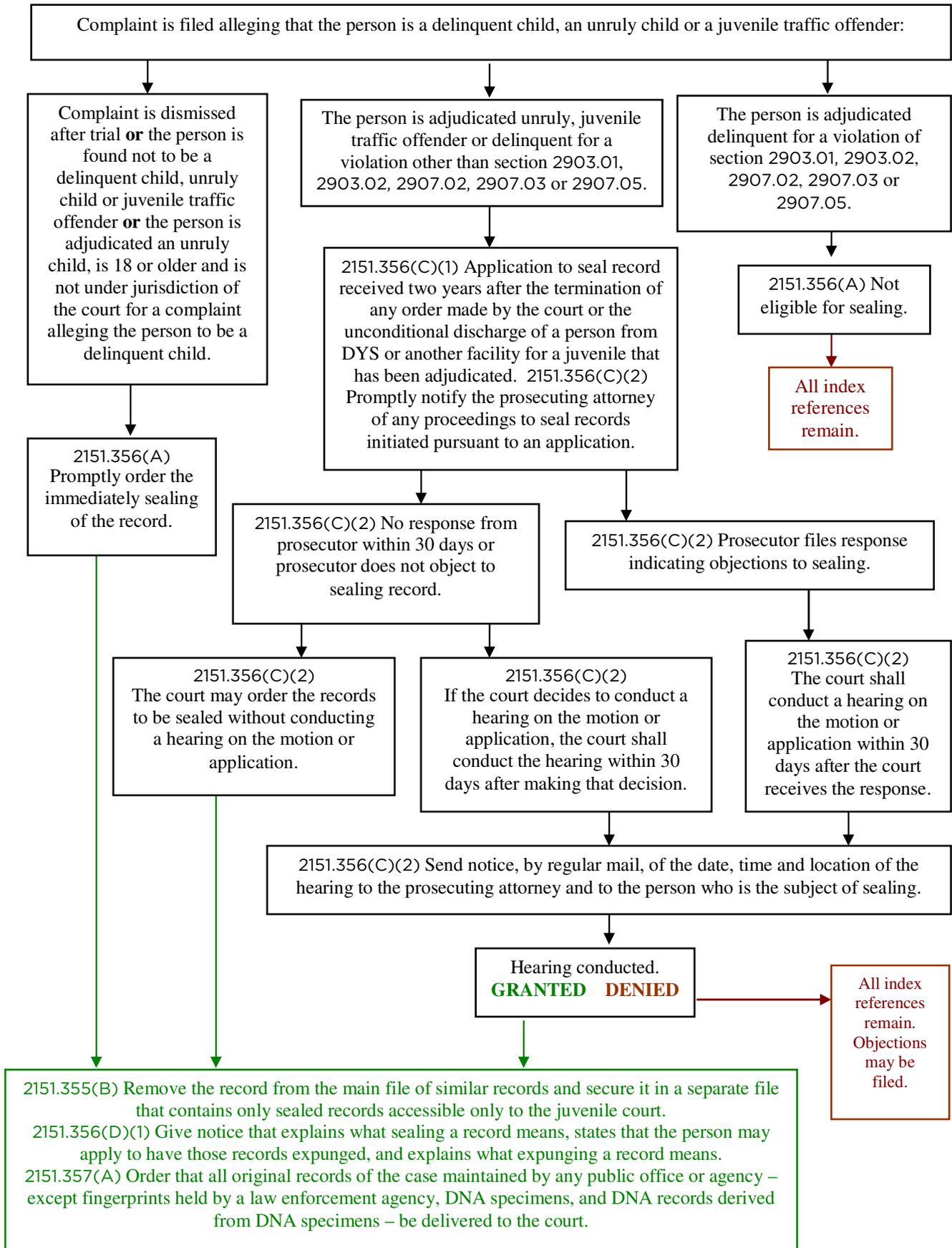
The court shall promptly notify the prosecuting attorney of any proceedings to expunge records. The prosecuting attorney may file a response with the court within thirty days of receiving notice of the expungement proceedings. If the prosecuting attorney does not file a response with the court or if the prosecuting attorney files a response but indicates that the prosecuting attorney does not object to the expungement of the records, the court may order the records of the person that are under consideration to be expunged without conducting a hearing on the application. If the court decides in its discretion to conduct a hearing on the application, the court shall conduct the hearing within thirty days after

making that decision and shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration. If the prosecuting attorney files a response with the court that indicates that the prosecuting attorney objects to the expungement of the records, the court shall conduct a hearing on the application within thirty days after the court receives the response. The court shall give notice, by regular mail, of the date, time, and location of the hearing to the prosecuting attorney and to the person who is the subject of the records under consideration (O.R.C. § 2151.358 (B)(3)&(4)).

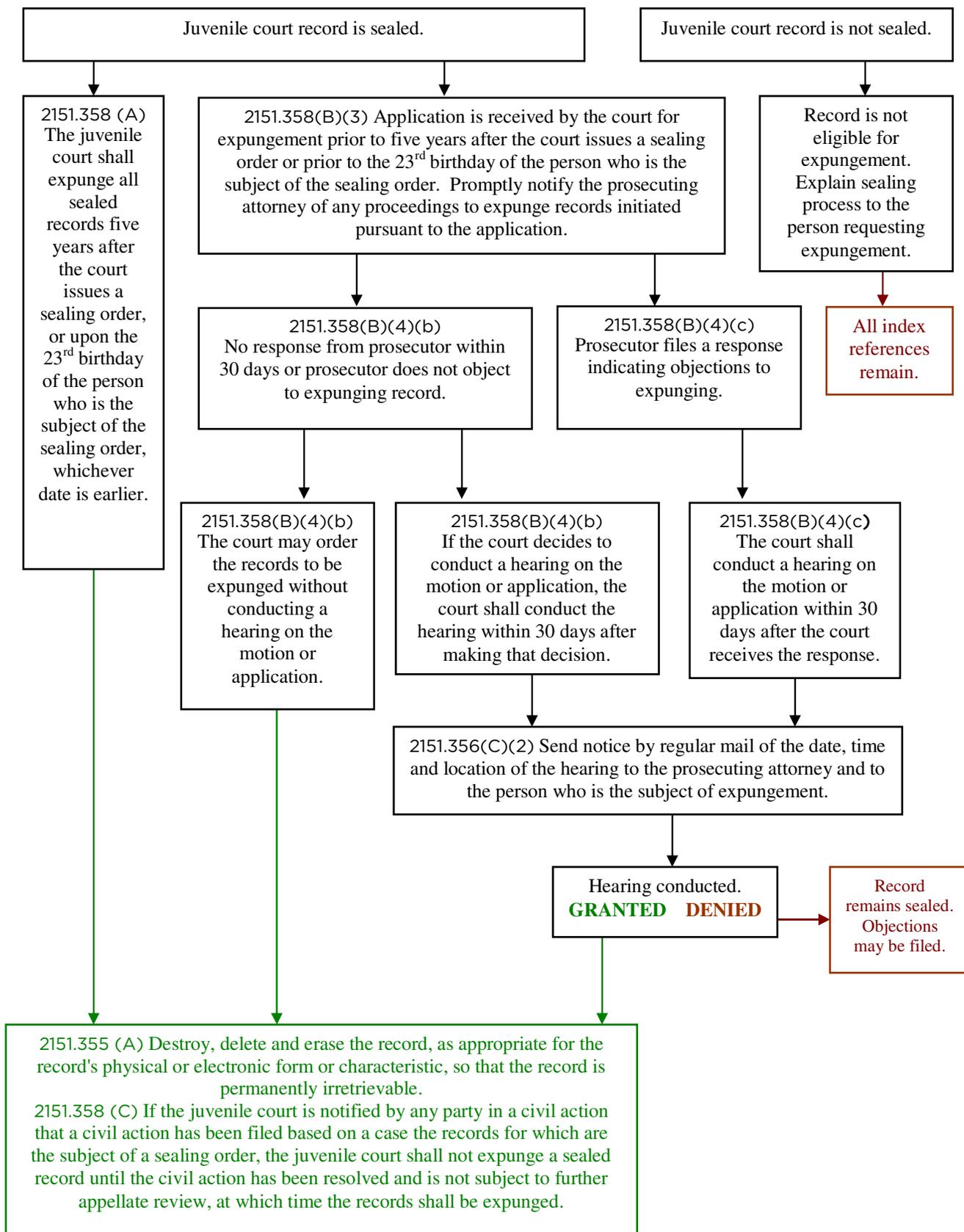
If the juvenile court is notified by any party in a civil action that a civil action has been filed based on a case the records for which are the subject of a sealing order, the juvenile court shall not expunge a sealed record until the civil action has been resolved and is not subject to further appellate review, at which time the records shall be expunged (O.R.C. § 2151.358 (C)).

After the records have been expunged, the person who is the subject of the expunged records properly may, and the court shall, reply that no record exists with respect to the person upon any inquiry in the matter (O.R.C. § 2151.358 (D)).

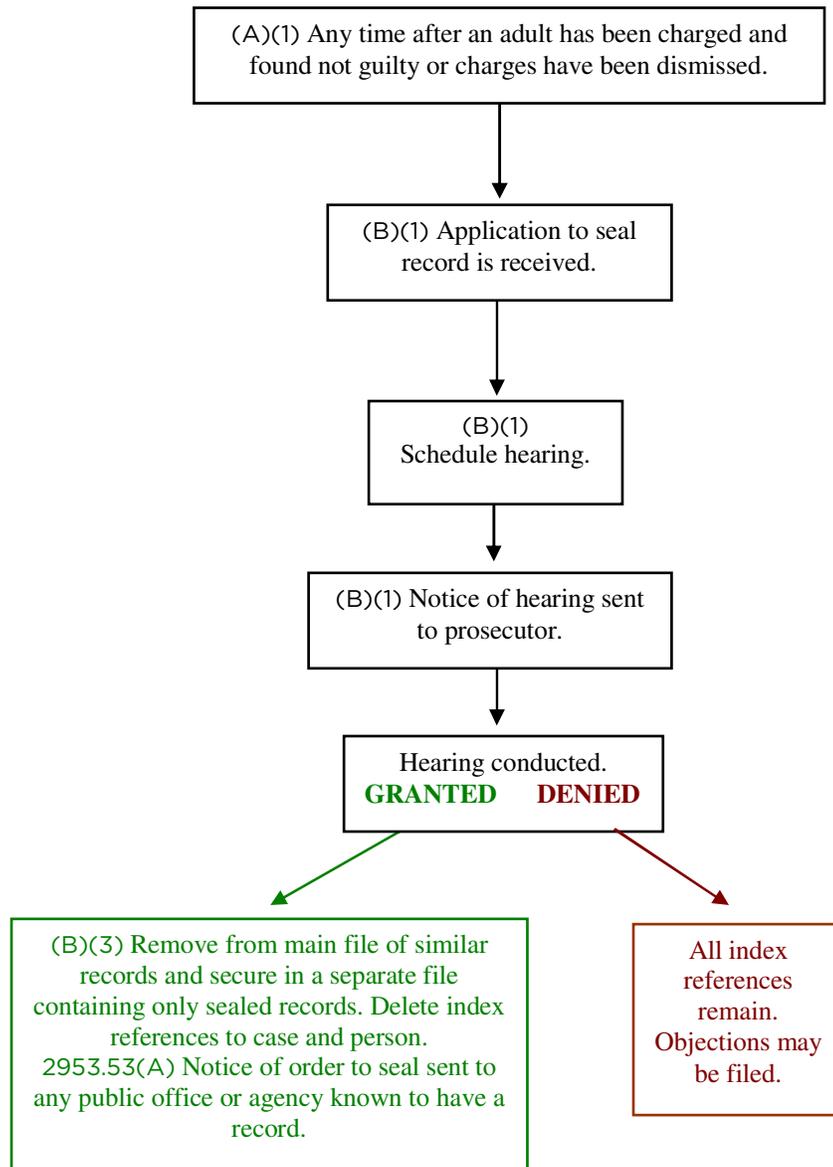
## Sealing of Juvenile Records - O.R.C. § 2151.356 and 2151.357



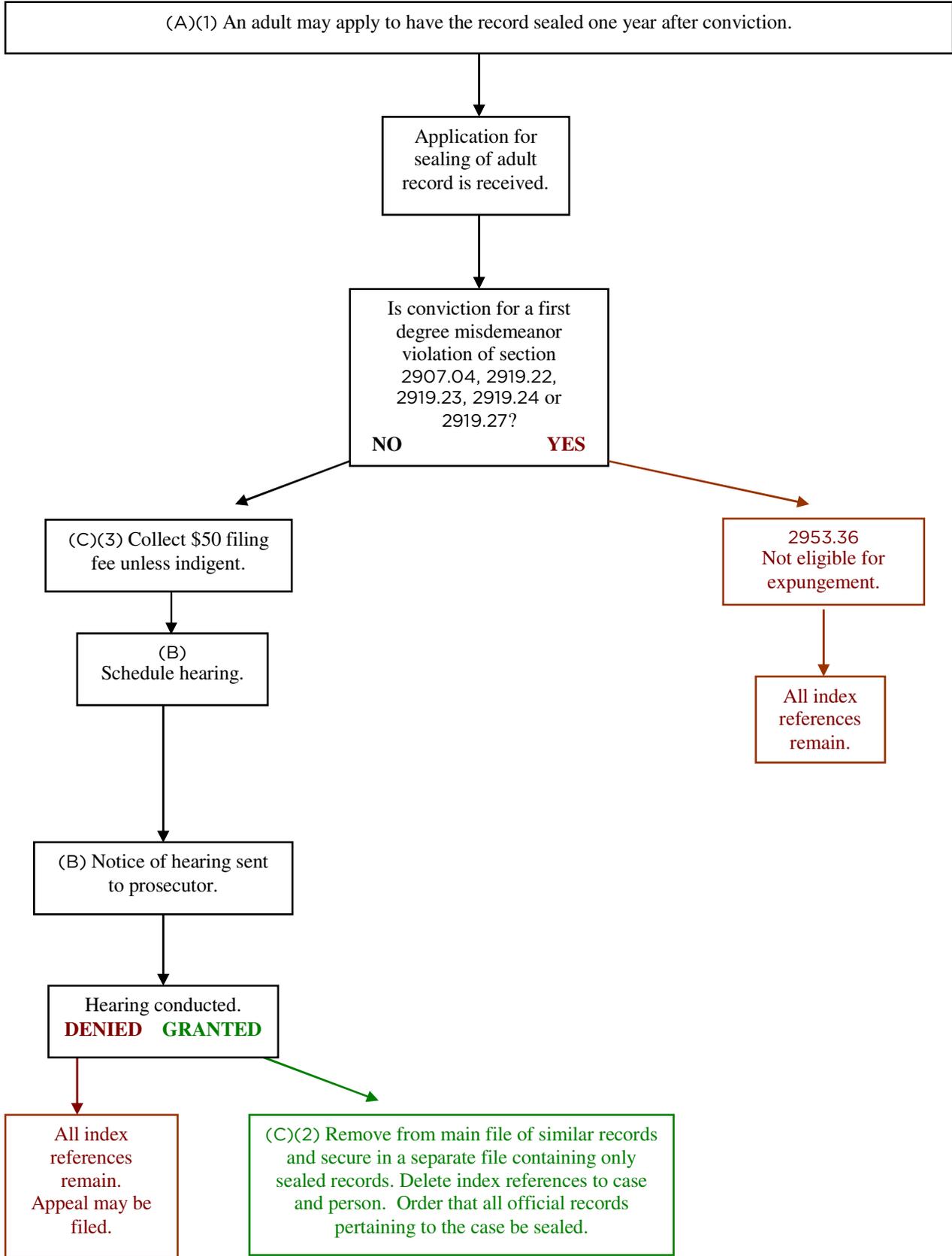
## Expungement of Juvenile Records - O.R.C. § 2151.358



Sealing of Adult Records After Not Guilty Finding or Dismissal  
O.R.C. § 2953.52



## Sealing of Adult Record of Conviction - O.R.C. § 2953.32





## 22. Reports and Information

### ***Supreme Court Report***

Pursuant to Rule 37 of the Rules of Superintendence for the Courts of Ohio, each judge of the court of common pleas responsible for the disposition of juvenile cases is required to complete Form D monthly and submit the report to the Court Statistical Reporting Section of the Supreme Court no later than the fifteenth day after the close of the reporting period.

Form D shows the number of new cases of each case type filed during the previous month, as well as cases transferred in, reactivated or redesignated. The form also indicates the number of case terminations and the manner in which they were terminated, i.e. trial by judge, trial by magistrate, admission, dismissal, etc.

In a multi-judge juvenile division, or if a judge is assigned to sit by the Chief Justice, the reports must be submitted through the administrative judge. The reports must contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report.

These reports become public records when filed with the Court Statistical Reporting Section of the Supreme Court.

The Chief Justice of the Supreme Court may require additional information concerning the disposition of cases and the management of the courts in order to discharge constitutional and statutory duties pursuant to the Ohio Constitution, Article IV, Section 5(A)(1), which gives the Chief Justice general superintendence power over all courts in the state of Ohio. Therefore, all judges, clerks and other court officers must furnish the Chief Justice with any information he/she may request.

### ***Sub. H.B. No 66 – Appointed Counsel Application Fee Report***

On or before the first day of March of each year, the clerk of each court must provide to the state public defender and the state auditor a report that includes the following:

1. The number of persons in the previous calendar year who requested or were provided a state public defender, county or joint county public defender, or other counsel appointed by the court;
2. The number of persons in the previous calendar year for whom the court waived the application fee pursuant to division (A) of O.R.C. Section 120.36;
3. The dollar value of the assessed application fees pursuant to the section above in the previous calendar year;
4. The amount of assessed application fees collected in the previous calendar year;
5. The balance of unpaid assessed application fees at the open and close of the previous calendar year.

***H.B. 530 – Changes to Appointed Counsel Application Fee Report***

Beginning February, 2007, each clerk of court shall begin submitting the Appointed Counsel Application Fee Report monthly. Each report shall be submitted by the 20th day of each month and shall cover data collected for the previous month.

In addition, there is a temporary law provision in the bill that requires each clerk to submit an annual report for calendar year 2006 by February 20, 2007.

Additional information and a sample application fee report form are available through the Ohio State Public Defender website at [www.opd.ohio.gov](http://www.opd.ohio.gov).

***BMV Reporting***

Pursuant to ORC Section 4510.03, courts are required to maintain and forward to the Bureau of Motor Vehicles the following information:

(A) Every county court judge, mayor of a mayor's court, and clerk of a court of record shall keep a full record of every case in which a person is charged with any violation of any provision of sections 4511.01 to 4511.771 or 4513.01 to 4513.36 of the Revised Code or of any other law or ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways or streets.

(B) If a person is convicted of or forfeits bail in relation to a violation of any section listed in division (A) of this section or a violation of any other law or ordinance regulating the operation of vehicles, streetcars, and trackless trolleys on highways or streets, the county court judge, mayor of a mayor's court, or clerk, within ten days after the conviction or bail forfeiture, shall prepare and immediately forward to the bureau of motor vehicles an abstract, certified by the preparer to be true and correct, of the court record covering the case in which the person was convicted or forfeited bail. Every court of record also shall forward to the bureau of motor vehicles an abstract of the court record as described in division (C) of this section upon the conviction of any person of aggravated vehicular homicide or vehicular homicide or of a felony in the commission of which a vehicle was used.

(C) Each abstract required by this section shall be made upon a form approved and furnished by the bureau and shall include the name and address of the person charged, the number of the person's driver's or commercial driver's license, probationary driver's license, or temporary instruction permit, the registration number of the vehicle involved, the nature of the offense, the date of the offense, the date of hearing, the plea, the judgment, or whether bail was forfeited, and the amount of the fine or forfeiture.

In addition, pursuant to ORC Section 4510.03.6, every court of record shall assess and include on the abstract of conviction the number of points chargeable for the offense.

The Ohio Revised Code gives the Bureau of Motor Vehicles the authority to determine the method by which the abstracts are submitted to them. Currently however, there remains a great deal of variation in how courts are submitting this information. Most courts are using electronic submission, either in the form of email or by diskette, while some courts still manually complete the paper abstract and forward it to the Bureau.

***Pursuant to O.R.C. § 2152.71, the following reports are also required:***

### **BCI Report**

The juvenile court shall send to the superintendent of the Bureau of Criminal Identification and Investigation a weekly report containing a summary of each case that has come before it that involves the disposition of a child who is a delinquent child for committing an act that would be a felony or an offense of violence if committed by an adult.

Many courts manually complete BCI Form 2-71 Final Disposition and send this by mail to the bureau of criminal identification and investigation on a weekly basis. Some courts are able to submit this information electronically, in the form of a diskette generated from their case management system. If you are interested in electronic submission of this report, you are encouraged to contact your case management system/software vendor to determine if your system can be modified to accomplish this. Regardless of which method you use, the report should be submitted on a weekly basis.

### **Statistical Record**

The clerk of the court shall maintain a statistical record that includes all of the following:

1. The number of complaints filed that allege that a child is a delinquent child to which the court determines that the victim of the alleged delinquent act was sixty-five years of age or older or permanently and totally disabled at the time of the alleged commission of the act.
2. The number of complaints described above that result in the child being adjudicated a delinquent child.
3. The number of complaints described above in which the act upon which the delinquent adjudication is based caused property damage or would be a theft offense as defined in division (K) of ORC Section 2913.01 if committed by an adult.
4. The number of complaints described above that result in the delinquent child being required to make restitution for all or part of the property damage caused by the act or theft offense.
5. The number of complaints described above in which the act upon which the delinquent adjudication is based would have been an offense of violence if committed by an adult.
6. The number of complaints described above that result in the delinquent child being committed as an order of disposition to any facility for delinquent children operated by the court, a district, a private agency or organization or to the department of youth services.
7. The number of complaints described above that result in the case being transferred for criminal prosecution to an appropriate court having jurisdiction of the offense under ORC 2152.12.

The clerk of the court shall compile an annual summary covering the preceding calendar year showing all of the information for that year contained in the statistical record maintained above. The statistical record and annual summary shall be public records open for inspection. Neither the statistical record nor the annual summary shall include the identity of any party to a case.

**Annual Report**

Not later than June of each year, the court shall prepare an annual report covering the preceding calendar year showing the number and kinds of cases that have come before it, the disposition of the cases, and any other data pertaining to the work of the court that the juvenile judge directs. The court shall file copies of the report with the board of county commissioners.

***Other Reports:*****Felony Adjudication Report**

In some courts, deputy clerks are responsible for or assist in preparing a monthly felony adjudication report that is submitted to the Department of Youth Services. In many courts, clerks do not have an active role in preparing the report, however, the information they enter into their court's case management system is used to generate the report. The number of felony adjudications is used by the Department of Youth Services in determining each county's Reclaim Ohio allocation. Due to the financial implications for most courts, it is critical that this report be accurate.

The felony adjudication report contains demographic information such as the name, date of birth, social security number, race and sex of each youth adjudicated of an offense that would be a felony if committed by an adult.

The report also contains the case number, offense, ORC section number of the offense, offense level and date of adjudication.

This report is submitted to the Department of Youth Services by the tenth day of the month immediately following the month of the reporting period. Currently, most Ohio courts are submitting this information to the Department of Youth Services in paper form. Several courts are using electronic submission, via email or diskette. It is anticipated that courts will be required to access and input this information directly to a DYS data base.



## 23. Court Appointments

Rule 8 of the Ohio Rules of Superintendence requires that the local rule of court governing appointments of counsel or guardians *ad litem* must include:

1. A procedure for selecting appointees from a list maintained by the court that ensures an equitable distribution of appointments among all persons on the list;
2. A procedure by which all appointments are periodically reviewed to ensure the equitable distribution of appointments;
3. The compensation and rate or fee schedule for services rendered by the court appointee.

If a juvenile clerk has this responsibility, the clerk should review appointments on a quarterly basis, if possible, to ensure equitable distribution of appointments. Additionally, if the clerk maintains a list of qualified candidates to serve as counsel or guardian *ad litem*, the clerk should make appointments on a rotation basis unless special circumstances exist. Special circumstances can include a certain person/appointee possessing more knowledge or skill in a certain area of practice.

Ohio Rule 8 of Superintendence also requires the court to maintain a list of potential appointees for appointments frequently made by a court (i.e., appointment of counsel in criminal cases), but the court does not have to maintain a list for appointments rarely made by the court.

### ***Appointment of counsel***

Procedures of the juvenile court must be consistent with Rule 4 of O.R.J.P. and O.R.C. § 2151.352.

Rule 4(A) of O.R.J.P. states that every party to a juvenile court proceeding shall have the right to be represented by counsel and every child, parent, custodian, or other person in loco parentis has the right to appointed counsel if indigent. However, O.R.C. § 2151.352(d) removes this right in certain civil matters in O.R.C. § 2151.23(A)(2), (3), (9), (10),(11), (12), or (13); (B)(2) through (6); (C); (D); or (F)(1) or (2):

1. To determine the custody of any child not a ward of another Ohio court;
2. To hear and determine any application for a writ of habeas corpus involving the custody of a child;
3. To hear and determine requests for the extension of temporary custody agreements and requests for court approval of certain permanent custody agreements;
4. To hear and determine applications for consent to marry;
5. To hear and determine a request for an order for the support of any child if the request is not ancillary to an action for divorce, dissolution of marriage, annulment, or legal separation, a criminal or civil action involving an allegation of domestic abuse, or an action for support under the Uniform Interstate Family Support Act.
6. To hear an action under O.R.C. § 121.38 concerning an agency dispute with a county Family and Children First Council's decision regarding a child's services;
7. To hear and determine a violation of the compulsory attendance laws;
8. To determine the paternity of a child born out of wedlock;
9. Any action under the Uniform Interstate Family Support Act;

10. To hear and determine an application for a child support order for any child if the child is not a ward of another Ohio court;
11. To hear and determine an action under O.R.C. § 3111.28 regarding the rescission of an acknowledgment of paternity;
12. To hear and determine a motion for relief from a paternity determination or support order under O.R.C. § 3119.961;
13. Certain actions for divorce or legal separation that involve the custody or care of children;
14. All matters as to custody and support of children after a divorce decree has been granted.

Therefore, in any of the above listed matters, there is now no right to an attorney. Clerks may want to discuss these specific instances with their internal legal department and judges as well include this information in a local rule.

Pursuant to the O.R.C., Chapter 120, a Financial Disclosure/Affidavit of Indigency form must be filed by each indigent defendant or parent for each case so the court appointed attorney or guardian *ad litem* may be compensated. When the complaint alleges that a child is an abused child, the court must appoint an attorney to represent the interests of the child (O.R.J.P. 4(A)).

An attorney enters an appearance either by filing written notice with the court or by appearing personally at a court hearing and informing the court of representation (O.R.J.P. 4(D)).

An attorney may withdraw only with the consent of the court upon good cause shown (O.R.J.P. 4(F)). The court may fix compensation for the services of appointed counsel, tax the same as part of the costs and assess them against the child, the child's parents, custodian, or other person in loco parentis of the child (O.R.J.P. 4(G)).

### ***Appointment of guardians ad litem***

Procedures of the juvenile court must be consistent with Rule 4 of O.R.J.P. and O.R.C. § 2151.281.

Rule 4(B) of the O.R.J.P. governs when a guardian *ad litem* should be appointed. The court must appoint a guardian *ad litem* to protect the interests of a child or incompetent adult in a juvenile court proceeding when:

1. The child has no parents, guardian, or legal custodian;
2. The interests of the child and the interests of the parent conflict;
3. The parent is under eighteen years of age or appears to be mentally incompetent;
4. The court believes that the parent of the child is not capable of representing the best interests of the child;
5. Any proceeding involves allegations of abuse or neglect, voluntary surrender of permanent custody, or termination of parental rights as soon as possible after the commencement of such proceeding;
6. There is an agreement for the voluntary surrender of temporary custody that is made in accordance with O.R.C. § 5103.15, and thereafter there is a request for extension of the voluntary agreement;
7. The proceeding is a removal action;

8. Appointment is otherwise necessary to meet the requirements of a fair hearing (O.R.J.P. 4(B)).

The court shall appoint a guardian *ad litem* to protect the interests of a complainant, pursuant to §2919.121 and if the complainant has not retained counsel, the court shall appoint an attorney, which may also be the guardian *ad litem*, if he or she is admitted to practice law in Ohio. (O.R.C. § 2919.121)

Rule 4(C) of the O.R.J.P. governs when the guardian *ad litem* is also acting as counsel for a party. When the guardian *ad litem* is an attorney admitted to practice in Ohio, the guardian may also serve as counsel, if no conflict between the roles exists (O.R.J.P. 4(C)(1)). If a conflict does exist between the responsibilities of the role of attorney and the role of guardian *ad litem*, the court must appoint another person as guardian *ad litem* (O.R.J.P. 4(C)(2)). If a court appoints a person who is not an attorney admitted to practice in Ohio to be a guardian *ad litem*, the court may appoint an attorney admitted to practice in Ohio to serve as attorney for the guardian *ad litem* (O.R.J.P. 4(C)(3)).

The guardian *ad litem* must be given notice of all proceedings in the same manner as notice is given to other parties to the action (O.R.J.P. 4(E)).

A guardian *ad litem* may withdraw only with the consent of the court upon good cause shown (O.R.J.P. 4(F)).

The court may fix compensation for the services of guardians *ad litem*, tax the same as part of the costs and assess them against the child, the child's parents, custodian, or other person in loco parentis of the child (O.R.J.P. 4(G)).

Pursuant to O.R.C. § 2151.414(C), a guardian *ad litem* must prepare a written report and recommendation in permanent custody cases. The court may also require a written report in other cases, but the guardian *ad litem* should file the report in the clerk's office and the reports are subject to O.R.J.P. service requirements. Furthermore, the clerk should check for completion of reports to ensure compliance with requirements designated by the local rules of court.

**Guardian *ad litem* Task Force:** The Supreme Court of Ohio established the Guardian *Ad Litem* Task Force to develop practice standards for guardians *ad litem* who represent children because of the important role they serve in the judicial system. The Task Force made several recommendations that could be helpful to juvenile clerks:

1. Guardians *ad litem* shall continue to serve on a case until discharged by the court; whenever possible, the court should reappoint the same individual as guardian *ad litem* for the child in additional proceedings.
2. The court shall appoint qualified and competent individuals to serve as guardians *ad litem*. Individuals seeking appointment as a guardian *ad litem* must file an application with the court and be subject to civil and criminal background checks.
3. Courts shall maintain records of all individuals applying for consideration of appointment.
4. Courts shall review guardian *ad litem* performance annually.
5. The court shall designate a court employee to receive any complaints regarding guardians *ad litem* and shall maintain a written record of the complaint disposition.

6. Guardians *ad litem* should be compensated at a reasonable hourly rate for services performed, based upon education and experience.
7. A cap on guardian *ad litem* fees in individual cases is recommended, with additional fees paid upon court approval.

The Advisory Committee for Children, Families and the Courts has made the implementation of these standards for guardians *ad litem* a project to be undertaken by 2007.

### ***Court Appointed Special Advocates (CASA)***

A CASA/GAL is a trained community volunteer who is appointed by a judge or magistrate to advocate for the best interests of abused, neglected, or dependent children in court proceedings. Many counties have CASA/GAL programs where these volunteers serve in place of attorney guardians *ad litem*. CASA/GAL must follow the same guidelines as attorney guardians *ad litem* in carrying out their responsibilities, but may require additional training or certification to act as advocates.

### ***Indigent Application Fee for Public Defender/Court Appointed Counsel***

House Bill 66, effective September 29, 2005, brought changes to the procedure by which a party requests representation by a public defender or a court appointed attorney. In the past, a party completed the state form entitled "Financial Disclosure/Affidavit of Indigency", filed it with the Court and from that, if eligible, received a public defender or court appointed attorney at no cost to them. The law still requires the above referenced form although it has been changed and courts should replenish their supplies with the new form (OPD-260R). In addition to the affidavit, **the law now requires a nonrefundable \$25.00 fee per case paid to the court at the time the party files their affidavit or within seven days of that date.** A person's failure to pay the fee does not disqualify nor prevent them from being provided legal representation. If the fee is not paid, the court should assess the \$25.00 as court costs at the final disposition of the case.

The Court may waive or reduce the \$25.00 fee, either upon the court's own motion with a specific finding of fact or upon the filing of a motion by the party. Waivers or reductions would be based on a finding that the person lacks financial resources or that payment of the fee would result in undue hardship. Courts may want to establish pre-printed forms for the use of pro se parties requesting waivers or ones for courts to use when waiving or reducing the fee on their own motion.

The court shall remit all funds received to the county treasurer. The county shall retain 80% of the collected fees to offset the costs of providing representation to indigent persons and the remaining 20% shall be forwarded to the State Office of the Ohio Public Defender.

The Court has specific reporting requirements they must provide the State Public Defender's Office on or before the first day of March each year as follows. It is advisable for the court to make arrangements with their computer software company to put whatever codes, fields and reports into place to capture the following required reporting:

1. the number of persons in the previous calendar year who requested or were provided a state public defender, county or joint county public defender or other counsel appointed by the court

2. the number of persons in the previous calendar year for whom the court waived the application fee
3. the dollar value of the assessed application fees
4. the amount of assessed application fees collected
5. the balance of unpaid assessed application fees at the open and close of the previous calendar year.

For more information and frequently asked questions the state Public Defender's Office website might be a useful tool: [www.opd.ohio.gov](http://www.opd.ohio.gov).

***Limitations in the assignment of public defender and court appointed counsel***

House Bill #66 also brought changes which amended O.R.C. § 2151.352, limiting the right to court appointed counsel in certain cases. Indigent defendants will no longer be eligible to a public defender or assigned counsel in the following cases:

1. actions to determine the custody of any child not a ward of another Ohio court [O.R.C. § 2151.23(A)(2)];
2. Habeas Corpus involving the custody of a child [O.R.C. § 2151.23 (A)(3)]
3. Temporary custody and surrender proceedings filed pursuant to O.R.C. § 5103.15; [O.R.C. § 2151.23(A)(9)]
4. Consent to Marry filed pursuant to O.R.C. § 3101.04 [O.R.C. § 2151.23(A)(10)]
5. Support proceedings not ancillary to the types of cases listed, or as filed under O.R.C. 3115, Uniform Interstate Family Support Act [O.R.C. § 2151.23(A)(11)]
6. Proceedings held pursuant to O.R.C. § 121.38 (determining which agency funds services for youth in abuse, neglect, dependency, unruly, delinquency, or juvenile traffic offender cases [O.R.C. § 2151.23(A)(12)]
7. Violations of O.R.C. § 3321.38 (failing to send child to school) [O.R.C. § 2151.23(A)(13)]
8. Paternity proceedings pursuant to O.R.C. 3111.01 through 3111.18 [O.R.C. § 2151.23(B)(2)]
9. Support/paternity proceedings [O.R.C. § 2151.23(C)]
10. Action for divorce or legal separation [O.R.C. § 2151.23(C)]
11. Actions relating to the custody and support of children duly certified by the court of common pleas to the juvenile court after a divorce decree has been granted [O.R.C. § 2151.23(D)]
12. Actions relating to child custody and support matters under O.R.C. 3109.04 (allocation of parental rights), proceedings pursuant to the Uniform Child Custody Jurisdiction & Enforcement Act, O.R.C. § 3127.01 to 3127.53; proceedings pursuant to the Interstate Compact on Placement of Children O.R.C. § 5103.20 to 5103.28 and 3109.05 (child support) [O.R.C. § 2151.23(F)(1-2)]

Therefore, it appears the only cases remaining eligible for public defender or court appointed counsel would be delinquent, unruly, adult criminal contempt of court, show cause and matters alleging abuse, neglect, and dependency.

None of the above affects Juvenile Rule 4 (B) through (G) regarding the appointment of a GAL for a child or incompetent adult.

It would be wise for courts to consider changes needed anywhere either in writing (such as summons, legal rights) as well as the verbal instructions from the bench the judges and magistrates give that might need to be altered in lieu of the change this law makes.



## **24. Controlling the Docket**

How a court handles its docket can determine the court's effectiveness and efficiency (ABA Center on Children and the Law, *Child Court Works*, Vol. 3, Issue 4, November, 1999). The American Bar Association's Center on Children and the Law examined the ineffectiveness of common docketing procedures and proposed docketing procedures that improve the functioning of juvenile courts.

"Cattle call" dockets are still common in juvenile courts. "Cattle call" dockets are when the clerk assigns all cases the same morning time or assigns some cases one morning time and other cases an afternoon time, even though these cases are heard all day (id). The result is that social workers, attorneys, guardians, and parties wait for a long period of time for the cases to be heard. This can be very frustrating for parties or other persons central to a case because they have to wait for a long time and they may have other cases to prepare for. Therefore, the ABA proposed more precise docketing practices that might be worth considering for the future.

### ***Block time docketing***

If the clerk employs the block time docketing method, the clerk will assign groups of hearings to certain blocks of time. Each block should be dedicated to one type of hearing. All parties to the hearings should be assigned to the time that the block starts. Therefore, the parties may have to wait, but the length of waiting time will be reduced. Different types of hearings should be given different lengths of time. If a particular hearing will take a lot of time, the hearing should be assigned to the entire day instead of placed within a block (id).

### ***Time certain docketing***

Time certain docketing requires the court to determine how long different hearings take on the average. After the court determines about how long (average time) a specific type of hearing takes, the court will set up the court calendar accordingly. Therefore, the court day can be broken up into half hour blocks of time (longer or shorter, depending on the type of hearing) and the parties can be given the exact time the hearing will be heard. However, if a court employs this method, emergency hearings that need to be heard right away might throw off the exact time docketing method. Therefore, the court should consider allotting a certain block of time for emergency hearings or fitting those hearings into open time slots on the calendar (id).

### ***Combination of block time and time certain docketing***

Courts can set aside certain blocks of time for certain types of hearings, but then the clerk will assign a specific time within a block for a particular hearing. When all the slots within the time block are filled, the clerk can assign times during the next day that has available slots for that type of hearing (id).

To make sure that all times are filled, the clerk should schedule the hearing for the first available date and time for that type of hearing (id). When using first available scheduling, clerks should be cognizant of service timeframes.

### ***Benefits of precise docketing practices***

The ABA listed the benefits for court participants of precise docketing practices as follows:

1. Attorneys and caseworkers have more time to spend working on their cases, obtaining services for clients, submitting necessary documentation to the court, monitoring cases, and otherwise serving their clients and moving cases along. The result is that clients are better served and permanency of children is expedited;
2. Parties and witnesses are more likely to be present, resulting in a more efficient and timely resolution of cases;
3. Participants in the court process have greater respect for the court;
4. Participants in the court process can plan and keep their schedules, in and out of court, reducing conflicts with parents' work schedules and case plan obligations. Furthermore, attorneys and caseworkers will have more control over their caseloads;
5. Problems resulting from parties and participants becoming frustrated and bored while waiting decrease (id).

### ***The relationship between docketing and continuances***

More precise docketing practices can also help the court control the volume of continuances. If a clerk schedules all the hearings as early as possible in the court day, the court day will end earlier, and attorneys and caseworkers can have more time to prepare for the next day in court (see Reference 7). Since many continuances are the result of lack of preparedness of key court participants, this may decrease the volume of continuances.

### ***How many cases a day should be on the docket?***

Many juvenile courts have one judge while others have multiple judges. Therefore, the number of judges will also dictate how many cases can be heard. The number of cases a clerk should schedule per day should be determined by achieving a balance of the timely disposition of cases and giving each case the attention it needs. The docket should never be so crowded that the judge will not be able to give a hearing the due attention it deserves. However, it should never be too open so the court cannot achieve the goal of the timely disposition of cases.

### ***One family-one judge model***

This case-assignment model recommends that the judge initially assigned to the case be assigned to hear the case on all subsequent hearings. The judge initially assigned to the case has the most information and is most familiar with the case so he/she can make the most informed decision. Orders will be more consistent as the goal and expectations remain constant (*Roslyn M. Satchel's Final Report to the Fulton County Juvenile Court and the Barton Child Advocacy Clinic, 2000*) and accountability of all parties increases. This model deters parents from repeating excuses for lack of progress, wasting valuable court time, and slowing down permanency (id). The parties can rely on the court's discretion because they don't have to worry that another judge at the next hearing will interpret the case differently (id). Judges can also develop greater specialization in the area of juvenile law by following cases through to the end (id). The only time when this method might not be the best practice to follow would be if the judge initially assigned to the case is not available for an emergency hearing and it would be in the best interests of the child for the matter to be heard right away.

### ***Continuances***

Continuances increase the load on the court calendar, and each continuance can add extra weeks or months to the court process. In addition, since continuances and court delays can severely affect a child, the court should consider the ramifications of such actions.

Therefore, it is necessary for the court to act in strict compliance with the rules governing continuances.

Rule 23 of O.R.J.P. specifies that continuances should be granted only when imperative to secure fair treatment for the parties. Motions for continuance must be submitted in writing with the proper caption and case number (Ohio Rule 56(A) of Superintendence). Except on motion of the court, no continuance should be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or the adverse party's counsel (Ohio Rule 56(B) of Superintendence). The failure to object to the continuance within a reasonable time after receiving notice will be considered consent to the continuance (id). A proposed entry must be filed with a motion for continuance, leaving the time and date blank for the court to set a new date (Ohio Rule 56(C) of Superintendence). No court should grant a continuance to any party at any time without first setting a definite date for the trial or hearing (Ohio Rule 41(A) of Superintendence). A common reason for delay is the absence of key parties to proceedings. Therefore, pursuant to Rule 41 of the Ohio Rules of Superintendence, if a continuance is requested due to the unavailability of a witness, the court must consider the feasibility of recording testimony permitted by Civ. R. 30(B).

### ***Tracking***

The court should develop an automated computer case management system (CMS) to ensure the quickest and easiest access to information. It is recommended that courts install relational database software, if a CMS has yet to be implemented (McMillan, James, "Case Management Systems in the USA," 1998, NCSC). Help is available to local courts through The Supreme Court of Ohio's Technology Resources Section (see Reference 8). If the court uses relational databases, it can collect all of the information that is necessary to identify patterns and practices of individuals so the court can make better decisions (id). Some things the National Center for State Courts (NCSC) noted that the court should consider when choosing the right kind of software are:

1. Court systems should be able to track multiple addresses for individuals, including home and business addresses, so it is easier to deal with post-judgment collection and warrant practicing;
2. Case tracking should track case history by date or numeric or alpha-numeric code;
3. The CMS should have fields for additional material such as fees associated with case events, the person entering the information (i.e., judge, clerk, etc.);
4. The CMS should link to electronic documents;
5. Case events should be coded with triggers so that once an event is logged, the next scheduled event and case file or document is cued into the calendar/tickler system for a judge or court member when he/she logs into the computer—tasks are presented and work can be evenly distributed;
6. Time tracking function should allow clerks to know when to produce notices and judges to know when to prepare;
7. Every case should have future dates set for court or clerk action until the action is completed;
8. The court should track trends for continuance requests so the court can make adjustments in the future that will limit the number of continuances. The tracking should include why continuance orders are issued and at which phase the request is made;

9. The computer should automatically retrieve the proper documents or files for the judge and if he/she wants information on paper, documents should be sent to a laser printer during the night so they will be ready by morning;
10. Time payment agreements should be recorded in the case history;
11. Monetary payments are recorded and distributed to the proper accounts along with a summary note;
12. Reports coming from jail, probation or work service should be entered in a way that monitors that the sentence is being served;
13. There should be a secure financial system. It should be more difficult for court clerks and judges to adjust fines or to forgive fines in the system so two people should have to approve the adjustment. One of these two people should be someone outside the court (i.e., city manager).

The court should employ methods and practices by which it can track information to facilitate and monitor the processing of juvenile cases. Courts should consider using data elements that will allow the court to count and differentiate filings using key characteristics, facilitate case flow management, and provide the court with basic information related to case tracking and performance (Data Specifications for the Tracking of Neglect, Abuse, and Dependency Cases, NCJJ, 2000). The system implemented to track these cases should include software to allow for multiple children to be named as victims on abuse, neglect or dependency petitions so the system will be able to track the progress of individual children through the court process (id). The software should be able to track allegations, adjudications, dispositions, hearings, and legal status or placement changes for each individual child named on a petition (id). The system should also be able to link subsequent petitions filed in the case to the individual child, including petitions to terminate parental rights (id).

Basic elements that will permit the court to track cases, describe the caseload population, and examine differences among sub-populations with respect to case progress and performance should be accomplished at the child level instead of the petition level (id). Case characteristic data elements that should be tracked are the child demographics (date of birth, race, sex), allegations contained in the petition as to each child, referring party (child protective services, private pro se, private with retained counsel, etc), legal status (legal custody and placement), and the assigned jurist (id).

When data elements are used to track case flow and to measure performance, the information available upon tracking should include:

1. Petition type and filing date, including supplemental petitions;
2. All hearings by type, date, and hearing result (i.e., completed, continued, etc.);
3. Adjudication date and type of charge;
4. Disposition date and result type;
5. Permanent plan and date the plan was approved;
6. Legal status type/changes with beginning and ending date;
7. Placement type/changes with beginning and ending date beginning with the first placement even if this placement occurred prior to the filing of the petition;
8. Case termination type and date (id).

Using these data elements, the court should be able to generate report listings that can be used to monitor the process of each individual case to see if the time deadlines in cases

are or are not being met (id). Furthermore, this type of tracking should identify how long each case has been in the juvenile court system (id). Statistical reports should also be generated that examine court performance, including the length of time it takes the court to complete the different case processing stages (id). The length of time cases remain open or under court review should be monitored (id). The court should be able to track client fees, fines, restitution, and community service. There should be systematic auditing of data through online screen edits and quality assurance reports (id).



## 25. Jury Trials

### ***Partnering with your judge and personnel from general division court***

The preparation for a jury trial would ideally be a joint effort between the trial court's judge and the clerk that likely will serve as the jury manager (bailiff). Some issues are clearly within the responsibility of the bench and some are for the personnel notifying and handling the jurors. But especially for a court that does not often have juries (such as Juvenile courts) you may find the work leading up to and even during the trial very intertwined and dependent upon each other for a successful and smooth outcome.

Because jury trials are so seldom held in juvenile courts, many court personnel do not feel adequately prepared to deal with a jury and the related issues such as how to summons the jurors to appear, what the physical set up should be in the courtroom or how to orient the jurors once they report for duty. It is strongly advised that **before you get to the point of a jury demand** (see next section) you put into place a jury management plan [see Supreme Court's Rule of Superintendence # 5(B)]. A good place to help you establish practical step by step plans would be by partnering with your county Jury Commissioner's Office or general division judge(s) and courtroom personnel who handle juries on a regular basis and learn what they do. Perhaps you could job shadow their personnel through one of their juries to show you tips on what to do and what not to do with a jury. You might even find you can use their courtroom or jury room to make your event run smoother especially if your space is limited or inadequate. All of this could lead to a written jury management plan so you do not have to "re-invent the wheel" each time you face a jury trial especially if it is a long period of time since the last preparation.

### ***Jury demand***

In order to have a case heard by a jury rather than a bench trial before a judge or magistrate the defendant or their attorney must file with the court a written request for a trial by jury. This request is also known as a jury demand. It should be filed not less than three (3) days before the date set for trial, or three (3) days after counsel has been retained, whichever is later. It is up to each court as to whether they will require a filing fee or deposit to accompany the jury demand. The amount of the fee may be an arbitrary figure but most likely based on an estimation to cover the clerk's time to prepare for the jury or the amount of money needed to cover costs associated with the jury such as their daily stipend or meals.

### ***Pretrial conference***

Once the jury demand is filed, the judge or magistrate hearing the case may wish to have a pretrial or attorney conference to discuss any pre-trial issues before the court. This can also give the court an idea of the proposed number of witnesses either side expects to call, thus helping the court identify how many days it should set aside for the trial.

### ***Juror compensation***

The Board of County Commissioners by resolution shall fix the compensation of each juror payable out of the county treasury. Juror compensation and costs of the clerk and sheriff shall be taxed and paid as in criminal cases in Common Pleas Court, General Division.

### ***Jury draw (O.R.C. § 2313)***

In most counties a potential juror list is formulated each year by a draw made by the jury commissioner's or the general division's office from a poll list provided by the county board of elections and a licensed driver list from the county bureau of motor vehicles. These lists are to be current as of December 30th of each year. It is the opinion of many Juvenile Court Judges that since juvenile courts are *divisions* of the Common Pleas Court, they should be provided with jury names just as the general division court is. Therefore, directly dealing with a jury draw may not be an added responsibility you will face.

When you receive the names of the jurors for your trial, each side's attorneys should be given a copy of the list and background information the jury commissioner provides to aid them in developing the *voir dire*. *Voir dire* is the name given for the process of questioning each jury to determine who the best members from the jury list will be to hear the case. The judge of the trial court shall examine the prospective jurors under oath or upon affirmation of their qualifications to serve as fair and impartial jurors, but he shall permit reasonable examination of such jurors by the prosecuting attorney and by the defendant or his counsel.

### ***Eligibility***

All persons should be eligible for jury service except those who:

1. Are less than eighteen years of age;
2. Are not citizens of the United States;
3. Are not residents of the jurisdiction in which they have been summoned to serve;
4. Are not able to communicate in the English language; or
5. Have been convicted of a felony and have not had their civil rights restored

### ***Size of jury panel***

In felony cases, juries shall consist of 12 individuals and in misdemeanor cases 8. In civil cases the jury shall be composed of 12 members. The court may direct that no more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties.

### ***Notification and summoning procedures***

A notice summoning a person to jury service and a questionnaire eliciting essential information regarding that person may be combined in a single document. It should be easily phrased and readily understood by an individual unfamiliar with the legal and jury systems. It should be delivered by ordinary mail.

If your court is getting juror's names from the General Division draw, the questionnaire will have already been sent by that court and not be necessary for you to duplicate.

The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

1. Determining whether a person meets the criteria for eligibility;

2. Providing basic background information ordinarily sought during voir dire examination;
3. Determining food allergies, if any, in the event a jury would be deliberating over lunch or dinner;
4. Determining special needs of blind, deaf or physically handicapped jurors;
5. Efficient management of the jury.

Many jurors are notified that they are “on call” for a particular amount of time and will receive a specific summons for the day(s) they are needed to report. The summons should clearly explain how and when the recipient must respond and the consequences of failure to respond.

### ***Excuse and deferral***

A juror may be excused only for specific reasons as determined by the court. Excuses may be granted only by the judge presiding in the case or a representative of the judge.

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

Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded per specific guidelines adopted by the court. For more information see O.R.C. § 2313.13 & 2313.16.

### ***Special needs of a juror***

It is the obligation of every court to provide for the special needs of blind, deaf or physically handicapped jurors at no costs to the juror.

### ***Juror provisions***

Jurors may be provided folders to include the following:

1. Juror badge;
2. Juror information sheet regarding policies and procedures (i.e., smoking, parking);
3. Written juror instructions;
4. Notepads, pens/pencils (if note-taking is permitted by the court\*); and
5. An exit questionnaire.

\*Notes taken by jurors should be collected and shredded in sight of the jurors at the conclusion of trial. If a jury trial should be continued beyond the first day, jurors’ notes should be secured prior to the jurors’ dismissal at the conclusion of that day.

### ***Employers’ responsibilities***

Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service. For more information see O.R.C. 2313.18.

A certificate to employer of jury service may be provided to each juror upon request.

***Eligibility for a jury trial—adults***

Ohio Juvenile Law, Section 2152.67, of the O.R.C. states “Any adult arrested or charged under any provision in this chapter and who is charged with a crime may demand a trial by jury, or the juvenile judge on the judge’s own motion may call a jury.”

Adults have no right to a jury trial in joint truancy cases (see O.R.C. Sections 2151.35 & 2945.17).

***Eligibility for a jury trial—juveniles***

Effective 1/1/02, Senate Bill 179 was enacted, bringing blended sentencing and other reforms to Ohio law. It moved bind-over, dispositions for juvenile delinquency (both felonies and misdemeanors), and juvenile traffic offenders to a newly created Chapter 2152. This change gave juvenile courts three basic options in felony delinquency cases:

1. Transfer of juvenile cases to adult court (commonly referred to as “bind-over”) which is mostly discretionary but is, in some instances, mandatory;
2. Traditional juvenile dispositions such as DYS terms and probationary conditions; and
3. Blended sentences wherein both a juvenile and an adult sentence can be imposed for serious youthful offenders (SYOs) only.

The eligibility for various dispositions in the newly created legislation is given in Table 1.

Due to the specter of adult punishment, the alleged SYO is entitled to adult rights, which include the following:

1. Grand Jury;
2. Open and speedy jury trial;
3. Bail;
4. Criminal process;
5. Counsel;
6. Competency;
7. Appeals; and
8. Any other rights afforded an adult.

Table 1: Eligibility For Bind-Over to Adult Court, O.R.C. § 2152.11(J)

OFFENSE LEVEL	DT Eligible		Not DT Eligible	
	Ages 17 & 16	Ages 15 & 14	Ages 13 & 12	Ages 11 & 10
Aggravated Murder/Murder	MT	MT*/MSYO	DSYO	DSYO
Attempted Agg. Murder/Murder	MT	MT*/MSYO	DSYO	DSYO
F1 – Violent + Other Enhanced	MT*/MSYO	DSYO	DSYO	DSYO
F1 – Not Violent Enhanced	DSYO	DSYO	DSYO	TJ
F1 – Not Enhanced	DSYO	DSYO	TJ	TJ
F2 – Enhanced	MT**/DSYO	DSYO	DSYO	TJ
F2 – Not Enhanced	DSYO	DSYO	TJ	TJ
F3 – Enhanced	DSYO	DSYO	TJ	TJ
F3 – Not Enhanced	DSYO	TJ	TJ	TJ
F4 or F5 – Enhanced	DSYO	TJ	TJ	TJ
F4 or F5 – Not Enhanced	TJ	TJ	TJ	TJ

\*MT with prior DYS commitment for a Category 1 or 2 offense; otherwise MSYO.

\*\*If Category 2 (other than kidnapping), MT with prior DYS commitment for a Category 1 or 2 offense and/or used, displayed, or indicated a firearm in the act; otherwise MSYO (F1s) or DSYO (F2s).

## KEY

**MT**—Mandatory transfer; must be bound over to adult court.

**DT**—Discretionary transfer; may be bound over to adult court.

**MSYO**—Mandatory serious youthful offender sentence (“blended” sentence).

**DSYO**—Discretionary serious youthful offender sentence.

**TJ**—Traditional juvenile dispositions (neither MT nor SYO).

**Enhanced**—One or more of the relevant enhancing factors is present (i.e., offense of violence, gun use, etc.; or certain prior DYS terms). The relevant enhancements vary by offense and age.

**Violent**—Offense of violence as defined in § 2901.01(A)(9).

## ***Resources for further information on the jury process***

Resources available for you and your judge for general jury preparation could include training booklets used for courses entitled “The Jury Trial: A Guide for Juvenile Court Personnel” from March 2002 and “Jury Trial Skills for Judges and Magistrates” from May 2006 available through the Supreme Court of Ohio Judicial College. The Ohio Jury Management Association is also an available resource (See Reference 9).



## 26. Juvenile Traffic Cases

### ***Traffic violations bureau***

Rule 13.1 of the Ohio Traffic Rules is the authority for the juvenile division of the court of common pleas to establish a violations bureau for juvenile traffic offenders. The juvenile traffic violations bureau was created for the payment of tickets involving first offense minor misdemeanor traffic offenses that did not result in an accident. Ohio Traffic Rule 13.1(B) states that the juvenile violations bureau can dispose of all juvenile traffic offenses, with several exceptions. The traffic bureau cannot dispose of:

1. Second or subsequent moving offenses;
2. Offenses that involve an accident;
3. Indictable offenses;
4. Operating a motor vehicle under the influence of alcohol or any drug of abuse;
5. Leaving the scene of an accident;
6. Driving under suspension or revocation of a driver's or commercial driver's license;
7. Driving without a license, except when the license had been expired for six months or less;
8. Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child;
9. Drag racing;
10. Willfully eluding or fleeing a police officer.

The juvenile division of the court of common pleas shall appoint its clerk as a violation clerk, or if there is no clerk, the court must appoint another appropriate person of the municipality or county where the court sits (Ohio Traffic Rule 13(A)). The violations bureau and clerk are under the direction and control of the court, and fines and costs must be paid to, receipted by, and accounted for by the violations clerk (id).

The court must establish and publish a schedule of fines and costs for all offenses, and the schedule must be distributed to law enforcement agencies operating within the jurisdiction of the court (Ohio Traffic Rule 13(C)). The schedule should be prominently displayed at the place in the violations bureau where fines are paid (id).

All cases processed in the bureau must be numbered and recorded for identification and statistical purposes (Ohio Traffic Rule 13(E)). In any statistical reports required by law, the number of cases disposed of by the bureau must be listed separately from those disposed of in open court (id).

The court must appoint a law enforcement officer as a deputy violations bureau clerk to act as violations clerk when the violations clerk is not on duty (Ohio Traffic Rule 13(F)).

A court may establish procedures for accepting, through the traffic bureau, guilty pleas, waivers of trial, and payment of fines and costs by telephone or electronic means, including forms of payment that are accepted by the bureau (Ohio Traffic Rule 13(D)(2)).

Remittance of the fines and costs by means other than personal appearance by the defendant will be considered a guilty plea and waiver of trial, whether or not those provisions of the ticket are signed by the defendant (Ohio Traffic Rule 13(D)(3)).

### ***Magistrates***

A court can refer nonjury traffic cases to a magistrate (Ohio Traffic Rule 14(B)). A defendant's payment of a fine does not constitute a waiver of the defendant's right to file an objection to the decision of a magistrate (Ohio Traffic Rule 14(C)).

### ***Moving traffic violations***

In traffic cases, the complaint and summons is the Ohio Uniform Traffic Ticket (Ohio Traffic Rule 3(A)). The Ohio Uniform Traffic Ticket must be four sheets, padded together and bound at the top or bottom edge, with the first sheet being white and the second sheet being yellow (Ohio Traffic Rule 3(B)). If an additional copy is needed by an agency, it can be added (id). The first sheet is the court record, and the second sheet is the abstract of the court record (id). However, the second sheet can be omitted if the court reports violations to the Bureau by electronic or other acceptable means (id). The third sheet is the defendant's copy (id). The fourth sheet is the enforcement agency record (id). A wrap-around envelope or jacket may be added to the first sheet, and the issuing authority can use the front and back of the wrap-around for data or information (id). The Ohio Uniform Traffic Ticket must be used in all *moving* traffic cases, and more than one alleged violation can be included on a traffic ticket if the alleged violations are numbered sequentially (Ohio Traffic Rule 3(C)). An officer who completes the ticket is not required to type or rewrite a new complaint before filing the ticket, unless the original ticket is illegible or does not state the offense (id). If a new complaint is used for filing, a copy should be served upon defendant as soon as possible (id).

Ohio Traffic Rule 3(F) authorizes the use of tickets produced by electronic means, and the requirements such as color, weight of paper, and method of binding are not applicable to electronically produced tickets. However, in developing electronic tickets, courts and clerks should make sure the ticket comes as close as possible to the description of the Uniform Traffic Ticket with respect to layout and content contained in the ticket (Ohio Traffic Rule 3(F)(1)).

Within seven days after a defendant is issued a ticket, a defendant charged with a traffic offense can either (1) appear in person at the bureau, sign a plea of guilty and waiver of trial, and pay the total amount of fine and costs or (2) sign the guilty plea and waiver of trial and mail to the juvenile traffic violations bureau the ticket accompanied by a check, money order, or other approved form of payment for the total amount of the fine and costs (Ohio Traffic Rule 13(D)(1)).

### ***Non-moving traffic violations/parking infractions***

The juvenile court and a traffic violations bureau established pursuant to Traffic Rule 13 have jurisdiction over parking infractions which occur within the territorial jurisdiction of the court or the court that established the bureau, and that is not within the jurisdiction of a parking violations bureau or a joint parking violations bureau (O.R.C. § 4521.05(B)). The fine and penalties established for a parking infraction by any local authority must be collected, retained, and disbursed by the violations clerk of the traffic bureau if it falls within the court's jurisdiction (id). The fines and penalties collected by a clerk must be disbursed by the clerk to the local authority whose ordinance, resolution, or regulation was violated (id).

A court that establishes a traffic violations bureau may contract with any governmental or nongovernmental entity to provide services in processing, collecting and enforcing parking tickets issued by law enforcement offices and civil judgments and default civil judgments entered pursuant to Chapter 4521 of the O.R.C. (O.R.C. § 4521.05(D)).

If a juvenile receives a parking ticket charging the commission of a parking infraction or receives notification of infraction, and denies that he/she committed the infraction, the juvenile court that has jurisdiction must conduct a hearing by a juvenile court magistrate to determine if the infraction was committed (O.R.C. § 4521.08(A)). The authority whose ordinance, resolution, or regulation allegedly was violated has the burden of proving, by a preponderance of the evidence, that the violation was committed (id). If the person, in his/her answer, denied the charge and requested the presence at the hearing of the law enforcement officer who issued the ticket, the officer is required to attend hearing unless the magistrate of the court decides otherwise (id). If the officer's presence has been requested and the officer cannot attend the hearing on the date and time scheduled, the court magistrate may grant a reasonable continuance (id). The person does not have to attend the hearing if he/she submits documentary evidence to the hearing examiner or magistrate prior to the date of the hearing (id).

The local authority must submit the original parking ticket that was served on the person or a true copy of the ticket, and information from the bureau of motor vehicles that identifies the owner of the vehicle (id). The local authority does not have to be represented at the hearing by an attorney (id).

If the magistrate of the juvenile court establishes that the infraction was committed (either by judgment or default judgment), he/she will make an order indicating the determination as a judgment against the person and require the person to pay fines or penalties and this information must be entered in the records of the juvenile court (O.R.C. § 4521.08(B)(1), (2)). If the court finds that the local authority did not prove its case, the judge will enter a judgment against the local authority and dismiss the charges in the records of the juvenile court (O.R.C. §4521.08(B)(4)). A default judgment may be vacated by the magistrate or hearing examiner who entered it if (1) the person against whom judgment was entered files a motion within one year of the entry of the judgment, (2) the motion sets forth a sufficient defense to the infraction, (3) the motion sets forth excusable neglect as to the person's failure to attend the hearing or answer notice of the infraction (O.R.C. §4521.08(B)(5)).

If the magistrate of the juvenile court entered payment of a judgment against a person, the person must pay the judgment within ten days of the entry of the judgment to the clerk, and the clerk must disburse the payment to the appropriate local authority and enter it into the records of the court (O.R.C. §4521.08(C)). If the person does not make timely payment, the judgment or default judgment may be filed with the clerk of the municipal court or county court within whose jurisdiction the ordinance, resolution, or regulation was violated, and when filed, it shall have the same force and effect as a money judgment in a civil action rendered in that court (id).

Parking judgments and default judgments filed with a juvenile court must be maintained in a separate index and judgment roll from other judgments rendered in the court (id). Computer printouts, microfilm, microdot, microfiche, or other recording techniques can be utilized to record these judgments (id). When a judgment or default judgment is filed with a court,

execution may be levied, along with other authorized measures to collect unpaid money judgment in civil actions (id). Municipal or county courts can assess costs against the judgment debtor in an amount not exceeding ten dollars for each parking infraction, to be paid upon satisfaction of the judgment (id).

Any person or local authority can appeal the judgment or default judgment to the court by filing notice of appeal with the magistrate of the juvenile court in which the judgment was entered within fifteen days of the entry of the judgment and by payment of reasonable fees required by the juvenile judge (O.R.C. §4521.08(D)). Upon the filing of an appeal, the court must schedule a hearing date and give notice to the parties of the date, time, and place of the hearing (id). Service of a notice of appeal does not stay enforcement and collection of a judgment from which appeal is taken by the person unless the person who files the appeal posts bond with the juvenile court in the amount of the judgment, plus court costs, at or before service of the notice of appeal (id). The judgment of the juvenile judge on appeal is final and no other appeal can be taken (id).



## **27. Fiscal Management**

Fiscal management procedures for clerks' offices are not governed by court rules, regulations, or statutes; however, clerks' offices should consider the following procedures to ensure efficiency, security, and reliability of fiscal management:

### ***General procedures***

1. A policy should be set to secure cash, checks, credit card receipts, and money orders;
2. Location of receipting stations/cashier booths should be in highly visible areas, and cashiers (if more than one cashier) should be visible to each other for security purposes;
3. There should be security for all persons entering area where receipting occurs, if possible;
4. There should be controlled access to areas where monies are collected;
5. There should be controlled safes and vaults, and the court should make sure there are periodic changes in combinations;
6. Cash drawers should be locked whenever the clerk/cashier is away from his/her workstation;
7. In-mail payments should be safeguarded by having two persons present when the mail is opened;
8. The accounting policy should address how cash shortages and overages are handled;
9. Errors in cash drawer accounting processes should be assessed and every effort should be made to ascertain where the error occurred and how to correct the error as quickly as possible;
10. The court should require clerks to conduct internal audits to make sure the court's accounting practices conform to court standards;
11. Clerks should be prepared to provide governmental auditors with all information requested and to guide the auditors on the court's accounting practices to ensure that the financial procedures used in the office conform to statutes, rules, and regulations;
12. No refunds should be provided without judicial authorization (order of the court);
13. All refunds should be properly accounted for and should be thoroughly and accurately documented.

### ***Controlling funds from intake to deposit***

1. If the court accepts cash, clerks should be trained to identify counterfeit bills;
2. The office accounting policy should require all negotiable instruments, including checks and money orders, to be made payable to Clerk of Court or by other means that prevents another party from cashing or depositing the instrument;
3. Checks, money orders, and other instruments should be endorsed immediately upon acceptance;
4. There should be proper identification of payer and payee;
5. The court should not accept pre-dated or post-dated checks;
6. The clerk should check that the amount paid by the check conforms with the amount required;
7. The clerk should check if the numerical amount on a check conforms to the written amount;

8. The receipt number should appear on the face of the check, or the check number should appear on the receipt;
9. Checks should be deposited as soon as possible after the receipt is given;
10. Cashiers/deputy clerks should not be permitted to cash checks to make change from cash drawers;
11. The clerk should not accept checks for bounced checks.

### ***Receipt process***

1. Production of consecutively numbered receipts should contain the following data elements at a minimum:
  - a. Date of receipt
  - b. Court
  - c. Receipt number
  - d. Case number
  - e. Person making payment
  - f. Person for whom account payment is made
  - g. Type of payment
2. Original receipts should be given to the payer as proof of payment; a copy should be given to the accounting officer/bookkeeper for documentation; one copy should stay with the clerk as a control document; one copy to be filed in the case file;
3. The court should issue and control receipts with accountability for each receipt based on:
  - a. Numerical sequence
  - b. Explaining voided or omitted receipts and submitting copies of those receipts at the end of the day
  - c. Reconciliation of receipts issued with money received
  - d. Issuance of receipts to individual cashiers/deputy clerks with defined responsibilities
4. The clerk should prepare and issue a receipt for each over-the-counter payment and each payment received by mail;
5. The clerk should require that a receipt be issued for any monies received, and more than one receipt should be required for multiple tender payments or for separate offenses or types of filings;
6. The receipt number should be recorded on each check in case the check does not clear;
7. When money is transmitted to a cashier/deputy clerk from a mail unit or some court agency, an aggregate receipt should be issued to the agency, supplying a list of individual payments received;
8. There should be no commingling of receipts from multiple sources;
9. A method should be provided to identify which agent/clerk created the receipt.

### ***Deposits***

1. Deposits should be made more than once a day if large amounts of money are receipted;
2. The person making the deposit should be someone different, if possible, than the person that prepared the deposit;
3. The court should request an escort (sheriff, deputy, etc.) for the clerk to deposit large sums of money;

4. A reconciliation should be done at the close of each day, making sure deposits conform to receipts and actual money on hand.

### ***Disbursements***

1. All disbursements should be made by checks that are pre-numbered or, on an automated system, the computer should generate sequential numbers for checks with no mechanism for overriding the feature; the check supply should be secured; and cancelled, spoiled, or missing checks be accounted for;
2. The court should prohibit checks made out to “cash”;
3. The court should maintain a check register that is verified against checkbook stubs and bank statements;
4. The court should require written authorization to sign checks approved by the clerk, filing a signature card for reference purposes;
5. Dual signatures should be used for large disbursements, when practicable;
6. The court should require that someone other than the signer should periodically check the numbered sequence on checks;
7. The court should require supporting documentation for each check that is issued;
8. The court should prohibit the use of pre-signed checks;
9. Case information should be included on check stubs, including case numbers;
10. Disbursements should be reflected in case records;
11. Disbursements should be made within established time frames ensuring service to individuals and cash flow benefits to the office.

The above guidelines were taken in part from “Fiscal Management,” prepared by F. Barry Wilkes, Clerk and Court Administrator for Liberty Superior, State, Juvenile, and Magistrate Courts in November, 1999 (see Reference 10).



## **28. Appellate Procedure**

### ***Filing the notice of appeal***

An appeal as of right shall be taken by filing a notice of appeal with the clerk of the trial court within the time allowed by Appellate Rule 4. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is grounds only for such action as the court of appeals deems appropriate, which may include dismissal of the appeal. Appeals by leave of court shall be taken in the manner prescribed by Appellate Rule 5.

### ***Content of the notice of appeal***

The notice of appeal shall specify the party or parties taking the appeal; shall designate the judgment, order or part thereof appealed from; and shall name the court to which the appeal is taken. The title of the case shall be the same as in the trial court with the designation of the appellant added, as appropriate. Local appellate rules may require the submission of a copy of the appealed court order.

### ***Service of the notice of appeal***

The clerk of the trial court shall serve within three business days notice of the filing of a notice of appeal and, where required by local rule, a docketing statement, by mailing, or by facsimile transmission, a copy to counsel of record of each party other than the appellant, or, if a party is not represented by counsel, to the party at the party's last known address. The clerk shall mail or otherwise forward a copy of the notice of appeal and of the docket entries, together with a copy of all filings by appellant pursuant to Appellate Rule 9(B), to the clerk of the court of appeals named in the notice. The clerk shall note on each copy served the date on which the notice of appeal was filed. Failure of the clerk to serve notice shall not affect the validity of the appeal. Service shall be sufficient notwithstanding the death of a party or a party's counsel. The clerk shall note in the docket the names of the parties served, the date served, and the means of service.

### ***Amendment of the notice of appeal***

The court of appeals within its discretion and upon such terms as are just may allow the amendment of a timely filed notice of appeal.

### ***Docketing statement***

If a court of appeals has adopted an accelerated calendar by local rule pursuant to Appellate Rule 11.1, a docketing statement shall be filed with the Clerk of the trial court with the notice of appeal.

The purpose of the docketing statement is to determine whether an appeal will be assigned to the accelerated or the regular calendar.

A case may be assigned to the accelerated calendar if any of the following apply:

1. No transcript is required (e.g., summary judgment or judgment on the pleadings);
2. The length of the transcript is such that its preparation time will not be a source of delay;
3. An agreed statement is submitted in lieu of the record;
4. The record was made in an administrative hearing and filed with the trial court;

5. All parties to the appeal approve an assignment of the appeal to the accelerated calendar; or
6. The case has been designated by local rule for the accelerated calendar.

The court of appeals by local rule may assign a case to the accelerated calendar at any stage of the proceeding. The court of appeals may provide by local rule for an oral hearing before a full panel in order to assist it in determining whether the appeal should be assigned to the accelerated calendar.

Upon motion of appellant or appellee for a procedural order pursuant to Appellate Rule 15(B) filed within seven days after the notice of appeal is filed with the clerk of the trial court, a case may be removed for good cause from the accelerated calendar and assigned to the regular calendar. Demonstration of a unique issue of law which will be of substantial precedential value in the determination of similar cases will ordinarily be good cause for transfer to the regular calendar.

***Procedures under O.R.C. § 2505.073***

Procedures in appeals to courts of appeals from juvenile courts pursuant to section 2505.073 of the Revised Code shall be as provided by that section, except that these rules govern to the extent that the rules do not conflict with that section.

*Time for appeal:* A party shall file the notice of appeal required by Appellate Rule 3 within thirty days of the later of entry of the judgment or order appealed or, in a civil case, service of the notice of judgment and its entry if service is not made on the party within the three day period in Rule 58(B) of the Ohio Rules of Civil Procedure.

*Exceptions:* The following are exceptions to the appeal time period in division (A) of this rule:

1. Multiple or cross appeals—If a notice of appeal is timely filed by a party, another party may file a notice of appeal within the appeal time period otherwise prescribed by this rule or within ten days of the filing of the first notice of appeal.
2. Civil or juvenile post-judgment motion—In a civil case or juvenile proceeding, if a party files a timely motion for judgment under Civ. R. 50(B), a new trial under Civ. R. 59(B), vacating or modifying a judgment by an objection to a magistrate's decision under Civ. R. 53(E)(4)(c) or Rule 40(E)(4)(c) of the Ohio Rules of Juvenile Procedure, or findings of fact and conclusions of law under Civ. R. 52, the time for filing a notice of appeal begins to run as to all parties when the order disposing of the motion is entered.
3. Criminal post-judgment motion—In a criminal case, if a party timely files a motion for arrest of judgment or a new trial for a reason other than newly discovered evidence, the time for filing a notice of appeal begins to run when the order denying the motion is entered. A motion for a new trial on the ground of newly discovered evidence made within the time for filing a motion for a new trial on other grounds extends the time for filing a notice of appeal from a judgment of conviction in the same manner as a motion on other grounds. If made after the expiration of the time for filing a motion on other grounds, the motion on the ground of newly discovered evidence does not extend the time for filing a notice of appeal.

4. Appeal by prosecution—In an appeal by the prosecution under Crim. R. 12(K) or Juv. R. 22(F), the prosecution shall file a notice of appeal within seven days of entry of the judgment or order appealed.
5. Partial final judgment or order—If an appeal is permitted from a judgment or order entered in a case in which the trial court has not disposed of all claims as to all parties, other than a judgment or order entered under Civ. R. 54(B), a party may file a notice of appeal within thirty days of entry of the judgment or order appealed or the judgment or order that disposes of the remaining claims. Division (A) of this rule applies to a judgment or order entered under Civ. R. 54(B).

*Premature notice of appeal:* A notice of appeal filed after the announcement of a decision, order, or sentence but before entry of the judgment or order that begins the running of the appeal time period is treated as filed immediately after the entry.

*Definition of "entry" or "entered":* As used in this rule, "entry" or "entered" means when a judgment or order is entered under Civ. R. 58(A) or Crim. R. 32(C).

#### ***Stay in juvenile actions***

No order, judgment, or decree of a juvenile court concerning a dependent, neglected, unruly, or delinquent child shall be stayed upon appeal, unless suitable provision is made for the maintenance, care, and custody of the dependent, neglected, unruly, or delinquent child pending the appeal.

#### ***Composition of the record on appeal***

The original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court shall constitute the record on appeal in all cases. A videotape recording of the proceedings constitutes the transcript of proceedings other than hereinafter provided, and, for purposes of filing, need not be transcribed into written form. Proceedings recorded by means other than videotape must be transcribed into written form. When the written form is certified by the reporter in accordance with Appellate Rule 9(B), such written form shall then constitute the transcript of proceedings. When the transcript of proceedings is in the videotape medium, counsel shall type or print those portions of such transcript necessary for the court to determine the questions presented, certify their accuracy, and append such copy of the portions of the transcripts to their briefs.

#### ***Correction or modification of the record***

If any difference arises as to whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated therein, the parties by stipulation, or the trial court, either before or after the record is transmitted to the court of appeals, or the court of appeals, on proper suggestion or of its own initiative, may direct that the omission or misstatement be corrected, and, if necessary, that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the court of appeals.

***Time for transmission; duty of appellant***

The record on appeal, including the transcript and exhibits necessary for the determination of the appeal, shall be transmitted to the clerk of the court of appeals when the record is complete for the purposes of appeal, or when forty days, which is reduced to twenty days for an accelerated calendar case, have elapsed after the filing of the notice of appeal and no order extending time has been granted under subdivision (C). After filing the notice of appeal the appellant shall comply with the provisions of Appellate Rule 9(B) and shall take any other action necessary to enable the clerk to assemble and transmit the record. If more than one appeal is taken, each appellant shall comply with the provisions of Appellate Rule 9(B) and this subdivision, and a single record shall be transmitted when forty days have elapsed after the filing of the final notice of appeal.

***Duty of clerk to transmit the record***

The clerk of the trial court shall prepare the certified copy of the docket and journal entries, assemble the original papers (or in the instance of an agreed statement of the case pursuant to Appellate Rule 9(D), the agreed statement of the case), and transmit the record upon appeal to the clerk of the court of appeals within the time stated in Subdivision (A). The clerk of the trial court shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with reasonable definiteness. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless directed to do so by a party or by the clerk of the court of appeals. A party must make advance arrangements with the clerks for the transportation and receipt of exhibits of unusual bulk or weight.

Transmission of the record is effected when the clerk of the trial court mails or otherwise forwards the record to the clerk of the court of appeals. The clerk of the trial court shall indicate, by endorsement on the face of the record or otherwise, the date upon which it is transmitted to the court of appeals and shall note the transmission on the appearance docket.

The record shall be deemed to be complete for the purposes of appeal under the following circumstances:

1. When the transcript of proceedings is filed with the clerk of the trial court;
2. When a statement of the evidence or proceedings, pursuant to Appellate Rule 9(C), is settled and approved by the trial court, and filed with the clerk of the trial court;
3. When an agreed statement in lieu of the record, pursuant to Appellate Rule 9(D), is approved by the trial court, and filed with the clerk of the trial court;
4. Where appellant, pursuant to Appellate Rule 9(B), designates that no part of the transcript of proceedings is to be included in the record or that no transcript is necessary for appeal, after the expiration of ten days following service of such designation upon appellee, unless appellee has within such time filed a designation of additional parts of the transcript to be included in the record;
5. When forty days have elapsed after filing of the last notice of appeal, and there is no extension of time for transmission of the record;
6. When twenty days have elapsed after filing of the last notice of appeal in an accelerated calendar case, and there is no extension of time for transmission of the record;
7. Where the appellant fails to file either the docketing statement or the statement required by Appellate Rule 9(B), ten days after filing the notice of appeal.

**Rule 11.2: Expedited appeals**

Applicability: Appeals in actions described in this rule shall be expedited and given calendar priority over all other cases, including criminal and administrative appeals. The Ohio Rules of Appellate Procedure shall apply with the modifications or exceptions set forth in this rule.

*Abortion-related appeals from juvenile courts:*

1. Appellate Rule 11.2(B) shall govern appeals pursuant to sections 2151.85, 2505.073, and 2919.121 of the Revised Code;
2. General rule of expedition. If an appellant files her notice of appeal on the same day as the dismissal of her complaint or petition by the juvenile court, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the original complaint or petition was filed;
3. Processing appeal;
  - a. Immediately after the notice of appeal has been filed by the appellant, the clerk of the juvenile court shall notify the court of appeals. Within four days after the notice of appeal is filed in juvenile court, the clerk of the juvenile court shall deliver a copy of the notice of appeal and the record, except page two of the complaint or petition, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals;
  - b. Record of all testimony and other oral proceedings in actions pursuant to sections 2151.85 or 2919.121 of the Revised Code may be made by audio recording. If the testimony is on audiotape and a transcript cannot be prepared timely, the court of appeals shall accept the audiotape as the transcript in this case without prior transcription. The juvenile court shall ensure that the court of appeals has the necessary equipment to listen to the audiotape;
  - c. The appellant under division (B) of this rule shall file her brief within four days after the appeal is docketed. Unless waived, the oral argument shall be within five days after docketing. Oral arguments must be closed to the public and exclude all persons except the appellant, her attorney, her guardian *ad litem*, and essential court personnel;
  - d. Under division (B) of this rule, "days" means calendar days and includes any intervening Saturday, Sunday, or legal holiday. To provide full effect to the expedition provision of the statute, if the last day on which a judgment is required to be entered falls on a Saturday, Sunday, or legal holiday, the computation of days shall not be extended and judgment shall be made either on the last business day before the Saturday, Sunday, or legal holiday, or on the Saturday, Sunday, or legal holiday.
4. Confidentiality. All proceedings in appeals governed by Appellate Rule 11.2(B) shall be conducted in a manner that will preserve the anonymity of the appellant. Except as set forth in Appellate Rule 11.2(B)(6) and (7), all papers and records that pertain to the appeal shall be kept confidential;
5. Judgment entry. The court shall enter judgment immediately after conclusion of oral argument or, if oral argument is waived, within five days after the appeal is docketed;
6. Release of records. The public is entitled to secure all of the following from the records pertaining to appeals governed by Appellate Rule 11.2(B): (a) the docket number; (b) the name of the judge; (c) the judgment entry and, if appropriate, a

properly redacted opinion. Opinions shall set forth the reasoning in support of the decision in a way that does not directly or indirectly compromise the anonymity of the appellant. Opinions written in compliance with this requirement shall be considered public records available upon request. If, in the judgment of the court, it is impossible to release an opinion without compromising the anonymity of the appellant, the entry that journalizes the outcome of the case shall include a specific finding that no opinion can be written without disclosing the identity of the appellant. Such finding shall be a matter of public record. It is the obligation of the court to remove any and all information in its opinion that would directly or indirectly disclose the identity of the appellant;

7. Notice and hearing before release of opinion. After an opinion is written and before it is available for release to the public, the appellant must be notified and be given the option to appear and argue at a hearing if she believes the opinion may disclose her identity. Notice may be provided by including the following language in the opinion: If appellant believes that this opinion may disclose her identity, appellant has the right to appear and argue at a hearing before this court. Appellant may perfect this right to a hearing by filing a motion for a hearing within fourteen days of the date of this opinion. The clerk is instructed that this opinion is not to be made available for release until either of the following: (a) Twenty-one days have passed since the date of the opinion and appellant has not filed a motion; (b) If appellant has filed a motion, after this court has ruled on the motion. Notice shall be provided by mailing a copy of the opinion to the attorney for the appellant or, if she is not represented, to the address provided by appellant for receipt of notice;
8. Upon request of the appellant or her attorney, the clerk shall verify on Form 25-A, as provided in the Rules of Superintendence, the date the appeal was docketed and whether a judgment has been entered within five days of that date. The completed form shall include the case number from the juvenile court and the court of appeals, and shall be filed and included as part of the record. A file-stamped copy shall be provided to the appellant or her attorney.

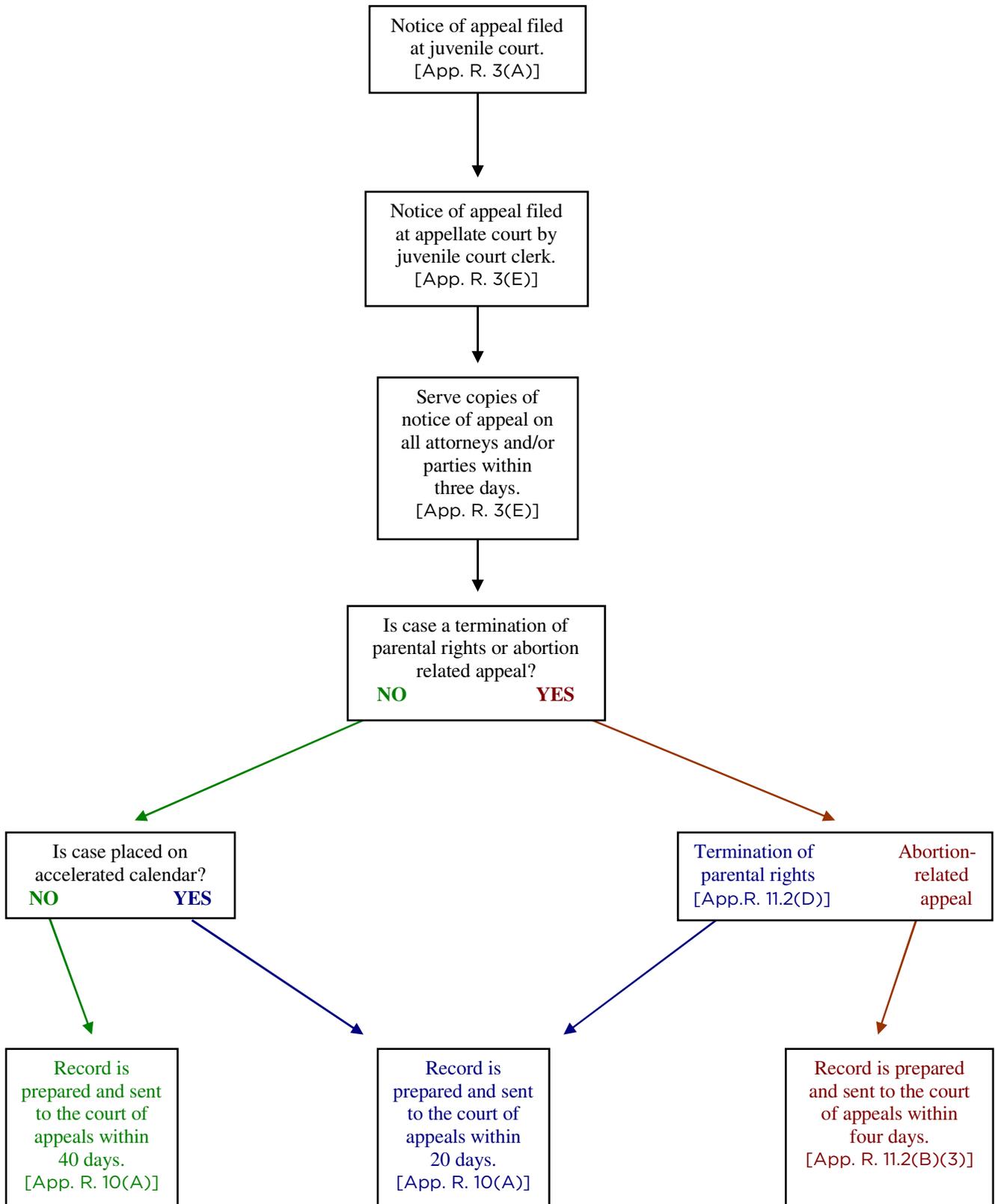
*Adoption and parental rights appeals:*

1. Applicability. Appeals from orders granting or denying adoption of a minor child or from orders granting or denying termination of parental rights shall be given priority over all cases except those governed by Appellate Rule 11.2(B);
2. Record. Preparation of the record, including the transcripts and exhibits necessary for determination of the appeal, shall be given priority over the preparation and transmission of the records in all cases other than those governed by Appellate Rule 11.2(B);
3. Briefs. Extensions of time for filing briefs shall not be granted except in the most unusual circumstances and only for the most compelling reasons in the interest of justice;
4. Oral argument. After briefs have been filed, the case shall be considered submitted for immediate decision unless oral argument is requested or ordered. Any oral argument shall be heard within thirty days after the briefs have been filed;
5. Entry of judgment. The court shall enter judgment within thirty days of submission of the briefs, or of the oral argument, whichever is later, unless compelling reasons in the interest of justice require a longer time.

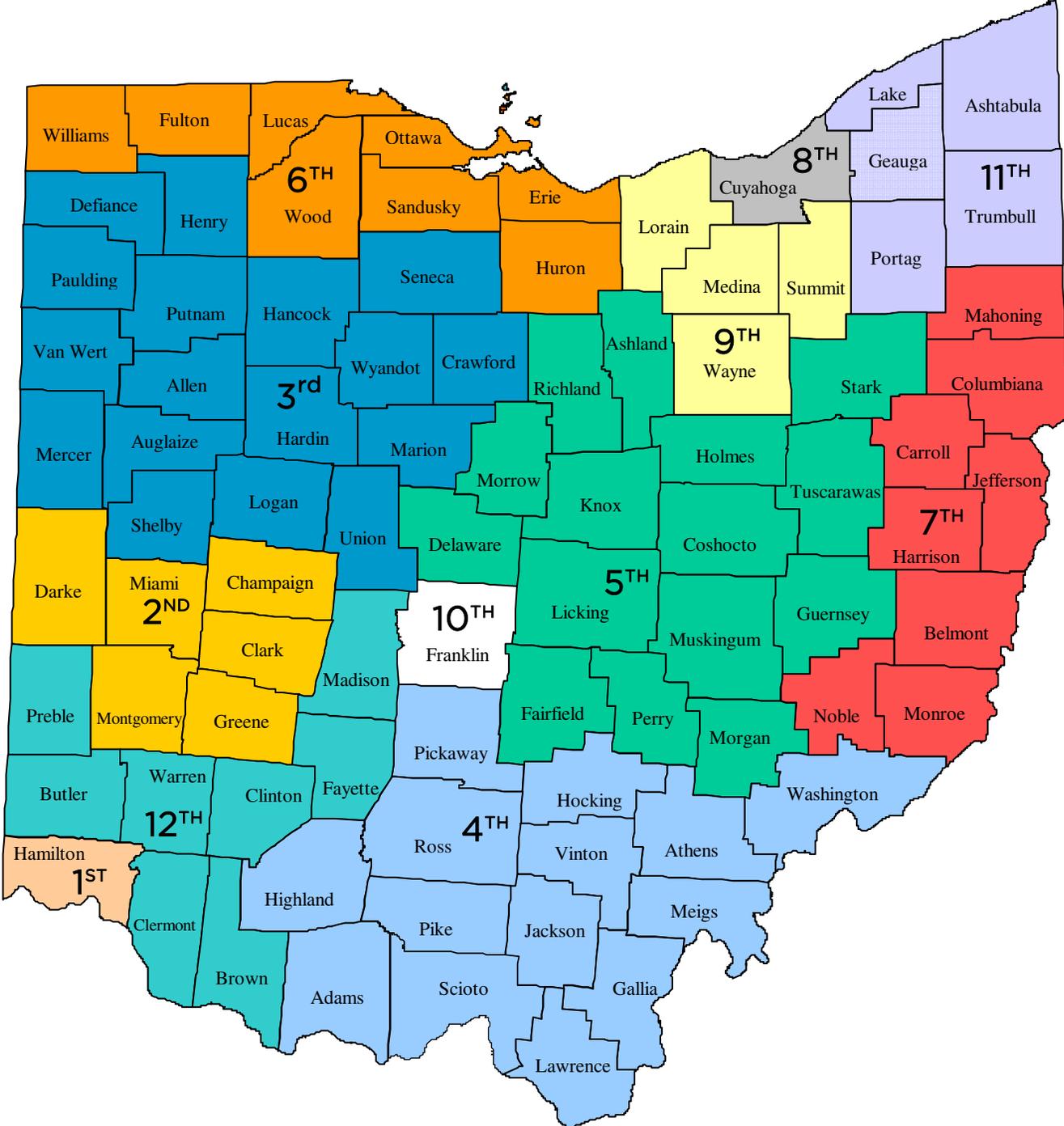
*Dependent, abused, neglected, unruly, or delinquent child appeals:*

Appeals concerning a dependent, abused, neglected, unruly, or delinquent child shall be expedited and given calendar priority over all cases other than those governed by Appellate Rule 11.2(B) and (C).

# Appellate Timeline



# Ohio Courts of Appeals Appellate Districts





## 29. New Legislation Applicable to Juvenile Clerks

Juvenile clerks often express disappointment and frustration about being the last to know about new legislation that affects court procedures and their job duties and responsibilities as well. Courts should consider designating someone already employed by the court, such as the court administrator or court manager, to find out about new legislation that will affect the court's practices. It is extremely important to communicate changes and protocol that is implemented due to new legislation to juvenile clerk staff.

### ***Resources to assist with new legislation research include:***

1. <http://www.legislature.state.oh.us/search.cfm>
2. [http://www.supremecourtofohio.gov/Sentencing\\_Commission/default.asp](http://www.supremecourtofohio.gov/Sentencing_Commission/default.asp)
3. Gongwer News Services (pay service)
4. Juvenile Clerk Meetings held at The Supreme Court of Ohio
5. Case Management Software System Vendors
6. The Ohio Judicial Conference's *Bill Board*, a quarterly legislative update. Available on line at: <http://www.ohiojudges.org/>



### 30. Sex Offender and Child-Victim Registration and Notification

The Sex Offender Registration and Notification law (SORN) became effective on January 1, 2002, and has subsequently been modified and enhanced by Senate Bill 5, effective July 31, 2003, to include child-victim offenders. The Sex Offender and Child-Victim Registration and Notification legislation (SOCVRN) can be summarized as follows:

1. SOCVRN applies to specific sexual and child-victim offenses occurring on or after January 1, 2002, committed by children age 14 or older.
2. SOCVRN classifies offenses as:

Sexually Oriented Offenses for Juveniles – 2950.01(D)(2)

*Offenses Regardless of the Age of the Victim*

- 2907.02 Rape
- 2907.03 Sexual Battery
- 2907.05 Gross Sexual Imposition
- 2907.07 Importuning

*Offenses When the Victim is Under Age 18*

- 2903.211 Menacing by Stalking committed with sexual motivation
- 2905.01(A)(1) Kidnapping – committed with sexual motivation
- 2905.01(A)(2) Kidnapping – committed with sexual motivation
- 2905.01(A)(3) Kidnapping – committed with sexual motivation
- 2905.01(A)(4) Kidnapping – for purpose of engaging in sexual activity against will
- 2905.01(A)(5) Kidnapping – committed with sexual motivation
- 2905.04 Child Stealing (former offense) – committed with sexual motivation
- 2907.06 Sexual Imposition
- 2907.08 Voyeurism
- 2907.21 Compelling Prostitution
- 2919.22(B)(5) Endangering Children (Obscenity)

*Violent Sexual Offenses – 2971.01(L)*

- 2907.02 Rape
- 2907.03 Sexual Battery
- 2907.05(A)(4) Gross Sexual Imposition
- 2907.12 Felonious Sexual Penetration (former offense)

*Specification of Sexual Motivation – 2941.147*

- 2903.01 Aggravated Murder
- 2903.02 Murder
- 2903.04(A) Involuntary Manslaughter
- 2903.11 Felonious Assault
- 2905.01 Kidnapping

*Offenses Committed with Purpose of Sexual Gratification*

- 2903.01 Aggravated Murder
- 2903.02 Murder
- 2903.04(A) Involuntary Manslaughter
- 2903.11 Felonious Assault
- 2905.01 Kidnapping
- 2905.02 Abduction

*Offenses with a 4 Year Age Differential Between Offender and Victim*

- 2907.321(A)(1)or(3) Pandering Obscenity to a Minor
- 2907.322(A)(1)or(3) Pandering Sexually Oriented Material Involving a Minor
- 2907.323(A)(1)or(2) Illegal Use of a Minor in Nudity Oriented Material

*Offenses Where Victim is 18 or older (Presumptive Registration Exempt)*

- 2903.211 Menacing by Stalking committed with sexual motivation
- 2907.06 Sexual Imposition

2907.08 Voyeurism

A violation of a former law of this state, an existing or former law of the United States, another nation, a municipality, another state, military or Indian Tribunal Court substantially equivalent to any of the above offenses if a Felony 1 through 4.

An attempt, conspiracy or complicity to any of the above italicized categories.

Child-Victim Oriented Offenses for Juveniles – Victim Under 18 – 2950.01(S)(1)(b)

Condition: victim is not the child of the offender

2905.01(A)(1) Kidnapping

2905.01(A)(2) Kidnapping

2905.01(A)(3) Kidnapping

2905.01(A)(5) Kidnapping

2905.04 Child Stealing (former offense)

A violation of a former law of this state, an existing or former law of the United States, another nation, a municipality, another state, military or Indian Tribunal Court substantially equivalent to any of the above offenses if a Felony 1 through 4.

An attempt, conspiracy or complicity to any of the above categories.

Any Child-Victim Oriented Offense that is a Sexually Violent Offense is excluded as a Child-Victim Oriented Offense.

3. There is mandatory sex or child-victim offender registration and notification for (1) sixteen or seventeen year old offenders and the sex or child-victim offense is their first and (2) fourteen or fifteen year old offenders who have had a prior adjudication for a sexual or child-victim offense in addition to the current sexual or child-victim offense. Additionally, there are presumptive registration exempt offenses where no registration duties apply unless the Court specifically issues an order removing the exemption;
4. There is discretionary application by the judge of SOCVRN for offenders that are fourteen or fifteen years of age and the sex or child-victim offense is their first offense;
5. SOCVRN requires that the Department of Youth Services provide treatment to sex or child-victim offenders committed to their custody;
6. Judges may encourage private or local placement agencies to provide sex or child-victim offender treatment for youths adjudicated under this law, but who are not committed to the department's custody;
7. Youth receive a primary sex or child-victim offender classification status at their disposition, but they are reviewed for a final determination at the conclusion of treatment;
8. The parent or guardian of a child who is classified as a sex or child-victim offender is responsible for making the child comply with the SOCVRN requirements under the law;
9. A child who has committed any sexual or child-victim offense and is subject to classification may petition the court to remove the initial label. The court would consider in the review different facts to be considered to determine whether SOCVRN requirements could be eliminated or altered. When a youth adjudicated for a sexually oriented or child-victim offense reaches twenty-one years of age, this process would be handled in common pleas court and would fall under adult guidelines for this process;
10. Registration occurs upon release of the juvenile from the Department of Youth Services, or if the juvenile is not sent to the Department of Youth Services, at disposition;
11. Geographical notification provisions are expanded to include principals within the specified notification area, the superintendent of the school district in which the

- youth attends classes, if the youth offender attends a school that is outside the notification area, and any chartered, non-public school the offender attends;
12. The sex or child-victim offender registration information will be held by a county sheriff, and is a matter of public record;
  13. Registration requirement follows offender into adulthood but will remain in the control of the juvenile court.

***Sample procedure for juvenile sex or child-victim offender registration  
(as provided by Hamilton County Juvenile Court)***

*Classification Hearing*

1. The Case Manager will complete the following portions of the 'Explanation of Duties to Register' Form: beginning with 'DYS Number' and including 'Name.' The Magistrate will complete all remaining sections of the form.
2. The Magistrate will give the white, pink, and yellow copies to the Case Manager and place the gold copy with the original entries and docket.
3. The Case Manager will give the yellow (offender) copy to the defendant.
4. The Case Manager will make two copies of the form, give one copy to the parent.

*Delivery and Documentation*

1. Immediately after the hearing, the Case Manager will make two copies of the magistrate's entry and will give the pink (sheriff) copy and one entry to the Complaint Clerk and will give the white (BCI) copy, the second copy of the form, and one entry to the Chief Deputy Clerk.
2. The Complaint Clerk will deliver the pink copy and an entry to the sheriff's office that or the following business day, but no later than three days after the date on the form, and inform the Chief Deputy Clerk of the delivery date.
3. The Chief Deputy Clerk will send the white copy and a copy of the magistrate's entry by ordinary mail to BCI that or the following business day, but no later than three days after the date on the form and log the date of transmittal in the database.
4. The Chief Deputy Clerk will maintain a database to document delivery and transmittal of copies to the sheriff and BCI. The Chief Deputy Clerk will retain a copy of the form.
5. The Journal Clerk, upon receipt of the gold (agency/Juvenile Court) copy, will check with the Chief Deputy Clerk to insure that the Chief Deputy Clerk received the white copy from the Case Manager and received the date of delivery of the pink copy from the Complaint Clerk. The gold copy is filed in the legal jacket, but is not clocked in or journalized.



### **31. Court's Relationship with Other Agencies**

Since the court must work with a number of different agencies at numerous stages of the court process, the court must be able to maintain open communication with the agencies to ensure that cases are disposed of in a timely manner. The clerk should maintain a list of the agencies with which the court has contact, and should have on hand a list of contact numbers for the agencies (for agency websites, see Appendix D).



## **32. Website**

The court may create a website that contains information about the court and the court's procedures. The court may include contact information and directions to the court or clerk's office. Other information posted on the website may include, but is not limited to, the history of the court, information about the judge and staff, local rules of court, common forms, filing fees or other costs, and a diagram or summary of the court process and what occurs at each stage in the court process. (See Appendix D)



### 33. Exhibits and Evidence

During the course of a trial, courts often receive a variety of items, referred to as exhibits or evidence, that are submitted to the court by a party in a case to aid the judge or magistrate in the resolution of the matter before the court. The party submitting these items may or may not own these items and they can vary from paperwork to photographs to weapons to stolen objects—anything that will support a party in its arguments before the court.

When items are submitted to the court, the hearing officer, court reporter, or bailiff should mark the items with an identifying number, the name of the party that submitted the item (such as plaintiff, defendant, petitioner, respondent), and the date it was submitted. Many office-supply catalogues carry printed stickers for this purpose. Paper exhibits and a list of the other physical evidence submitted to the court should be included with the transcript of an appeal. Although rare, an appeal court can ask to see a trial court's physical evidence if it is crucial in the review of the case.

While the trial is pending and during subsequent appeal time, exhibits/evidence should be logged in and secured in a safe place, such as a locked cabinet or storage closet.

In the normal course of proceedings, the exhibits/evidence should be returned to the party who submitted them when a matter is concluded and the time for an appeal has run. However, if a court finds reason, the exhibits may be returned to another party or the destruction of the exhibits may be ordered.

Division F of Superintendence Rule 26, titled "Exhibits, depositions, and transcripts," provides the procedure for handling the destruction of items submitted to a court. This rule states that a court may destroy exhibits, depositions, and transcripts at the conclusion of litigation (after the time of appeal has run) if four conditions are met. Those conditions are:

1. The court must inform the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within sixty days from the date of written notification;
2. The written notification...informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions or transcripts will be destroyed if not retrieved within sixty days of the notification;
3. The written notification...informs the party that tendered the exhibits, depositions or transcripts of the location for retrieval of the exhibits, depositions or transcripts;
4. The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification.

Courts should determine the proper protocol for destruction of unclaimed exhibits. In many cases, simply throwing the exhibit out with the garbage is sufficient. However, the nature of an exhibit may require different treatment due to confidentiality issues or sensitive items such as illegal drugs, pornographic material or weapons. The Court may order the item be destroyed by the law enforcement agency that submitted the property, or by the county sheriff if the item was not submitted by the State.

Each court must establish a process by which items are received, logged, retained, and eventually returned or destroyed. In establishing the process, juvenile courts should

request a legal opinion from your prosecutor's office regarding the legalities to consider and also contact adult court(s) in your county to see if they have procedures in place that your court could adopt.

### ***Transcripts***

Rule 11 of the Ohio Rules of Superintendence authorizes the use of any one of several media in recording proceedings before a court. The terms "record," transcript of proceedings, "transcribe," and "transcription" are used in this rule and are defined as follows:

A "record" is defined in App. R. 9(A) as the original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court.

The "transcript of proceedings" is the part of the record that reflects the events in the trial not represented by original papers. Essentially, it is the testimony of witnesses and the oral participation of counsel and of the trial judge, as recorded by whatever medium used to record the proceedings.

The verb "transcribe" as used means preserving oral testimony by conversion to another medium. The other medium may be stenographic notes, videotape, motion picture sound track or audio tape. It may also mean the conversion from one recorded medium to another.

When the noun "transcription" is used, it means the copy, either in the original medium or in the conversion medium.

Under Rule 11(A), various recording devices can be used to provide an accurate base from which to create a transcript of proceedings that is required for an appeal. In civil matters, there is no obligation to record the proceedings before the court unless it is requested by a party or their attorney as per R.C. 2301.20.

The administrative judge may order the use of any method of recording authorized by this rule. Rule 11(A) specifically refers to the following recording devices:

“Stenographic means” refers to shorthand in one of its forms.

“Phonogramic means” refers to the use of a stenotype.

“Photographic means” refers to sound motion pictures, the recording on photographic film.

“Audio electronic recording devices” refers to the several systems for recording sound on magnetic tape, magnetic discs or an impression disc or belt.

“Video recording system” refers to one which records sound and picture on videotape.

Rule 11(B) states that for the purpose of an appeal, transcripts of proceedings in electronic media shall be maintained and transcribed in the manner directed by the trial court.

Rule 11(C) determines that it is the responsibility of the trial court to keep and maintain electronically recorded proceedings. The court also entertains and disposes of requests to view a videotape record by the persons other than parties or their counsel. R.C. 2301.20 provides that the official shorthand reporter is required to retain and preserve the shorthand notes to transcribe the notes into written form. However, records made in electronic media are complete at the conclusion of the proceedings and do not require transcription in order to be utilized by others.

Rule 11(D) provides that a party or their counsel may request to view or hear the transcript of proceedings on file. This rule provides that a party or counsel does not have to order a copy of a videotape recording or an audio recording for the purpose of preparing an appeal. The trial court may allow a party to view or hear the original on file with the court.

Rule 11(E) explains the requirements when referring to a particular portion of an electronically recorded transcript of proceedings. The reference shall refer to the event, the number of the reel of tape or CD on which it was recorded and the elapsed time counter reading. This rule specifically applies to the filing of appeals when the transcript of proceedings has been electronically recorded.

Rule 11(F) refers to three distinct areas of the expense of providing electronically recorded transcripts of proceedings: (1) the recording of the proceedings themselves; (2) securing copies of the transcript of proceedings; and (3) the viewing of the transcript of proceedings.

This rule provides that the expense of copies of electronically recorded transcripts of proceedings or a portion thereof are to be borne by the requesting party or as provided by law. The expense for viewing or hearing an electronically recorded transcript of proceedings under division (D) of this rule shall be borne by the requesting party. All other expenses of an electronically recorded transcript of proceedings shall be assessed as costs in the action.

The expense of electronically recorded proceedings may be made up of different items: the costs of the videotape or CD used, a fee for personnel and equipment to make the recording, and a fee for renting equipment. An official shorthand reporter's services are generally paid for on an annual salary basis, or if the appointment is for less than one year, on a per diem fixed by the court per R.C. 2301.22. Also, R.C. 2301.21 provides that a \$25.00 per diem fee may be taxed as costs in each reported case and paid into the county general fund.

### ***Preparing a transcript***

Under Rule 9 (B) of the Ohio Court Rules of Appellate Procedure, a written transcript prepared by a reporter shall be in the following form:

- (1) The transcript shall include a front and back cover; the front cover shall bear the title and number of the case and the name of the court in which the proceedings occurred;
- (2) The transcript shall be firmly bound on the left side;
- (3) The first page inside the front cover shall set forth the nature of the proceedings, the date or dates of the proceedings, and the judge or judges who presided;

- (4) The transcript shall be prepared on white paper eight and one-half inches by eleven inches in size with the line of each page numbered and the pages sequentially numbered;
- (5) An index of witnesses shall be included in the front of the transcript and shall contain page and line references to direct, cross, re-direct, and re-cross examination;
- (6) An index to exhibits, whether admitted or rejected, briefly identifying each exhibit, shall be included following the index to witnesses reflecting the page and line references where the exhibit was identified and offered into evidence, was admitted or rejected, and if any objection was interposed;
- (7) Exhibits such as papers, maps, photographs, and similar items that were admitted shall be firmly attached, either directly or in an envelope placed inside the rear cover, except as to exhibits whose size or bulk makes attachment impractical; documentary exhibits offered at trial whose admission was denied shall be included in a separate envelope with a notation that they were not admitted and also attached to the inside rear cover unless attachment is impractical;
- (8) No volume of a transcript shall exceed two hundred and fifty pages in length, except it may be enlarged to three hundred pages, if necessary, to complete a part of the voir dire, opening statements, closing arguments, or jury instructions; when it is necessary to prepare more than one volume, each volume shall contain the number and name of the case and be sequentially numbered, and the separate volumes shall be approximately equal in length; and
- (9) Upon completion, the reporter shall certify the transcript as correct, whether in written, videotape form or CD, and state whether it is a complete or partial transcript, and, if partial, indicate the parts included and the parts excluded. This certification may be prepared in written form, signed and dated by the reporter, and sealed with the official court seal, or if the reporter is a Notary Public, sealed with a notary seal. This page shall be included as the last page of the written transcript and its title and page number should be included in the index.

***Appointment of a court shorthand reporter***

Ohio Revised Code Section §2301.18 states “the court of common pleas shall appoint a stenographic reporter as official shorthand reporter of such court, who shall hold the appointment for a term not exceeding three years from the date thereof, unless removed by the court, after a good cause shown, for neglect of duty, misconduct in office, or incompetency. Such official shorthand reporter shall take an oath faithfully and impartially to discharge the duties of such position.”

O.R.C. §2301.19 goes on to say “the court of common pleas may appoint such assistant shorthand reporters as the business of the court requires. Such assistant reporters shall serve for such time as is designated by the court, not exceeding three years under one appointment, shall take a like oath and may be paid at the same rate and in the same manner as the official shorthand reporter.”

O.R.C. §2301.22 further refers to the compensation of shorthand reporters and O.R.C. §2301.26 discusses options for shorthand reporters being appointed as referees to take and report evidence and swear in witnesses.

Although the code is not specific as to the actual duties of “shorthand reporters” for all practical aspects most courts are interpreting this to mean those duties generally covered while serving in the capacity of courtroom court reporter. Such duties could include but are not limited to the operation of a stenographic machine or the overseeing of audio tape or digital recording equipment, marking of exhibits/evidence, swearing in witnesses and other general non-security bailiff duties.

It is further recommended that anyone whether they be a court employee or an outside free-lance contractor who provides transcribing services to the court, be sworn in as a shorthand reporter. This issue has been tested at the appellate level in App 6 2003oh6967 and it is clear that the individual preparing a court transcript should be appointed to do so by the trial court.

Examples of entries to appoint official and assistant shorthand reporters may be located in the Forms Section of this manual.



### 34. Abortion Consent – Unmarried Minors

Prior to October, 2005, a Judicial By-Pass (AKA “Jane Doe”) was the filing mechanism used for a minor who is unmarried, under the age of 18, and unemancipated to seek an abortion without notice to her parent, guardian, or custodian. These filings were brought as a complaint under O.R.C. §2151.85. Currently, the law states a petition be filed under O.R.C. §2919.121. There has been a lengthy legal battle regarding which statute is to be used. Pending the decision from the Court of Appeals, §2919.12 is the applicable statute.

A petition shall be filed in (1) the juvenile court of the county in which the juvenile has residence, (2) the juvenile court of any county that borders to any extent the county in which she has residence, or (3) the county in which the hospital, clinic, or other facility where the abortion would be performed or induced is located.

The petition shall be made under oath and shall include all of the following statements:

1. Petitioner is pregnant;
2. Petitioner is unmarried, under the age of 18, and unemancipated;
3. Petitioner wishes to have an abortion and has been fully informed of the risks and consequences of an abortion;
4. A verification of either or both of the following:
  - a) Petitioner is of sound mind and has sufficient intellectual capacity to consent to the abortion;
  - b) The Court should find that an abortion is in her best interest and give judicial consent to the abortion.
5. A statement as to whether the Petitioner has retained an attorney, and if she has retained an attorney, the name, address, and telephone number of her attorney.

The court shall fix a time for a hearing at the earliest possible date, but not later than the fifth business day after the day the complaint is filed.

The court shall appoint a guardian *ad litem* to protect the interests of the petitioner at the hearing that is held pursuant to this section. If the petitioner has not retained an attorney, the court shall appoint an attorney to represent her within 24 hours of the filing of the petition. If the guardian *ad litem* is an attorney, the court may also appoint him or her to serve as the petitioner’s attorney.

If the court finds that the minor is sufficiently mature and well enough informed to decide intelligently whether to have an abortion, the court shall grant the petition and permit the minor to consent to the abortion. If the court finds that the abortion is in the best interests of the minor, the court shall give judicial consent to the abortion, setting forth the grounds for its finding. If the petition is granted, the informed consent of the minor, pursuant to a court order authorizing the minor to consent to the abortion, or judicial consent to the abortion, shall bar any action by the parents, guardian, or custodian of the minor for battery of the minor against any person performing or inducing the abortion. The immunity granted shall only extend to the performance or inducement of the abortion in accordance with this section and to any accompanying services that are performed in a competent manner.

If the court does not make either of these findings the court shall deny the petition, setting forth the grounds on which the petition is denied. The court shall issue its order within 24 hours of the hearing.

No juvenile court shall have jurisdiction to rehear a petition concerning the same pregnancy once a juvenile court has granted or denied the petition.

If the court dismisses the petition, it immediately shall notify the complainant that she has a right to appeal under §2919.121. The court bailiff or clerk shall furnish blank copies of a notice of appeal to the petitioner or anyone who later requests them without charge. There are no filing fees or court costs assessed on these appeals.

The record on appeal shall be completed and the appeal perfected within four days from the filing of the notice of appeal. Because the abortion may need to be performed in a timely manner, the supreme court shall, by rule, provide for expedited appellate review of cases appealed under this section.

**Forms**

Sample forms appropriate for use regarding Judicial Consent are available in Appendix E - Forms.



## **35. Consent To Marry**

Juvenile courts accept applications for Consent to Marry in accordance with Juvenile Rule 42. Once consent is granted, the couple must follow the probate court guidelines for getting a marriage license. The requirements are as follows:

1. Any male under 18 years of age and any female under 16 years of age must have the consent of juvenile court to marry;
2. The female must be a resident of the county where the application is being filed;
3. One of the two following conditions must exist: (1) the minor either has no parent, guardian, or custodian, or has been neglected or abandoned by the parent, guardian, or custodian for at least one year prior to the filing date of the application; or (2) the female is either pregnant or has already given birth to a child.

### ***Required paperwork***

1. Complaint;
2. Physician's verification of pregnancy or copy of child's birth certificate;
3. Report of investigation—the petitioner must produce a document from a professional (case worker, marriage counselor, minister, etc.) that details the circumstances of the applicants and their plans for raising a child.

### ***Hearing***

Only a judge may grant a Consent to Marry petition. The deputy clerk will present the case to the judge. If granted, a certified copy of the judge's entry is given to the applicant. The applicant may now request a marriage license from probate court.

### ***Forms***

Sample forms appropriate for use regarding Consent to Marry are available in Appendix E - Forms.



### **36. Power of Attorney/Caretaker Affidavit**

A grandparent caregiver may file with a Juvenile Court (in the county where grandparent or child resides or any other court that has jurisdiction over the child under a previously filed motion or proceeding) a Grandparent Power of Attorney or a Grandparent Caregiver Authorization Affidavit pursuant to legislation that became effective July 20, 2004 and was codified in Revised Code 3109. These documents provide the grandparent caregiver the necessary legal documentation to enroll their grandchildren in school, participate in their education, and obtain routine and emergency medical, dental and psychological care. Once filed, a parent can rescind either of the above by stating they no longer want this arrangement in place. The grandparent should then contact the court with the renunciation. A Grandparent Power of Attorney requires written revocation and must be filed with the court within five days of termination. A Grandparent Caregiver Authorization requires written notice of negation, reversal or disapproval delivered to caretaker.

The Grandparent Power of Attorney is to be used in consensual situations where the parent(s) empower the grandparent caregiver to care for their child. To be effective, it must be completely filled out, signed by the parent(s) and grandparent caregiver and notarized. It must be filed with the local juvenile court where the caregiver resides or in the county where grandparent resides or in any other court that has jurisdiction over the child under a previously filed motion or proceeding and is effective for one year.

When a Grandparent Power of Attorney is presented for filing, it should be reviewed for the following:

1. The Power of Attorney (POA) form is identical in form as outlined in section 3109.53 of the Ohio Revised Code;
2. The form is legible;
3. The POA is signed by at least one of the child's parents;
4. The POA contains the address of each signing parent;
5. The POA contains the name, address, and county of residence of the grandparent(s) named as having the POA;
6. The grandparent's residence is in the State of Ohio;
7. The POA contains the name of the child and the child's date of birth;
8. The child is under the age of 18;
9. The POA packet contains the information described in 3127.23 (A) of the Revised Code;
10. The POA was signed and notarized by an Ohio notary within the last five days;
11. If only one parent has signed the POA and the address of the non-custodial parent is known, the POA is accompanied by a receipt showing that notice of the creation of the POA was sent by certified mail to the non-custodial parent.

The Grandparent Caregiver Authorization Affidavit is to be used when despite reasonable efforts, the parents are unable to be located and the children reside with the grandparent. The affidavit is to be completely filled out, signed by the grandparent caregiver and notarized. It also must be filed with the local juvenile court where the caregiver resides or in the county where grandparent resides or in

any other court that has jurisdiction over the child under a previously filed motion or proceeding and is effective for one year.

When a Caretaker Authorization Affidavit (CAA) is presented for filing, it should be reviewed for the following:

1. The CAA is identical in form as outlined in section 3109.66 of the Ohio Revised Code;
2. The form is legible;
3. The CAA is signed by the grandparent(s);
4. The CAA contains the address, driver's license # or identification card #, and date of birth of the signing grandparent;
5. The grandparent's residence is in the State of Ohio;
6. The CAA contains the name of the child and the child's date of birth.
7. The child is under the age of 18;
8. The CAA packet contains the information described in section 3127.23 (A) of the Revised Code;
9. The CAA is signed and notarized by an Ohio notary with the past five days.

If the child is to remain in the grandparent caregiver home for more than one year, the grandparent caregiver must complete a second Power of Attorney or Caregiver Affidavit, and file with the same juvenile court. The court is to then schedule a best interest hearing to extend the Power of Attorney or Caregiver Affidavit, transfer legal custody to the grandparent caregiver, return the child to the parent(s), or award some other disposition under Revised Code 2151. Additionally, the Court may request a public children services agency to assist by providing information about the stability of the placement.

In regards to best practices for Ohio Clerks, some counties rely on local Kinship Navigator programs to assist grandparents in completing the forms. This enables Clerks to receive the packets meeting the proper requirements. And while the forms can be obtained online, these may not meet the local requirements such as margins, etc. Juvenile Court administrators should be clear about what a clerk can accept according to the local rules' requirements. It should be noted that these filings are not counted as official cases on the Supreme Court Report, but should be tracked for statistical reporting to state agencies. Finally, Clerks Offices may establish coordination with the local children services agency to have the initially filed Powers of Attorney or Caregiver Affidavits to be reviewed once filed to assure that the placement has been to a safe and stable environment.



## 37. Interpreter Services

In recognition of the growing and increasingly diverse non-English speaking population in Ohio, the Supreme Court of Ohio in December of 2003 created a new Interpreter Services Program to advise local courts on the appropriate and effective use of court interpreters. Additionally the program addresses the needs of court participants who are deaf or hearing impaired.

The Interpreter Services Program provides technical assistance, training, and learning opportunities for the courts, interpreters, and other important stakeholders on the proper role and use of interpreters in legal proceedings. This program also assists courts in the state of Ohio in developing policies, procedures, standards, and mechanisms to provide linguistic minorities, deaf and hearing impaired communities equal access to the courts.

Currently, there is not a certification process for court interpreters. The Supreme Court of Ohio is developing a certification process for court interpreters, using the National Center for State Courts (NCSC) Consortium guidelines.

It is important for courts to find qualified interpreters. Some places to locate interpreters are through language agencies, freelance interpreters, other courts, universities and colleges. How do you determine if a person is a qualified interpreter? When questioning a person to determine their qualifications ask them the following questions: 1) Have you received training specific to legal terminology? 2) Can you adhere to the code of ethics? 3) Are you able to interpret in simultaneous and consecutive modes? 4) Are you able to understand and be understood by the client? 5) Are you familiar with the process of the legal system?

"Working with Foreign Language Interpreters in the Courtroom: A Bench Card for Judges" is an excellent resource. The Bench Card contains tips that benefit not only judges, but clerks and other court staff as well. This resource can be found in Appendix H or at the following web address:

[http://www.sconet.state.oh.us/Jucicial\\_and\\_Court\\_Services/interpreter\\_svcs/benchcard.pdf](http://www.sconet.state.oh.us/Jucicial_and_Court_Services/interpreter_svcs/benchcard.pdf)

Courts may hire interpreters as needed and pay them a set fee for their services. If you are unfamiliar with resources available in your community the Interpreter Services Program can assist you in locating qualified interpreters.

It is also a good idea for courts to have a resource available at the front counter to help identify the need for an interpreter. The Ohio Office of Criminal Justice Services has created a language identification guide pocket card known as "I Speak". You can review and print a copy of the document at the following web address:

<http://www.ocjs.ohio.gov/Publications/Pocket%20Card.pdf>



## References

1. The Supreme Court of Ohio website, [www.supremecourtofohio.gov](http://www.supremecourtofohio.gov)
2. Creation and Establishment of Juvenile Courts: information can be found at <http://www.richmond.edu/~kmonday/juvenile/history.html>
3. Judicial responsibility for the function of Juvenile Court: Information can be found at <http://ojjdp.ncirs.org/pubs/jailbgbullentin/over.html>
4. Deputy Clerk responsibilities and duties.
5. *Federal Placement Assistance Funding for Delinquency Services*, Children, Families and the Courts – Ohio Bulletin, Winter 2003, Vol. 1, No. 1. The Supreme Court of Ohio and Ohio Job and Family Services.
6. Conflict Resolution Services for Government Officials: Ohio Commission on Dispute Resolution and Conflict Management found at <http://www.state.oh.us/cdr/>
7. Continuances Study by Cook County, Illinois Juvenile Court Protection Division: Information can be found at <http://www.abanet.org/ftp/pub/child/illchic.txt>
8. The Supreme Court of Ohio Judicial and Court Services, Technology Resources Section: Information can be found at 800-826-9010 or at [tr@sconet.state.oh.us](mailto:tr@sconet.state.oh.us)
9. Ohio Jury Management Association, <http://www.theohiojurymanagementassociationinc.com>
10. “Fiscal Management,” prepared by F. Barry Wilkes, Clerk and Court Administrator for Liberty Superior, State, Juvenile, and Magistrate Courts in November, 1999. For more information, visit the website at <http://www.libertyco.com>.



## Appendix A - Court Performance Standards

This section is a reproduction of relevant parts of “Court Performance Standards: Guiding the Courts into the Future” published by the National Center for State Courts/ Institute for Court Management in September 2000. These standards were the result of the joint effort by the National Center for State Courts and the Bureau of Justice Assistance to improve and measure court performance. You can view the Court Performance Standards with more inclusive commentary at [www.ncsconline.org](http://www.ncsconline.org).

### **Performance Area 1: Access to Justice**

Trial courts should be open and accessible. Location, physical structure, procedures and the responsiveness of personnel affect accessibility.

**Standard 1.1 Public Proceedings.** The trial court conducts its proceedings and other business openly.

1. This standard requires the trial court to conduct all proceedings openly that are public by law or custom.
2. The court must specify proceedings to which the public is denied access and ensure that the restriction is in accordance with the law and reasonable public expectations.
3. The court must ensure that its proceedings are accessible and audible to all participants, including litigants, attorneys, court personnel and other persons in the courtroom.

**Standard 1.2 Safety, Accessibility and Convenience.** Trial court facilities are safe, accessible and convenient to use.

1. This standard considers three distinct aspects of court performance: the security of persons and property within the courthouse, access to the courthouse and reasonable convenience and accommodation of those unfamiliar with court facilities and proceedings
2. This standard urges a trial court to be concerned about matters such as its location in the community, adequate parking, the availability of public transportation, the design of the court and the internal layout of court buildings.

**Standard 1.3 Effective Participation.** The trial court gives all who appear before it the opportunity to participate effectively, without undue hardship or inconvenience.

1. Standard 1.3 focuses on how a trial court accommodates all participants in its proceedings – especially those who have language difficulties, mental impairments, or physical handicaps.
2. Accommodations made by the court for impaired or handicapped individuals include the provision of interpreters for the deaf and special courtroom arrangements or equipment for blind and speech-impaired litigants.

**Standard 1.4 Courtesy, Responsiveness, and Respect.** Judges and other trial court personnel are courteous and responsive to the public, and accord respect to all with whom they come into contact.

1. The intent of this standard is to make the justice system more accommodating and less intimidating.

2. Requirements of the standard are particularly important in the understanding shown and assistance offered by court personnel to members of minority or disadvantaged groups and to those unfamiliar with the court and its procedures.
3. Judges and other court employees should reflect by their conduct the law's respect for the dignity and value of all individuals who come before, or make inquires of, the court.
4. No court employee should by words or conduct demonstrate bias or prejudice based on race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation.
5. These requirements extend to the manner in which the employees of the court treat each other.

**Standard 1.5 Affordable Costs of Access.** The costs of access to trial court proceedings and records – whether measured in terms of money, time or the procedures that must be followed – are reasonable, fair, and affordable.

1. Litigants and others who use the services of the trial court face three main financial barriers to effective access to the trial court: court fees, third-party expenses, and lawyer fees.
2. This standard requires that the trial court minimize its own fees for access and participation in its proceedings and, where possible, scale its procedures and those of others under its influence or control to the reasonable requirements of matters before the court.
3. Simple disputes should be resolved at low cost and by uncomplicated procedures.
4. Procedural accessibility should be enhanced by clear, concise, and understandable language in instructing the parties, witnesses, and jurors about rights, responsibilities, necessary forms, hearings, and court facilities and resources.
5. Records of public proceedings and important documents must be made available to individuals who are authorized to receive them.
6. The court must maintain a reasonable balance between its actual costs in providing documents or information and what it charges users.

***Performance Area 2: Expedition and Timeliness***

Courts are entrusted with many duties and responsibilities that affect individuals and organizations involved with the judicial system. A trial court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner.

**Standard 2.1 Case Processing.** The trial court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

1. The court must control the time for civil case filing or criminal arrest to trial or other final disposition.
2. Early and continuous control establishes judicial responsibility for timely disposition, identifies cases that can be settled, eliminates delay, and ensures that matters will be heard when scheduled.
3. This standard urges courts to manage their caseloads to avoid backlog by terminating inactive cases and resolving as many cases as are filed.

**Standard 2.2 Compliance with Schedules.** The trial court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

1. As public institutions, trial courts have a responsibility to provide information and services to those they serve and services should be provided in a timely and expeditious manner.
2. Services may include legal representation or mental health evaluations, protective or social services for abused children, and translation services.
3. An effective trial court establishes and abides by schedules and guidelines for activities not directly related to case management.
4. Fines, fees, restitution, and bonds should be timely disbursed to their lawful recipients.

**Standard 2.3 Prompt Implementation of Law and Procedure.** The trial court promptly implements changes in law and procedure.

1. Changes in statutes, case law, and court rules affect what is done in the courts, how it is done, and those conduct business in the courts.
2. Trial court must make certain that mandated changes are implemented promptly and correctly.
3. It is imperative that changes mandated by statute, case law, or court rules be integrated into court operations as they become effective.

***Performance Area 3: Equality, Fairness, and Integrity***

Trial courts should provide due process and equal protection of the law to all who have business before them, as guaranteed by the U.S. Constitution and State constitutions.

**Standard 3.1 Fair and Reliable Judicial Process.** Trial court procedures faithfully adhere to relevant laws, procedural rules, and established policies.

1. This standard requires fair judicial processes through adherence to constitutional and statutory law, case precedent, court rules, and other authoritative guidelines, including policies and administrative regulations.
2. Adherence to established law and procedures contributes to the court's ability to achieve predictability, reliability, and integrity, and to satisfy all parties.

**Standard 3.2 Juries.** Jury lists are representative of the jurisdiction from which they are drawn.

1. Courts can provide a significant measure of fairness and equality by ensuring that the methods employed to compile source lists and to draw the venire provide jurors who are representative of the total adult population of the jurisdiction.
2. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, or any other factor that discriminates against a cognizable group in the jurisdiction served by the court.
3. Procedures designed to achieve representativeness include combining regularly maintained lists of registered voters and licensed drivers and using random selection procedures at each step of the jury selection process.

**Standard 3.3 Court Decisions and Actions.** Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

1. This standard requires that litigants receive individual attention without variation due to judge assignment or legally irrelevant characteristics of the parties, such as race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation.
2. Persons similarly situated and having similar histories should receive similar treatment.
3. This standard refers to all decisions, including sentences in criminal cases, the conditions of bail, the amount of child support ordered, the appointment of legal counsel, and court-supervised alternatives to formal litigation.

**Standard 3.4 Clarity.** The trial court renders decisions that unambiguously address the issues presented to it and clearly indicate how compliance can be achieved.

1. This standard requires that it be clear how compliance with court orders and judgments is to be achieved.
2. Dispositions for each charge or count in a criminal complaint should be easy to discern, and terms of punishment and sentence should be associated clearly with each count upon which a conviction is returned.
3. Decisions in civil cases, especially those unraveling tangled webs of multiple claims and parties, should connect clearly each issue and its consequences.

**Standard 3.5 Responsibility for Enforcement.** The trial court takes appropriate responsibility for the enforcement of its orders.

1. This standard encourages a trial court to ensure that its orders are enforced.
2. Court responsibility for enforcement and compliance varies from jurisdiction to jurisdiction, program to program, case to case, and event to event.
3. No court should be unaware of or unresponsive to realities that cause its orders to be ignored.
4. Monitoring and enforcing proper procedures and interim orders while cases are pending are within the scope of this standard.

**Standard 3.6 Production and Preservation of Records.** Records of all relevant court decisions and actions are accurate and properly preserved.

1. This standard requires that trial courts preserve an accurate record of their proceedings, decisions, orders, and judgments.
2. Relevant court records include indexes, dockets, and various registers of court actions maintained for the purposes of inquiry into the existence, nature, and history of actions at law as well as documents that make up official case files and the verbatim records of proceedings.
3. Record systems must ensure that the location of case records is always known, whether the case is active and in frequent circulation, inactive, or in archive status.

#### ***Performance Area 4: Independence and Accountability***

The judiciary must assert and maintain its distinctiveness as a separate branch of government. Within the organizational structure of the judicial branch of government, trial

courts must establish their legal and organizational boundaries, monitor and control their operations, and account publicly for their performance.

**Standard 4.1 Independence and Comity.** The trial court maintains its institutional integrity and observes the principle of comity in its governmental relations.

1. Effective trial courts resist being absorbed or managed by the other branches of government.
2. The court must achieve independent status without damaging the reciprocal relationships that it maintains with others.
3. If a trial court is to attain institutional independence, it must clarify, promote, and institutionalize effective working relationships with all other components of the justice system.
4. The boundaries and effective relationships between the trial court and other segments of the justice system must be apparent both in form and in practice.

**Standard 4.2 Accountability for Public Resources.** The trial court responsibly seeks, uses and accounts for its public resources

1. This standard requires that a trial court responsibly seek the resources needed to meet its judicial responsibilities, use those resources prudently (even if they are inadequate), and account for their use.
2. Resource allocation to cases, categories of cases, and case processing are at the heart of trial court management.
3. Assignment of judges and allocation of other resources must be responsive to established case processing goals and priorities, implemented effectively, and evaluated continuously.

**Standard 4.3 Personnel Practices and Decisions.** The trial court uses fair employment practices.

1. This standard requires every trial court to operate free of bias – on the basis of race, religion, ethnicity, gender, sexual orientation, color, age, handicap, or political affiliation – in its personnel practices and decisions.
2. Fairness in the recruitment, compensation, supervision, and development of court personnel helps ensure judicial independence, accountability, and organizational competence.
3. Court personnel practices and decisions should establish the highest standards of personal integrity and competence among its employees.

**Standard 4.4 Public Education.** The trial court informs the community about its programs to help the public understand and appreciate the administration of justice.

1. This standard requires trial courts to inform and educate the public through informational brochures and annual reports and participation by court personnel in public affairs commissions.
2. Courts can effectively educate and inform the public by including able public representatives on advisory committees, study groups, and boards.

**Standard 4.5 Response to Change.** The trial court anticipates new conditions and emergent events and adjusts its operations as necessary.

1. This standard requires trial courts to recognize and respond appropriately to such public issues as drug abuse, child and spousal abuse, AIDS, drunken driving,

- child support enforcement, crime and public safety, consumer rights, gender bias, and more efficient use of fewer resources.
2. A trial court that moves deliberately in response to emergent issues is a stabilizing force in society and acts consistently with its role of maintaining the rule of law.
  3. In matters for which the trial court may have no direct responsibility but may help identify problems and shape solutions, the trial court may take appropriate actions to inform responsible individuals, groups, or entities about the effects of these matters on the judiciary and about possible solutions.

***Performance Area 5: Public Trust and Confidence:***

Compliance with law depends, to some degree, on public respect for the court. Ideally, public trust and confidence in trial courts should stem from the direct experience of citizens with the courts. The central questions posed by the three standards in this final area is whether trial court performance – in accordance with standards in the areas of Access to Justice; Expedition and Timeliness; Equality, Fairness, and Integrity; and Independence and Accountability – actually instills public trust and confidence.

**Standard 5.1 Accessibility.** The public perceives the trial court and the justice it delivers as accessible.

1. A trial court should not only be accessible by those who need its services but also be perceived as accessible by those who may need its services in the future.

**Standard 5.2 Expeditious, Fair, and Reliable Court Functions.** The public has trust and confidence that basic trial court functions are conducted expeditiously and fairly, and that court decisions have integrity.

**Standard 5.3 Judicial Independence and Accountability.** The public perceives the trial court as independent, not unduly influenced by other components of government, and accountable.

1. A trial court that establishes and respects its role as part of an independent branch of government and diligently works to define its relationships with the other branches presents a favorable public image.



## **Appendix B – Reporting Requirements**

The juvenile courts are required to submit reports to various agencies. These reports include:

1. Form D Supreme Court Report (Sup. R. Appendix A)
2. Annual Reports (O.R.C. §2151.18, §2152.71(B) and (C))
3. Traffic Court BMV Reporting (O.R.C. §4507.021) (may be reported via citation abstracts , diskette or internet program)
4. Weekly BCI Reporting (O.R.C. §2152.71(A) and §109.57) (may be reported via fingerprint disposition cards or via a link with the court's case management system).
5. Physical Inventory of Cases (Sup. R. 38)
6. Fixed Asset and/or Property Inventory for County
7. DYS Felony Adjudication Report (§5139.43(C)(3)(C))
8. DYS Bindover Report
9. Public Defender Affidavit Application Fee Report
10. Local Rules and Case Management Plan (Sup. R. 5)



## Appendix C – Court Phone and Fax Numbers

Adams County Juvenile Court, 110 West Main Street, Room 244, West Union, OH 45693 (937) 544-2921, FAX (937) 544-8911

Allen County Juvenile Court, P.O. Box 419, Lima, OH 45802, (419) 998-5225  
FAX (419) 222-7403 <http://www.co.allen.oh.us/cjuv.php>

Ashland County Juvenile, 142 W. 2nd St., Ashland, OH 44805-2101,  
(419) 282-4205, FAX (419) 281-5699

Ashtabula County Juvenile Court, 3816 Donahoe Drive, Ashtabula, OH 44004,  
(440) 994-6025, FAX (440) 994-6021

Athens County Juvenile Court, Courthouse, Athens, OH 45701-2897,  
(740) 592-3259, FAX (740) 592-3268

Auglaize County Juvenile Court, 201 Willipie Street, Suite 103, Wapakoneta, OH 45895, (419) 739-6776, FAX (419) 739-7563  
[http://www.auglaizecounty.org/Juvenile\\_Court/Index.htm](http://www.auglaizecounty.org/Juvenile_Court/Index.htm)

Belmont County Juvenile Court, 101 Main Street, Courthouse, St. Clairsville, OH 43950-1154, (740) 699-2141, FAX (740) 699-2142  
<http://www.belmontcountyohio.org/index.html>

Brown County Juvenile Court, P.O. Box 379, Georgetown, OH 45121,  
(937) 378-6726, FAX (937) 378-4729

Butler County Juvenile Court, 280 N. Fair Avenue, Hamilton, OH 45011,  
(513) 887-3884, FAX (513) 887-3698  
<http://66.117.197.5/JuvenileJusticeCenter/>

Carroll County Juvenile Court, 119 Public Square, Carrollton, OH 44615,  
(330) 627-2323, FAX (330) 627-6004

Champaign County, 200 N. Main St., Urbana, OH 43078, (937) 484-1027,  
FAX (937) 484-1026

Clark County Juvenile Court, 101 E. Columbia Street, Springfield, OH 45502,  
(937) 328-2624, FAX (937) 328-2639  
<http://www.clarkcountyohio.gov/courts/juvenile/index.htm>

Clermont County Juvenile Court, 2340 Clermont Center Drive, Suite 100,  
Batavia, OH 45103-1958, (513) 732-7696, FAX (513) 732-7695

Clinton County Juvenile, 46 S. South St., Wilmington, OH 45177-2297,  
(937) 382-2391, FAX (937) 383-0823

Columbiana County Juvenile Court, 260 West Lincoln Way, Lisbon, OH 44432,  
(330) 424-4071 ext. 105, FAX (330) 424-6670

Coshocton County Juvenile Court, 426 Main Street, Coshocton, OH 43812,  
(740) 622-8969, FAX (740) 623-6514

Crawford County Juvenile Court, 112 East Mansfield Street, Bucyrus, OH  
44820, (419) 562-1896, FAX (419) 562-6538

Cuyahoga County Juvenile Court, 2163 E. 22nd Street, Cleveland, OH 44115,  
(216) 698-4701, FAX (216) 698-4717  
<http://www.cuyahogacounty.us/Juvenile/default.htm>

Darke County Juvenile Court, 300 Garst Ave., Greenville, OH 45331,  
(937) 547-7350, FAX (937) 547-1945

Defiance County Juvenile Court, 221 Clinton St, Defiance, OH 43512,  
(419) 782-4181, FAX (419) 782-2437 [http://www.defiance-  
county.com/juvenilejudge.html](http://www.defiance-county.com/juvenilejudge.html)

Delaware County Juvenile Court, 88 N. Sandusky, Delaware, OH 43015,  
(740) 833-2596, (740) 833-2599 <http://www.co.delaware.oh.us/jvc/>

Erie County Juvenile Court, 323 Columbus Avenue, Sandusky, OH 44870-2697,  
(419) 627-7782, FAX (419) 627-6600 [http://www.erie-county-  
ohio.net/familycrt/default.htm](http://www.erie-county-ohio.net/familycrt/default.htm)

Fairfield County Juvenile Court, 224 E. Main Street, Lancaster, OH 43130-3863,  
(740) 687-7135, FAX (740) 681-7207

Fayette County Juvenile Court, 110 East Court Street, Washington CH, OH  
43160, (740) 335-0640, FAX (740) 333-3598

Franklin County Clerk of Courts, 369 S. High St., Columbus, OH 43215,  
(614) 462-3680, FAX (614) 462-6662  
<http://www.fccourts.org/DRJ/main.html>

Fulton County Juvenile Court, 210 S. Fulton Street, Wauseon, OH 43567, (419)  
337-9242, FAX (419) 337-9284

Gallia County Juvenile Court, 18 Locust Street, Room 1293, Gallipolis, OH 45631, (740) 446-3842, FAX (740) 446-3144  
[http://www.gallianet.net/Gallia/probate\\_court.htm](http://www.gallianet.net/Gallia/probate_court.htm)

Geauga County Juvenile Court, Courthouse Annex, 231 Main Street, Suite 200, Chardon, OH 44024, (440) 279-1835, FAX (440) 285-8751  
[http://www.co.geauga.oh.us/departments/common\\_pleas.htm](http://www.co.geauga.oh.us/departments/common_pleas.htm)

Greene County Juvenile Court, 2100 Greene Way Blvd, Xenia, OH 45385, (937) 562-4000, FAX (937) 562-4010  
<http://www.co.greene.oh.us/juvenile.htm>

Guernsey County Juvenile Court, 801 East Wheeling Avenue, D-101, Cambridge, OH 43725, (740) 432-9266, FAX (740) 439-9215

Hamilton County Juvenile Court, 800 Broadway, Cincinnati, OH 45202-1225, (513) 946-9431, FAX (513) 946-9450 <http://juvenile-court.org>

Hancock County Juvenile Court, 308 Dorney Plaza, Findlay, OH 45840-3302, (419) 424-7066, FAX (419) 424-7081  
<http://co.hancock.oh.us/juvenile/juvenile.htm>

Hardin County Juvenile Court, 1 Courthouse Square, Suite 200, Kenton, OH 43326, (419) 674-2230, FAX (419) 674-2941

Harrison County Juvenile Court, 100 West Market Street, Cadiz, OH 43907, (740) 942-8862, FAX (740) 942-8483

Henry County Juvenile Court, 660 N. Perry Street, Suite 401, Napoleon, OH 43545, (419) 599-5951, FAX (419) 599-0179  
<http://www.henrycountyohio.com/judgedomestic.htm>

Highland County Juvenile Court, 105 North High Street, Hillsboro, OH 45133, (937) 393-9981, FAX (937) 393-0926

Hocking County Juvenile Court, 1 East Main Street, Logan, OH 43138, (740) 385-3615, FAX (740) 385-6892

Holmes County Juvenile Court, One East Jackson Street, # 201, Millersburg, OH 44654, (330) 674-5881 FAX (330) 674-5820

Huron County Juvenile Court, 2 E. Main Street, Norwalk, OH 44857-1596, (419) 668-1616, FAX (419) 663-0944  
<http://homepages.accnorwalk.com/hcjpc/>

Jackson County Juvenile Court, 226 Main Street, Jackson, OH 45640, (740) 286-6405, FAX (740) 286-6537

Jefferson County Juvenile Court, P.O. Box 549, Steubenville, OH 43952-2184, (740) 284-3320, FAX (740) 283-8694  
<http://www.jeffersoncountyoh.com/cgi-bin/template.pl?/courts/probate.html>

Knox County Juvenile Court, 111 East High Street, Mount Vernon, OH 43050, (740) 393-6797, FAX (740) 393-6832  
<http://www.knoxcountyohio.org/offices/ProbateJuvenileCourt.htm>

Lake County Juvenile Court, 53 East Erie Street, Painsville, OH 44077-3907, (440) 350-3104, FAX (440) 350-2724  
<http://www.lakecountyohio.org/judicial/juven1.htm>

Lawrence County Juvenile Court, Courthouse, Ironton, OH 45638-1585, (740) 533-4372, FAX (740) 533-4412

Licking County Juvenile Court, Courthouse - Public Square, Newark, OH 43055, (740) 670-5623, FAX (740) 670-5881

Logan County Juvenile Court, 101 South Main Street, Room 6, Bellefontaine, OH 43311, (937) 599-7247, FAX (937) 292-4121

Lorain County Domestic Relations Court-Juvenile Division, 226 Middle Avenue, Elyria, OH 44035, (440) 329-5480, FAX (440) 329-5271

Lucas County Juvenile Court, 429 N. Michigan, Toledo, OH 43624, (419) 213-6923, FAX (419) 213-6933 <http://www.co.lucas.oh.us/Juvenile/>

Madison County Juvenile Court, 1 N. Main Street, London, OH 43140, (740) 852-0760, FAX (740) 852-7134

Mahoning County Juvenile Court, 300 E. Scott Street, Youngstown, OH 44505, (330) 740-2244 ext. 8123, FAX (330) 740-2286

Marion County Juvenile Court, 1440 Mount Vernon Avenue, Marion, OH 43302, (740) 389-5476, FAX (740) 389-2060

Medina County Juvenile Court, 93 Public Square, Medina, OH 44256, (330) 725-9710, FAX (330) 725-9173  
<http://www.medinacountyjuvenileprobatecourt.com/dynamic/default.aspx>

Meigs County Juvenile Court, 100 East 2nd Street, Pomeroy, OH 45769, (740) 992-6205, FAX (740) 992-6727

Mercer County Juvenile Court, 101 North Main Street, # 307, Celina, OH 45822,  
(419) 586-2418, FAX (419) 586-4506

Miami County Juvenile Court, 201 W. Main Street, Troy, OH 45373-3239,  
(937) 440-5970, FAX (937) 440-3531 <http://www.co.miami.oh.us>

Monroe County Juvenile Court, 101 North Main Street, Room 39, Woodsfield,  
OH 43793, (740) 472-5790, FAX (740) 472-2520

Montgomery County Juvenile Court, 303 W. 2nd Street, Dayton, OH 45422-  
1413, (937) 496-3147, FAX (937) 225-5800 <http://mcjc.mcoho.org/>

Morgan County Juvenile Court, 19 East Main Street, McConnelsville, OH 43756,  
(740) 962-3371, (740) 962-4589

Morrow County Juvenile Court, 48 East High Street, Mt. Gilead, OH 43338,  
(419) 947-5545, FAX (419) 947-1860

Muskingum County Juvenile Court, 1860 East Pike, Zanesville, OH 43701-4019,  
(740) 453-0351, FAX (740) 453-1066

Noble County Juvenile Court, 300 Courthouse, Caldwell, OH 43724,  
(740) 732-4045, FAX (740) 732-0100

Ottawa County Juvenile Court, 315 Madison Street, Port Clinton, OH 43452,  
(419) 734-6840, FAX (419) 734-6851  
<http://www.ottawacountyjuvenilecourt.com/main.htm>

Paulding County Juvenile Court, 115 North Williams Street, Room 202, Paulding,  
OH 45879, (419) 399-8255, FAX (419) 399-8261

Perry County Juvenile Court, P.O. Box 167, New Lexington, OH 43764,  
(740) 342-1118, FAX (740) 342-5524

Pickaway County Juvenile Court, Courthouse, Circleville, OH 43113,  
(740) 474-3117, FAX (740) 474-8451  
<http://www.pickaway.org/juvenile.htm>

Pike County Juvenile Court, 230 Waverly Plz #600, Waverly, OH 45690-1294,  
(740) 947-5914, FAX (740) 947-3086

Portage County Juvenile Court, 8000 Infirmary Road, Ravenna, OH 44266-  
2779, (330) 297-0881, FAX (330) 297-2227  
<http://www.co.portage.oh.us/juvenileprobate.htm>

Preble County Juvenile Court, Courthouse, Eaton, OH 45320, (937) 456-8136,  
FAX (937) 456-5803

Putnam County Juvenile Court, 245 East Main Street, # 204, Ottawa, OH 45875,  
(419) 523-3012, FAX (419) 523-9291

Richland County Juvenile Court, 411 S. Diamond St., Mansfield, OH 44902,  
(419) 774-5872, FAX (419) 774-5555

Ross County Juvenile Court, 2 North Paint Street, Suite A, Chillicothe, OH  
45601, (740) 774-1177, FAX (740) 774-3711

Sandusky County Juvenile Court, 100 N. Park Avenue, Fremont, OH 43420-  
2476, (419) 334-6200, FAX (419) 334-6210 [http://www.sandusky-  
county.org/Juvenile.asp](http://www.sandusky-county.org/Juvenile.asp)

Scioto County Juvenile Court, 602 7th Street, Portsmouth, OH 45662-3998,  
(740) 355-8236, FAX (740) 353-1095

Seneca County Juvenile Court, 108 Jefferson Street, Tiffin, OH 44883-2898,  
(419) 447-4912, FAX (419) 448-5060

Shelby County Juvenile Court, P.O. Box 4187, Sidney, OH 45365, (937) 498-  
4485, FAX (937) 498-7260

Stark County Juvenile Court, 110 Central Plaza South, Suite 614, Canton, OH  
44730, (330) 451-7622, FAX (330) 451-7802  
<http://www.familycourt.co.stark.oh.us/>

Summit County Juvenile Court, 650 Dan Street, Akron, OH 44310, (330) 643-  
2953, FAX (330) 643-2987  
<http://www.co.summit.oh.us/JuvenileCourt/index.htm>

Trumbull County Juvenile Court, 220 S. Main Street, Warren, OH 44482,  
(330) 675-2375, FAX (330) 675-2619

Tuscarawas County Juvenile Court, 101 E. High Avenue, Room 108, New  
Philadelphia, OH 44663-2636, (330) 364-8811, (330) 364-3190

Union County Juvenile Court, 215 West 5th Street, Marysville, OH 43040,  
(937) 645-3029, FAX (937) 645-3160

Van Wert County Juvenile Court, 108 East Main Street, Van Wert, OH 45891,  
(419) 238-1118, FAX (419) 238-7315

Vinton County Juvenile Court, 100 East Main Street, McArthur, OH 45651,  
(740) 596-5480, FAX (740) 596-3438

Warren County Juvenile Court, 570 Justice Drive, Lebanon, OH 45036-2361,  
(513) 695-1161, FAX (513) 695-2948

Washington County Juvenile Court, Courthouse Annex, 205 Putnam Street,  
Marietta, OH 45750-3085, (740) 373-6623, FAX (740) 376-7425

Wayne County Juvenile Court, Courthouse, 107 W. Liberty Street, Wooster, OH  
44691-4865, (330) 287-5567, FAX (330) 287-5427

Williams County Juvenile Court, One Courthouse Square, Bryan, OH 43506,  
(419) 636-2934, FAX (419) 636-5405

Wood County Juvenile Court, 11120 E. Gypsy Lane Rd., Bowling Green, OH  
43402-2427, (419) 352-3554, FAX (419) 353-4406

Wyandot County Juvenile Court, 109 South Sandusky Ave., 34, Upper  
Sandusky, OH 43351, (419) 294-2545, (419) 209-0251



## Appendix D - Other Useful Websites

[United States Postal Service  
www.usps.com](http://www.usps.com)

Check on the delivery status of your mailing. Get the date, time, and ZIP Code of your delivery online.

[Ohio Attorney General - ESORN  
www.esorn.ag.state.oh.us](http://www.esorn.ag.state.oh.us)

Locate a registered sex offender in your area.

[Anderson's Ohio Online Docs  
onlinedocs.andersonpublishing.com](http://onlinedocs.andersonpublishing.com)

Complete text of all rules, including full appendices, certified to the Legislative Service Commission and the Secretary of State, with an effective date on or before January 1, 2005.

[Ohio Department of Job and Family Services  
www.ifs.ohio.gov/county/cntydir.stm](http://www.ifs.ohio.gov/county/cntydir.stm)

Links to all County Department of Job and Family Services, County Child Support Enforcement Agency, and County Public Children Services Agency throughout Ohio.

[State of Ohio Home Page  
www.ohio.gov](http://www.ohio.gov)

Links to all state offices and agencies, including the Supreme Court and General Assembly; on-line Ohio Constitution and Revised Code, State of Ohio telephone directory; and links to other Ohio sites

[Ohio General Assembly  
www.legislature.state.oh.us](http://www.legislature.state.oh.us)

Copies of pending and enacted legislation; Legislative Service Commission analyses and fiscal notes; links to other legislative information.

[Ohio House of Representatives  
www.house.state.oh.us](http://www.house.state.oh.us)

Official Ohio House of Representatives Web Page.

[Ohio Senate  
www.senate.state.oh.us](http://www.senate.state.oh.us)

Official Ohio Senate Web Page.

[Ohio Legislature Live  
www.OhioChannel.org](http://www.OhioChannel.org)

"Real time" broadcasts of voting sessions of the Ohio House of Representatives and Ohio Senate; archived audio and video broadcasts dating back to January 1998

[Legislative Service Commission  
www.lsc.state.oh.us](http://www.lsc.state.oh.us)

Summaries of pending and enacted legislation. Status of pending and enacted bills.

[Gongwer News Service  
www.gongwer-oh.com](http://www.gongwer-oh.com)

Comprehensive Ohio legislative information site. Includes House and Senate directories, weekly committee schedules, enacted legislation (1991-current), current legislative status sheet, pending legislation and analyses, links to federal and other state government pages.

[Office of Criminal Justice Services  
www.ocjs.state.oh.us](http://www.ocjs.state.oh.us)

Criminal justice information specific to Ohio, including grant opportunities.

[Ohio Newspapers](http://www.newspapers.com)  
[www.newspapers.com](http://www.newspapers.com)

List of web sites for and links to Ohio newspapers.

DYS  
[www.dys.ohio.gov](http://www.dys.ohio.gov)

The official Ohio Department of Youth Services web page includes information on DYS staff, facilities, youthful offender statistics, a directory of local courts and links to other useful web sites.

BMV  
<http://ohiobm.com/>  
and [www.dmv.org](http://www.dmv.org)

The official Department of Motor Vehicles web page includes national department of motor vehicles information. You can access the DMV.ORG guide for anything you might need from your local DMV office. Information on driving records, driver's licenses; and vehicle history reports, as well as, links to forms for vehicle registration, title transfer, bill of sale, and smog check are all available here.

BCII  
<http://www.ag.state.oh.us/le/investigation/bcii.asp>  
The official Bureau of Criminal Identification and Investigation web site includes information on BCI&I organization, contact information, forms and publications.



## **Appendix E - Forms**

1. Consent to Marry (Juvenile Rule 42) – Female
2. Consent to Marry (Juvenile Rule 42) – Male
3. Consent to Marry - Information Sheet
4. Petition for Authorization to Consent to an Abortion or for Judicial Consent to an Abortion
5. Judgment Entry on Petition for Authorization to Consent to an Abortion or for Judicial Consent to an Abortion
6. Notice of Appeal on Judgment Entry on Petition for Authorization to Consent to an Abortion or for Judicial Consent to an Abortion
7. Appointment of Attorney for Judicial Consent to an Abortion
8. Appointment of GAL for Judicial Consent to an Abortion
9. Power of Attorney (for custody of minor to grandparent)
10. Caretaker Authorization Affidavit (for custody of minor to grandparent)

**CONSENT TO MARRY  
JUVENILE RULE 42**

I, \_\_\_\_\_, born on \_\_\_\_\_, and currently age \_\_\_\_\_, am a minor who desires to contract matrimony with \_\_\_\_\_, who is age \_\_\_\_\_. I reside at \_\_\_\_\_ . I am a resident of Hamilton County.

I am / am not a ward of this Court. (Circle one.)

\_\_\_\_\_ I am pregnant and have attached a physician's certificate verifying pregnancy.

\_\_\_\_\_ I have delivered a child, and have attached a copy of the child's birth certificate.

\_\_\_\_\_ I have no parent, guardian, or custodian, whose consent to the marriage is required by law. The reason consent of the parent is not required is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

The name and address of the parent, guardian, or custodian is \_\_\_\_\_  
\_\_\_\_\_.

I respectfully file this application requesting that the Judge of the Juvenile Court give consent and approbation in the Probate Court for such marriage, in accordance with Juvenile Rule 42.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_.

SYLVIA SIEVE HENDON    THOMAS R. LIPPS  
JUDGE EX OFFICIO CLERK

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Petitioner's Custodial Parent

\_\_\_\_\_  
Deputy Clerk

Juvenile Rule 42 (FEMALE)

**CONSENT TO MARRY  
JUVENILE RULE 42**

I, \_\_\_\_\_, born on \_\_\_\_\_, and currently age \_\_\_\_\_, am a minor who desires to contract matrimony with \_\_\_\_\_, who is age \_\_\_\_\_, and a resident of Hamilton County. I reside at \_\_\_\_\_.

I am / am not a ward of this Court. (Circle one.)

\_\_\_\_\_ I am the father of an unborn child, and have attached a physician's certificate verifying the pregnancy.

\_\_\_\_\_ I am the father of a child, and have attached a copy of the child's birth certificate.

\_\_\_\_\_ I have no parent, guardian, or custodian whose consent to the marriage is required by law. The reason consent of the parent is not required is

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

The name and address of the parent, guardian, or custodian is \_\_\_\_\_  
\_\_\_\_\_.

I respectfully file this application, requesting that the Judge of the Juvenile Court give consent and approbation in the Probate Court for such marriage, in accordance with Juvenile Rule 42.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_.

SYLVIA SIEVE HENDON    THOMAS R. LIPPS  
JUDGE EX OFFICIO CLERK

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Petitioner's Custodial Parent

\_\_\_\_\_  
Deputy Clerk

Juvenile Rule 42 (MALE)

**CONSENT TO MARRY  
INFORMATION SHEET**

***FEMALE***

NAME \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

ADDRESS \_\_\_\_\_

SCHOOL/EMPLOYMENT STATUS \_\_\_\_\_

***FEMALE'S PARENT(S), GUARDIAN(S), OR CUSTODIAN(S)***

NAME \_\_\_\_\_ RELATIONSHIP \_\_\_\_\_

ADDRESS \_\_\_\_\_

NAME \_\_\_\_\_ RELATIONSHIP \_\_\_\_\_

ADDRESS \_\_\_\_\_

***MALE***

NAME \_\_\_\_\_ DATE OF BIRTH \_\_\_\_\_

ADDRESS \_\_\_\_\_

SCHOOL/EMPLOYMENT STATUS \_\_\_\_\_

***MALE'S PARENT(S), GUARDIAN(S), OR CUSTODIAN(S)*** (If male is under 18)

NAME \_\_\_\_\_ RELATIONSHIP \_\_\_\_\_

ADDRESS \_\_\_\_\_

NAME \_\_\_\_\_ RELATIONSHIP \_\_\_\_\_

ADDRESS \_\_\_\_\_

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

In re petition of Jane Doe

Case No. \_\_\_\_\_

**PETITION**

Promulgated by the Supreme Court of Ohio  
pursuant to R.C. 2919.121

I swear or affirm that:

1. I am pregnant.
2. I am unmarried, \_\_\_\_\_ years of age, and unemancipated.
3. I wish to have an abortion and have been fully informed of the risks and consequences of an abortion.
4. This petition is being filed in the juvenile court of the county where I reside, in a county bordering the county where I reside, or in the county where the abortion will be performed.

[CHECK ONE OR BOTH OF THE FOLLOWING STATEMENTS.]

5.  I am of sound mind and have sufficient intellectual capacity to consent to an abortion.  
 The court should find that an abortion is in my best interests and give judicial consent to the abortion.

[CHECK ONE OF THE FOLLOWING STATEMENTS.]

6.  I do not have a lawyer and ask that the court appoint a lawyer free of charge.  
 I have a lawyer. The name, address, and telephone number of my lawyer are:

Lawyer's Name: \_\_\_\_\_

Lawyer's Address: \_\_\_\_\_  
\_\_\_\_\_

Lawyer's Phone No: \_\_\_\_\_

THIS PAGE OF THE ORIGINAL MUST BE REMOVED AND PLACED UNDER SEAL IN A SAFE OR OTHER SECURE PLACE AS REQUIRED BY RULE 23.1 OF THE RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO.

8. The following is/are the name(s) and address(es) of my parent(s), guardian(s), custodian(s) or, if my parents are deceased and no guardian(s) is/are appointed, any person standing in place of my parent(s), guardian(s), or custodian(s):

Name(s): \_\_\_\_\_

Address(es): \_\_\_\_\_

\_\_\_\_\_

THEREFORE, I request that this Court appoint a lawyer if I do not already have one, appoint a guardian *ad litem* to represent my best interests, and issue an order authorizing me to consent or granting judicial consent to an abortion without the consent of my parent, guardian, or custodian.

I swear or affirm that the information in the attached petition is true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Signature (Minor or Next Friend)

If this petition is being filed by a next friend on behalf of a minor, the minor's initials are: \_\_\_\_\_.

Sworn to or affirmed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

\*\*\*\*\*

PLEASE NOTE:

If you do **not** have a lawyer, please provide in the spaces below any address and phone number where the Court may contact you until a lawyer is appointed to represent you. You do **not** need to use your home address and phone number.

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

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

FORM 23.1-A (Effective 10-15-01)

[Petition minus 2919.121(C)(4) 10-05-05]

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

In re petition of Jane Doe

Case No. \_\_\_\_\_

**JUDGMENT**

This matter came on for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Based upon the testimony and evidence presented, this court finds:

1. The court:

\_\_\_\_ Has jurisdiction over the petition

\_\_\_\_ Does not have jurisdiction over the petition for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_ The petitioner is an unemancipated minor.

3. \_\_\_\_ The petitioner is pregnant and she wishes to obtain an abortion.

4. \_\_\_\_ The petitioner has been fully informed of the risks and consequences of the abortion.

5. That evidence has been presented to support the following [decide maturity issue first if pleaded]:

a. \_\_\_\_ Petitioner is sufficiently mature and well informed to decide intelligently whether to have an abortion without obtaining the consent of a parent, guardian, or custodian.

b. \_\_\_\_ The abortion would be in petitioner's best interest for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Page 1 of the Judgment.

c. \_\_\_\_ Neither 5a. nor 5b. has been established for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THEREFORE, IT IS ORDERED:**

\_\_\_\_ The petition is granted and the petitioner is hereby authorized to consent to the performance or inducement of an abortion.

\_\_\_\_ The court finds the abortion is in the best interest of the petitioner and judicial consent is hereby authorized.

\_\_\_\_ The petition is denied. The Clerk is instructed to provide the petitioner with the notice of appeal form and advise her of her right to an expedited appeal.

\_\_\_\_ The petition is dismissed for lack of jurisdiction. The Clerk is instructed to provide the petitioner with the notice of appeal form and advise her of her right to an expedited appeal.

Montgomery County, Ohio

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Date

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

In re petition of Jane Doe

Case No. \_\_\_\_\_

**NOTICE OF APPEAL**

Promulgated by the Supreme Court of Ohio  
pursuant to R.C. 2919.121

Notice is hereby given that the petitioner appeals to the Court of Appeals for Montgomery County, Ohio from the final order entered in the above-styled cause on \_\_\_\_\_, \_\_\_\_\_, denying or dismissing the petition seeking an abortion.

\_\_\_\_\_  
Signature of Attorney for Petitioner

\_\_\_\_\_  
Attorney Name

\_\_\_\_\_  
Attorney Address

\_\_\_\_\_  
Attorney Phone

Form 23.1-C (Effective 10-15-01)

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
JUVENILE DIVISION**

^  
—

IN THE MATTER OF

JC NO. ^

**Jane Doe**

**ATTORNEY APPOINTMENT ENTRY**

\_\_\_\_\_ \* \_\_\_\_\_

This case is before the Court in the matter of the petition of an unmarried minor to obtain an abortion without the consent of a parent, guardian, or custodian. Pursuant to Section 2919.121 of the Ohio Revised Code and Rule 23.1 of the Rules of Superintendence for the Courts of Ohio, this Court hereby assigns as legal counsel:

^  
^  
^

\_\_\_\_\_  
**Judge**

\_\_\_\_\_  
*Assessment Specialist*

*By-Pass\_Consent Atty\_Entry*

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
JUVENILE DIVISION**

IN THE MATTER OF

JC NO. ^

**Jane Doe**

**ENTRY APPOINTING GUARDIAN  
AD LITEM AND ACCEPTANCE**

This matter being before the Court on the petition of an unmarried minor seeking to obtain an abortion without the consent of a parent, guardian, or custodian, that pursuant to Section 2919.121 of the Ohio Revised Code and Rule 23.1 of the Rules of Superintendence for the Courts of Ohio, it is the Order of the Court that ^ be and hereby is appointed Guardian Ad Litem to represent the minor in this matter.

\_\_\_\_\_  
Judge

**ACCEPTANCE AND PRAYER OF GUARDIAN AD LITEM**

I, ^, being duly informed of the circumstances, do hereby accept the appointment in this matter, as Guardian Ad Litem for the minor, and having accepted the appointment, do hereby pray that the rights and interests of the minor be protected and for such orders as the minor's best interests and justice may require. I further waive the issuance and service of summons in this matter as required by law.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

*By-Pass\_Consent GAL\_Entry and Acceptance*

## Hamilton County Juvenile Court

**In Re:** \_\_\_\_\_

**Case Number:** \_\_\_\_\_

### Power Of Attorney

I, the undersigned, residing at \_\_\_\_\_, in the county of \_\_\_\_\_, state of \_\_\_\_\_, hereby appoint the child's grandparent(s), \_\_\_\_\_, residing at \_\_\_\_\_, in the county of \_\_\_\_\_, in the state of Ohio, with whom the child of whom I am the parent, guardian, or custodian is residing, my attorney in fact to exercise any and all of my rights and responsibilities regarding the care, physical custody, and control of the child, \_\_\_\_\_, born \_\_\_\_\_, having social security number (optional) \_\_\_\_\_, except my authority to consent to marriage or adoption of the child \_\_\_\_\_, and to perform all acts necessary in the execution of the rights and responsibilities hereby granted, as fully as I might do if personally present. The rights I am transferring under this power of attorney include the ability to enroll the child in school, to obtain from the school district educational and behavioral information about the child, to consent to all school-related matters regarding the child, and to consent to medical, psychological, or dental treatment for the child. This transfer does not affect my rights in any future proceedings concerning the custody of the child or the allocation of the parental rights and responsibilities for the care of the child and does not give the attorney in fact legal custody of the child. This transfer does not terminate my right to have regular contact with the child.

I hereby certify that I am transferring the rights and responsibilities designated in this power of attorney because one of the following circumstances exists:

- (1) I am: (a) Seriously ill, incarcerated or about to be incarcerated, (b) Temporarily unable to provide financial support or parental guidance to the child, (c) Temporarily unable to provide adequate care and supervision of the child because of my physical or mental condition, (d) Homeless or without a residence because the current residence is destroyed or otherwise uninhabitable, or (e) In or about to enter a residential treatment program for substance abuse;
- (2) I am a parent of the child, the child's other parent is deceased, and I have authority to execute the power of attorney; or
- (3) I have a well-founded belief that the power of attorney is in the child's best interest.

I hereby certify that I am not transferring my rights and responsibilities regarding the child for the purpose of enrolling the child in a school or school district so that the child may participate in the academic or interscholastic athletic programs provided by that school or district.

I understand that this document does not authorize a child support enforcement agency to redirect child support payments to the grandparent designated as attorney in fact. I further understand that to have an existing child support order modified or a new child support order issued administrative or judicial proceedings must be initiated.

If there is a court order naming me the residential parent and legal custodian of the child who is the subject of this power of attorney and I am the sole parent signing this document, I hereby certify that one of the following is the case:

- (1) I have made reasonable efforts to locate and provide notice of the creation of this power of attorney to the other parent and have been unable to locate that parent;
- (2) The other parent is prohibited from receiving a notice of relocation; or
- (3) The parental rights of the other parent have been terminated by order of a juvenile court.

This POWER OF ATTORNEY is valid until the occurrence of whichever of the following events occurs first: (1) one year elapses following the date this POWER OF ATTORNEY is notarized; (2) I revoke this POWER OF ATTORNEY in writing; (3) the child ceases to reside with the grandparent designated as attorney in fact; (4) this POWER OF ATTORNEY is terminated by court order; (5) the death of the child who is the subject of the power of attorney; or (6) the death of the grandparent designated as the attorney in fact.

**WARNING: DO NOT EXECUTE THIS POWER OF ATTORNEY IF ANY STATEMENT MADE IN THIS INSTRUMENT IS UNTRUE. FALSIFICATION IS A CRIME UNDER SECTION 2921.13 OF THE REVISED CODE, PUNISHABLE BY THE SANCTIONS UNDER CHAPTER 2929. OF THE REVISED CODE, INCLUDING A TERM OF IMPRISONMENT OF UP TO 6 MONTHS, A FINE OF UP TO \$1,000, OR BOTH.**

Witness my hand this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Parent/Custodian/Guardian's signature

\_\_\_\_\_  
Parent's signature

\_\_\_\_\_  
Grandparent designated as attorney in fact (signature)

\_\_\_\_\_  
Grandparent designated as attorney in fact (signature)

State of Ohio )  
 ) ss:  
County of \_\_\_\_\_)

Subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, Notary Public

**Notices:**

- 1. A power of attorney may be executed only if one of the following circumstances exists: (1) The parent, guardian, or custodian of the child is: (a) Seriously ill, incarcerated or about to be incarcerated; (b) Temporarily unable to provide financial support or parental guidance to the child; (c) Temporarily unable to provide

adequate care and supervision of the child because of the parent's, guardian's, or custodian's physical or mental condition; (d) Homeless or without a residence because the current residence is destroyed or otherwise uninhabitable; or (e) In or about to enter a residential treatment program for substance abuse; (2) One of the child's parents is deceased and the other parent, with authority to do so, seeks to execute a power of attorney; or (3) The parent, guardian, or custodian has a well-founded belief that the power of attorney is in the child's best interest.

2. The signatures of the parent, guardian, or custodian of the child and the grandparent designated as the attorney in fact must be notarized by an Ohio notary public.

3. A parent, guardian, or custodian who creates a power of attorney must notify the parent of the child who is not the residential parent and legal custodian of the child unless one of the following circumstances applies: (a) the parent is prohibited from receiving a notice of relocation in accordance with section 3109.051 of the Revised Code of the creation of the power of attorney; (b) the parent's parental rights have been terminated by order of a juvenile court pursuant to Chapter 2151. of the Revised Code; (c) the parent cannot be located with reasonable efforts; (d) both parents are executing the power of attorney. The notice must be sent by certified mail not later than five days after the power of attorney is created and must state the name and address of the person designated as the attorney in fact.

4. A parent, guardian, or custodian who creates a power of attorney must file it with the juvenile court of the county in which the attorney in fact resides, or any other court that has jurisdiction over the child under a previously filed motion or proceeding. The power of attorney must be filed not later than five days after the date it is created and be accompanied by a receipt showing that the notice of creation of the power of attorney was sent to the parent who is not the residential parent and legal custodian by certified mail.

5. A parent, guardian, or custodian who creates a second or subsequent power of attorney regarding a child who is the subject of a prior power of attorney must file the power of attorney with the juvenile court of the county in which the attorney in fact resides or any other court that has jurisdiction over the child under a previously filed motion or proceeding. On filing, the court will schedule a hearing to determine whether the power of attorney is in the child's best interest.

6. This power of attorney does not affect the rights of the child's parents, guardian, or custodian regarding any future proceedings concerning the custody of the child or the allocation of the parental rights and responsibilities for the care of the child and does not give the attorney in fact legal custody of the child.

7. A person or entity that relies on this power of attorney, in good faith, has no obligation to make any further inquiry or investigation.

8. This power of attorney terminates on the occurrence of whichever of the following occurs first: (1) one year elapses following the date the power of attorney is notarized; (2) the power of attorney is revoked in writing by the person who created it; (3) the child ceases to live with the grandparent who is the attorney in fact; (4) the power of attorney is terminated by court order; (5) the death of the child who is the subject of the power of attorney; or (6) the death of the grandparent designated as the attorney in fact.

If this power of attorney terminates other than by the death of the attorney in fact, the grandparent who served as the attorney in fact shall notify, in writing, all of the following:

- (a) Any schools, health care providers, or health insurance coverage provider with which the child has been involved through the grandparent;
- (b) Any other person or entity that has an ongoing relationship with the child or grandparent such that the other person or entity would reasonably rely on the power of attorney unless notified of the termination;

- (c) The court in which the power of attorney was filed after its creation; and
- (d) The parent who is not the residential parent and legal custodian of the child who is required to be given notice of its creation. The grandparent shall make the notifications not later than one week after the date the power of attorney terminates.

9. If this power of attorney is terminated by written revocation of the person who created it, or the revocation is regarding a second or subsequent power of attorney, a copy of the revocation must be filed with the court with which that power of attorney was filed.

### **Additional information:**

#### **To the grandparent designated as attorney in fact:**

1. If the child stops living with you, you are required to notify, in writing, any school, health care provider, or health care insurance provider to which you have given this power of attorney. You are also required to notify, in writing, any other person or entity that has an ongoing relationship with you or the child such that the person or entity would reasonably rely on the power of attorney unless notified. The notification must be made not later than one week after the child stops living with you.
2. You must include with the power of attorney the following information:
  - (a) The child's present address, the addresses of the places where the child has lived within the last five years, and the name and present address of each person with whom the child has lived during that period;
  - (b) Whether you have participated as a party, a witness, or in any other capacity in any other litigation, in this state or any other state, that concerned the allocation, between the parents of the same child, of parental rights and responsibilities for the care of the child and the designation of the residential parent and legal custodian of the child or that otherwise concerned the custody of the same child;
  - (c) Whether you have information of any parenting proceeding concerning the child pending in a court of this or any other state;
  - (d) Whether you know of any person who has physical custody of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child or to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or visitation rights with respect to the child;
  - (e) Whether you previously have been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child or previously have been determined, in a case in which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abusive or neglectful act that was the basis of the adjudication.

#### **To school officials:**

1. Except as provided in section 3313.649 of the Revised Code, this power of attorney, properly completed and notarized, authorizes the child in question to attend school in the district in which the grandparent designated as attorney in fact resides and that grandparent is authorized to provide consent in all school-related matters and to obtain from the school district educational and behavioral information about the child. This power of attorney does not preclude the parent, guardian, or custodian of the child from having access to all school records pertinent to the child.
2. The school district may require additional reasonable evidence that the grandparent lives in the school district.

3. A school district or school official that reasonably and in good faith relies on this power of attorney has no obligation to make any further inquiry or investigation.

**To health care providers:**

1. A person or entity that acts in good faith reliance on a power of attorney to provide medical, psychological, or dental treatment, without actual knowledge of facts contrary to those stated in the power of attorney, is not subject to criminal liability or to civil liability to any person or entity, and is not subject to professional disciplinary action, solely for such reliance if the power of attorney is completed and the signatures of the parent, guardian, or custodian of the child and the grandparent designated as attorney in fact are notarized.

2. The decision of a grandparent designated as attorney in fact, based on a power of attorney, shall be honored by a health care facility or practitioner, school district, or school official.

## Hamilton County Juvenile Court

In Re: \_\_\_\_\_

Case Number: \_\_\_\_\_

### Caretaker Authorization Affidavit

Use of this affidavit is authorized by sections 3109.65 to 3109.73 of the Ohio Revised Code. Completion of items 1-7 and the signing and notarization of this affidavit is sufficient to authorize the grandparent signing to exercise care, physical custody, and control of the child who is its subject, including authority to enroll the child in school, to discuss with the school district the child's educational progress, to consent to all school-related matters regarding the child, and to consent to medical, psychological, or dental treatment for the child.

The child named below lives in my home, I am 18 years of age or older, and I am the child's grandparent.

1. Name of child: \_\_\_\_\_
2. Child's date and year of birth: \_\_\_\_\_
3. Child's social security number (optional): \_\_\_\_\_
4. My name: \_\_\_\_\_
5. My home address: \_\_\_\_\_
6. My date and year of birth: \_\_\_\_\_
7. My Ohio driver's license number or identification card number: \_\_\_\_\_
8. Despite having made reasonable attempts, I am either:
  - (a) Unable to locate or contact the child's parents, or the child's guardian or custodian; or
  - (b) I am unable to locate or contact one of the child's parents and I am not required to contact the other parent because paternity has not been established; or
  - (c) I am unable to locate or contact one of the child's parents and I am not required to contact the other parent because there is a custody order regarding the child and one of the following is the case:
    - (i) The parent has been prohibited from receiving notice of a relocation; or
    - (ii) The parental rights of the parent have been terminated.
9. I hereby certify that this affidavit is not being executed for the purpose of enrolling the child in a school or school district so that the child may participate in the academic or interscholastic athletic programs provided by that school or district.

I understand that this document does not authorize a child support enforcement agency to redirect child support payments. I further understand that to have an existing child support order modified or a new child support order issued administrative or judicial proceedings must be initiated.

**WARNING: DO NOT SIGN THIS FORM IF ANY OF THE ABOVE STATEMENTS ARE INCORRECT. FALSIFICATION IS A CRIME UNDER SECTION 2921.13 OF THE REVISED CODE, PUNISHABLE BY THE SANCTIONS UNDER CHAPTER 2929. OF THE REVISED CODE, INCLUDING A TERM OF IMPRISONMENT OF UP TO 6 MONTHS, A FINE OF UP TO \$1,000, OR BOTH.**

I declare that the foregoing is true and correct:

Signed: \_\_\_\_\_  
Grandparent

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
Grandparent

Date: \_\_\_\_\_

State of Ohio )  
 ) ss:  
County of \_\_\_\_\_)

Subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_, Notary Public

**Notices:**

1. The grandparent's signature must be notarized by an Ohio notary public.
2. The grandparent who executed this affidavit must file it with the juvenile court of the county in which the grandparent resides or any other court that has jurisdiction over the child under a previously filed motion or proceeding not later than five days after the date it is executed.
3. A grandparent who executes a second or subsequent caretaker authorization affidavit regarding a child who is the subject of a prior caretaker authorization affidavit must file the affidavit with the juvenile court of the county in which the grandparent resides or any other court that has jurisdiction over the child under a previously filed motion or proceeding. On filing, the court will schedule a hearing to determine whether the caretaker authorization affidavit is in the child's best interest.
4. This affidavit does not affect the rights of the child's parents, guardian, or custodian regarding the care, physical custody, and control of the child, and does not give the grandparent legal custody of the child.
5. A person or entity that relies on this affidavit, in good faith, has no obligation to make any further inquiry or investigation.
6. This affidavit terminates on the occurrence of whichever of the following occurs first: (1) one year elapses following the date the affidavit is notarized; (2) the child ceases to live with the grandparent who signs this form; (3) the parent, guardian, or custodian of the child acts to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit; or (4) the affidavit is terminated by court order; (5) the death of the child who is the subject of the affidavit; or (6) the death of the grandparent who executed the affidavit.

A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit.

If this affidavit terminates other than by the death of the grandparent, the grandparent who signed this affidavit shall notify, in writing, all of the following:

- (a) Any schools, health care providers, or health insurance coverage provider with which the child has been involved through the grandparent;
- (b) Any other person or entity that has an ongoing relationship with the child or grandparent such that the person or entity would reasonably rely on the affidavit unless notified of the termination;
- (c) The court in which the affidavit was filed after its creation.

The grandparent shall make the notifications not later than one week after the date the affidavit terminates.

7. The decision of a grandparent to consent to or to refuse medical treatment or school enrollment for a child is superseded by a contrary decision of a parent, custodian, or guardian of the child, unless the decision of the parent, guardian, or custodian would jeopardize the life, health, or safety of the child.

### **Additional information:**

#### **To caretakers:**

1. If the child stops living with you, you are required to notify, in writing, any school, health care provider, or health care insurance provider to which you have given this affidavit. You are also required to notify, in writing, any other person or entity that has an ongoing relationship with you or the child such that the person or entity would reasonably rely on the affidavit unless notified. The notifications must be made not later than one week after the child stops living with you.
2. If you do not have the information requested in item 7 (Ohio driver's license or identification card), provide another form of identification such as your social security number or Medicaid number.
3. You must include with the caretaker authorization affidavit the following information:
  - (a) The child's present address, the addresses of the places where the child has lived within the last five years, and the name and present address of each person with whom the child has lived during that period;
  - (b) Whether you have participated as a party, a witness, or in any other capacity in any other litigation, in this state or any other state, that concerned the allocation, between the parents of the same child, of parental rights and responsibilities for the care of the child and the designation of the residential parent and legal custodian of the child or that otherwise concerned the custody of the same child;
  - (c) Whether you have information of any parenting proceeding concerning the child pending in a court of this or any other state;
  - (d) Whether you know of any person who has physical custody of the child or claims to be a parent of the child who is designated the residential parent and legal custodian of the child or to have parenting time rights with respect to the child or to be a person other than a parent of the child who has custody or visitation rights with respect to the child;
  - (e) Whether you previously have been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child or previously have been determined, in a case in which a child has been adjudicated an abused child or a neglected child, to be the perpetrator of the abusive or neglectful act that was the basis of the adjudication.

#### **To school officials:**

1. This affidavit, properly completed and notarized, authorizes the child in question to attend school in the district in which the grandparent who signed this affidavit resides and the grandparent is authorized to provide consent in all school-related matters and to discuss with the school district the child's educational progress. This

affidavit does not preclude the parent, guardian, or custodian of the child from having access to all school records pertinent to the child.

2. The school district may require additional reasonable evidence that the grandparent lives at the address provided in item 5.
3. A school district or school official that reasonably and in good faith relies on this affidavit has no obligation to make any further inquiry or investigation.
4. The act of a parent, guardian, or custodian of the child to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit constitutes termination of this affidavit. A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit.

### **To health care providers:**

1. A person or entity that acts in good faith reliance on a CARETAKER AUTHORIZATION AFFIDAVIT to provide medical, psychological, or dental treatment, without actual knowledge of facts contrary to those stated in the affidavit, is not subject to criminal liability or to civil liability to any person or entity, and is not subject to professional disciplinary action, solely for such reliance if the applicable portions of the form are completed and the grandparent's signature is notarized.
2. The decision of a grandparent, based on a CARETAKER AUTHORIZATION AFFIDAVIT, shall be honored by a health care facility or practitioner, school district, or school official unless the health care facility or practitioner or educational facility or official has actual knowledge that a parent, guardian, or custodian of a child has made a contravening decision to consent to or to refuse medical treatment for the child.
3. The act of a parent, guardian, or custodian of the child to negate, reverse, or otherwise disapprove an action or decision of the grandparent who signed this affidavit constitutes termination of this affidavit. A parent, guardian, or custodian may negate, reverse, or disapprove a grandparent's action or decision only by delivering written notice of negation, reversal, or disapproval to the grandparent and the person acting on the grandparent's action or decision in reliance on this affidavit.



## **Appendix F - GLOSSARY**

ACTION – Case, cause, suit, or controversy disputed or contested before a court of justice

ADJUDICATE –To determine finally

ADJUDICATION – Giving or pronouncing a judgment or decree, Also the judgment given.

ADMISSION – Voluntary acknowledgment of the existence of certain facts relevant to the adversary's case.

AFFIDAVIT – A written statement of facts confirmed by the oath of the party making it, before a notary or officer having the authority to administer oaths. For example, in criminal cases, affidavits are often used by police officers seeking to convince courts to grant a warrant to make an arrest or a search. In civil cases, affidavits of witnesses are often used to support motions for summary judgment.

ALFORD PLEA – A special type of guilty plea by which a defendant does not admit guilt but concedes that the State has sufficient evidence to convict; normally made to avoid the threat of greater punishment.

ANSWER – Defendant's answers the plaintiff's complaint (response to a pleading)

APPEAL – An application or complaint to the higher court to correct or modify the judgment of a lower court.

APPEARANCE – An attorney's filing that states that he/she is the counsel of record for the defendant on the case.

APPOINTMENT – An attorney that is assigned to a defendant by the court. This may be either a public defender or a private attorney who appears on the court appointed attorney list.

ASSAULT – An attempt by the defendant to inflict physical injury on the plaintiff.

BAILIFF – A court officer whose duties are to keep order in the court and security amongst the litigants.

BENCH WARRANT – This is an arrest warrant issued by the Judge or Magistrate usually due to an accused person who fails to appear for a trial.

BIND-OVER – To hold a person for trial on bond (bail) or in jail. If the judicial official conducting a hearing finds probable cause to believe the accused committed a crime, the official will bind over the accused, normally by setting bail for the accuser's appearance at trial.

BLENDED SENTENCING – A disposition for juveniles that have been found to be serious youthful offenders (SYO) with both a juvenile and an adult sentence imposed.

BONDS – A bond is the contract or security to the court that you will appear for the next hearing. Types of Bonds: Cash, Surety, Recognizance, Appearance, Property

CAPIAS – A capias is issued to arrest an adult and bring before the court who has failed to appear for a hearing or who failed to comply with a prior order of the court. (These are served by the Sheriff Dept)

CERTIFICATION – Generally used to refer to the process of transferring a minor's case from one court or county to another.

CHANGE OF VENUE – The transfer of a legal action from one county to another. (Ex:1 or both parties have permanently moved away from the originating county)

CHARGE – The actual Ohio Revised Code Statute that describes the offense

CITATION – A direction to appear in court, as when a defendant is cited into court, rather than arrested.

CODEFENDANT – A person named in an indictment with another defendant, for a charge arising out of the same criminal incident.

COMMIT – To execute, perpetrate, or carry out an act. To commit a crime, to send a person to prison, asylum, or reformatory by a court order.

COMPLAINT – A legal document that usually begins a civil lawsuit. It states the facts and identifies the action the court is asked to take. A formal written charge that a person has committed a criminal offence.

CONSANGUINITY – Related by blood or ancestry.

CONTEMNOR – A person whose behavior in or out of court violates a court order, or otherwise disrupts or shows disregard for the court and has been found in contempt of court. Refusing to answer a proper question, to file court papers on time, or to follow local court rules can expose witnesses, lawyers, and litigants to contempt findings. Contempt of court is punishable by fine or imprisonment.

CONTEMPT – A willful disregard or disobedience of a public authority

CONTEMPT OF COURT – An act which embarrasses, hinders, or obstructs a court in the administration of justice, or lessens its authority or dignity. Contempt's are of two kinds: direct contempt's are committed in the view and presence of the court; indirect contempt's are committed outside the presence of the court (usually a failure or refusal to obey a court order)

CONTINUANCE – Postponement of an action pending in court.

CONVEY –To transport, carry; communicate

**COURT REPORTER** – A person who makes a word-for-word record of what is said in court and produces a transcript of the proceedings upon request. Voice recording and video tape are also being used for this purpose.

**COURT OF APPEALS** – An intermediate appellate court having jurisdiction to hear appeals from judgments and final orders of common pleas courts, municipal courts, and county courts, and to reverse or modify such judgments of final orders, or remand cases back to the lower courts for further proceedings.

**DECREE** – A court decision or order. A final decree is one fully and finally disposing of a case;

**DEFENDANT** – The person against whom a lawsuit is started or a crime charged. The defendant is sometimes called “respondent.”

**DEFAULT JUDGMENT** – Action taken by the court when a person fails to appear in court in answer to a summons in a civil case.

**DISMISS** – To terminate legal action involving outstanding charges against a defendant in a criminal case.

**DISPOSITION** – Determination of a case, whether by dismissal, plea, settlement, verdict, or finding.

**DIVERSION** – The process of removing some minor criminal traffic, or juvenile cases from the full judicial process, on the condition that the accused undergo some sort of rehabilitation or make restitution for damages.

**DOCKET** – A list of cases to be heard by a court, or a log containing brief entries of court proceedings.

**DOMESTIC RELATIONS** – A division of the Common Pleas Court which deals with divorce, dissolution of marriage, annulment, suits for alimony, and related questions of property division, alimony, child custody, and child support

**DUCES TECUM** – Latin. It means “bring with you.” On a subpoena it means that you must bring your records or other specified material into court with you.

**ENTRY** – An entry is a written notation on the case docket that journalizes any orders, decisions, or judgment made in the case.

**EX PARTE** – Latin for “one party only.” Ex parte refers to those proceedings where one of the parties has not received notice and therefore, is neither present nor represented.

**EXPUNGMENT** – An expungement is an order that removes the record of the proceedings of a case, as if the case never happened.

FELONY – A serious crime carrying a potential penalty of imprisonment for more than one year, or death. Unless the sentence is modified by the judge, a sentence of imprisonment for a felony must be served in a state penitentiary or reformatory.

FINDINGS – The finding is the determination by a court or jury of the defendant's guilt or innocence.

FIDUCIARY – Normally, the term indicates a trustee, which is the classic form of a fiduciary relationship. A fiduciary has rights and powers which would normally belong to another person. The fiduciary holds those rights which he or she must exercise to the benefit of the beneficiary. A fiduciary must not allow any conflict of interest to infect his/her duties toward the beneficiary and must exercise a high standard of care in protecting or promoting the interests of the beneficiary. Fiduciary responsibilities exist for persons other than trustees such as between attorney and client and principal and agent.

FORFEITURES – The loss of property or a privilege due to breaking a law. For example, a landlord may forfeit his or her property to the federal or state government if the landlord knows it is a drug-dealing site but fails to stop the illegal activity. Or, you may have to forfeit your driver's license if you commit too many moving violations or are convicted of driving under the influence of alcohol or drugs. Also applies to the loss of a bond due to the failure of the defendant to appear in court.

GARNISHMENT – A type of legal proceeding taken to enforce payment of a money judgment, in which property of the judgment debtor held by a third person is paid into court to satisfy the debt. The usual types of garnishment are garnishment of unpaid wages and garnishment of a bank account.

GUARDIAN – A person who has the legal duty and power to take care of the person and property of another whom because of some disability, usually age or incompetence, is considered incapable of administering his or her own affairs.

GUARDIAN AD LITEM – A person appointed by the court during the course of a litigation, in which an infant, minor or legally incompetent person is a party, to represent and protect their interests in a law suit.

HABEAS CORPUS - "You have the body"; the name of a writ used to bring a person before a court or judge. Generally, the writ is addressed to an official or person who holds another. It commands him or her to produce the detained person in court so that the court may determine whether that person is being denied his or her freedom lawfully.

HEARING - A flexible term for a court proceeding or the trial of a suit.

INACTIVE CASE – A pending case over which the court has no effective control; a case which is filed in the court but for some reason cannot be processed by the court;

INDIGENT - Impoverished; needy; poor; without funds.

INTERIM ORDER – A temporary court order; intended to be of limited duration, usually just until the court has had an opportunity to hear the full case and make a final order.

INTERROGATORIES – Written questions posed by one party and served on another who must answer them in writing under oath – a form of discovery to enable the party posing the questions to prepare for trial

JUDGMENT – A final order of a trial court, which gives effect to the factual decision in the case.

JUDGE ASSIGNMENT – A random draw pools for the selection of a judge to a case.

JURISDICTION – The legal authority of a court to hear and decide a case. The geographic area over which the court has authority to decide cases.

JURY – A group of people called by law and sworn to hear evidence in a case and give a verdict.

JUVENILE – A minor, a person under the age of 18.

LESSER INCLUDED OFFENSE (LIO) – Is a charge, which the defendant either pleads guilty to or is found guilty of – different than the charge listed on the complaint. This is used most often in a plea bargain.

LITIGANT – A party to a legal action

LITIGATION – The process of resolving a dispute over legal rights in court.

MAGISTRATE – A civil officer with the power to administer and enforce the law. They have limited jurisdiction and authority, especially in criminal cases.

MANDAMUS – Latin; “We command.” A Writ of Mandamus is a written order requiring the person to whom it is addressed to do some specified act, generally connected with his or her duty as a public official.

MISDEMEANOR – A lesser offense than a felony and generally punishable by fine or limited jail time, but not in a penitentiary.

MOTION – A request or suggestion. An application to the court for the handing down of a certain order or decision.

NOLLE PROSEQUI – Unwilling to prosecute; a formal entry made on the court record by which the prosecutor declares he or she will not further prosecute the case.

NUNC PRO TUNC – Latin, meaning “Now for then.” A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e., with the same effect as if regularly done.

OFFENSE – A crime, such as a felony, misdemeanor, or other punishable unlawful act.

ORDER – A written or verbal command from a court directing or forbidding an action.

PATERNITY – Fatherhood

PATERNITY SUIT – A type of court suit in which a mother tries to prove that a certain man is the father of her child out of wedlock.

PERMANENT WARD – The permanent ward termination of parental rights from a child under the jurisdiction of the juvenile court; thus making the child a permanent ward of the court or other guardian.

PLEA – The defendant’s response to a criminal charge (guilty, not guilty)

POWER OF ATTORNEY – A formal authorization of a person to act in the interest of another person.

PRELIMINARY HEARING – The purpose of the hearing is to determine whether there is a probable cause to believe, first, that a crime has been committed and, second, that the accused committed the crime.

PRE-TRIAL – This is a type of hearing. It is a meeting between the assigned judge or magistrate and the opposing counsel. It is held to discuss the facts of the case, rule on any outstanding motions, and consider any matters that may aid in the disposition of the case.

PROBATION – This is a type of sentence. It is a full or partial suspension of the suspension of the sentence of a convicted offender, on conditions designed to insure his future good behavior.

PRO-SE – A person who is representing themselves in court or on a legal matter.

PROSECUTOR – A trial lawyer representing the government in a criminal case and the interest of the state in civil matters. In Criminal cases, the prosecutor has the responsibility of deciding who and when to prosecute.

QUASH – To annul, discharge; i.e., an indictment, a conviction or order. A motion to quash is initiated for the purpose of disqualifying certain evidence.

Q.U.D.R.O. – Qualified Domestic Relations Order

RECOGNIZANCE – A term used interchangeably with “bail bond” in many statutes and court opinions. An obligation entered into before a court of record or duly authorized magistrate, containing a condition to do some particular act, usually to appear and answer a criminal accusation

RELATIONAL DATABASE – A database system in which any file can be a component of more than one of the database’s tables.

RESTITUTION – An act of giving the equivalent for any loss, damage or injury.

REVOCAION – To nullify by canceling or reversing; annul.

SENTENCE – The judgment formally pronounced by the court or judge upon the defendant after his or her conviction by imposing a punishment to be inflicted either in the form of a fine, incarceration or probation.

SET ASIDE – A set aside is an order. It cancels the effect of a previous order, entry, judgment, or action.

STAY – To delay or stop the effect of an order or decision by legal action or mandate.

STENOGRAPHER – A person employed chiefly to take and transcribe dictation.

SUBPOENA – An order of the court which requires a person to be present at a certain time and place to give testimony upon a certain matter. Failure to appear may be punishable as a contempt of court.

SUBPOENA DUCES TECUM – “Bring with you”; a subpoena served upon the person who has custody of records, commanding that such custodian bring the specified records to court on the stated day and time.

SUMMONS – A notice to a defendant that he or she has been sued or charged with a crime and is required to appear in court. A jury summons requires the person receiving it to report for the possible jury duty.

TRANSCRIPT – A written, word-for-word record of what was said, either in a proceeding such as a trial or during some other conversation, as in a transcript of a hearing or oral deposition.

TRUANCY – Failure to attend school as required by law.

UIFSA –The uniform child and spousal support legislation, the Uniform Interstate Family Support Act already adopted and implemented by most states and expected to be law throughout the United States soon. It is the successor of URESA and is a “long-arm statute,” as it gives the state the issues the first support order jurisdiction over the support payer anywhere in the U.S. for the purposes of varying that order.

URESА – Uniform Reciprocal Enforcement of Support Act of the United States, as created in 1950 by the National Conference of Commissioners on Uniform Stats Laws. This was the first uniform family support legislation in the U.S. and it was ultimately adopted, in some form or another, by all states. It was updated in 1968 and the revised version became known as “RURESА,” THE INITIAL “R” standing for “Revised.” It has been replaced by UIFSA.

VENUE – The proper geographical area (county, city, or district) in which a court with jurisdiction over the subject matter may hear a case.

VERDICT – The opinion of a jury, or a judge where there is no jury, on the factual issues of a case.

VOIR DIRE – French for “to see telling.” A mini-hearing held as a jury is being impaneled, in which the prosecution and defense are allowed to question potential jurors in an effort to preclude any potentially biased jurors from serving on the panel.

WARRANT – Most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. An affidavit seeking a warrant must establish probable cause by detailing the facts upon which the request is based.

WITNESS – One, who testifies to what they have seen, heard or otherwise observed.

WRIT – An order issued by a court commanding that a certain act or acts been done or not done. There is a wide variety of special writs, and much state-to-state variation in testimony, law and practice.

WRIT OF HABEAS CORPUS – Latin for “you have the body,” a court petition which orders that a person being detained be produced before a judge for a hearing to decide whether the detention is lawful. A prisoner files a petition for writ of habeas corpus in order to challenge the authority of the prison or jail warden to continue to hold him/her. If the judge orders a hearing after reading the writ, the prisoner gets to argue that his/her confinement is illegal. These writs are frequently filed by convicted prisoners who challenge their conviction on the grounds that the trial attorney failed to prepare the defense and was incompetent. Prisoners sentenced to death also file habeas petitions challenging the constitutionality of the state death penalty law. Habeas writs are different from and do not replace appeals, which are arguments for reversal of a conviction based on claims that the judge conducted the trial improperly. Often, convicted prisoners file both. Habeas Corpus was one of the concessions the English king made in the Magna Carta and has stood as a basic individual right against arbitrary arrest and imprisonment.



## **Appendix G - Acronyms and Commonly Used Phrases**

A/N/D CASE – This is a case of abuse, neglect or dependency

Usually it is a two-cause action meaning it is an Abuse/Dependency; a Neglect/Dependency or an Abuse/Neglect. Sometimes, if the statutory requirements are met, it can be a three-cause action. Sometimes if the child has been both physically and sexually abuse, it can be a Sexual Abuse and a Physical Abuse and a Dependency. A Dependency cannot be amended up. A dependency cannot be amended to an abuse or a neglect action.

A.R. – ANNUAL REVIEW HEARING

This is a hearing that needs to happen annually by law when a child is either under a T.C.C. or a C.O.P.S. order to Children’s Services. It typically will be set at the time of the dispositional hearing and is approximately one year from the date the child went into placement.

C.A.S.A. - Court Appointed Special Advocate

C.A.S.A. is appointed as advocates for youth on Abuse/Neglect and Dependency cases. If there is a need for an attorney on these cases, the C.A.S.A. attorney steps in. These are volunteers.

C. S.E.A. – Child Support Enforcement Agency

Each county in Ohio is required to establish a separate child support enforcement agency. Services provided through the C.S.E.A.s include: location of non-custodial parents, paternity establishment, establishment and enforcement of child support orders, establishment and enforcement of medical support orders, and review/modification of support orders.

D.Y.S. – Department of Youth Services

The Department of Youth Services is where delinquent youths are sent for institutional care – usually these are juveniles that have had multiple opportunities for rehabilitation in the community and they are typically felony offenders. D.Y.S. has institutions throughout the State of Ohio.

E.C.O. – Emergency Court Order

The ECO can be issued at the time of the filing of an abuse, neglect or dependency case or even at the time of the filing of a motion if there is an emergency need for placement. If an ECO is issued the child/children cannot be with the custodian parent or even in the custodian parent’s home. Typically, an ECO is issued to \_\_\_ (your county) \_ County Children Services and they will remove and make alternative placement. Sometimes, a relative will need to file for custody (dependency or neglect) and need an ECO for emergency medical treatment (this is rare).

If an E.C.O. is issued at the time of the filing, there MUST be a shelter care hearing the following business day. Usually if there is a shelter care hearing the following day it is also a preliminary hearing.

L.S.I. – Level of Service Inventory-Risk/Needs Assessment

Assesses a youth's risk of future criminal behaviors and what life areas/changes can be made in to decrease the risk of future criminal behaviors.

P.O. – Probation Officer or Parole Officer

Youths under the jurisdiction of the court is placed on Probation and is assigned a Probation Officer. Youths who have been released from D.Y.S. are often placed on parole and assigned a Parole Officer.

P.D.I. – Pre-dispositional Investigation

An investigation performed to better inform the court of the circumstances of an adjudicated youth before making dispositional orders (also referred to as a pre-sentence investigation).

P.S.I. – Pre-sentence Investigation

An investigation performed to better inform the court of the circumstances of an adjudicated youth before making dispositional orders (also referred to as a pre-dispositional investigation).

T.O.C – A temporary order of custody

T.O.C. is typically given in Court by a magistrate or Judge and is a “temporary” order until there is a final hearing and there can be final orders issued. When a TOC is issued, it is like an ECO in that the child/children cannot be in the home of a custodian parent/guardian. Often there has been an ECO issued and at the hearing the following day the ECO is terminated and a TOC is issued. But again, the same rules apply-these children cannot be in a guardian's or parent's home.

T.O.C.'s can also be issued at the same time of a preliminary hearing and if that happens, then the child/children would be removed from the custodians care. An example of that would be when an Educational Neglect or a motion is filed, set for preliminary hearing and at the point the magistrate decides that the child/children do not belong in the care of the parent or the SMART liaison provides information to indicate that the child/children do not belong in the home, the magistrate will issue a T.O.C to your counties Children Services. A T.O.C. can also be given to a relative or complainant at the preliminary hearing directly. His would happen only if there had been an investigation already completed on the relative/complainant. The magistrates are uncomfortable giving custody to relatives/complainants prior to any investigation or home visit – you can understand why – and in those cases, even if a relative has filed – a T.O.C. could be issued to Children's Services.

T.C.O.P.S – Temporary Court Order Protective Supervision

A temporary order of protective supervision is issued at a preliminary hearing pending a final hearing and final orders. This order tells Children's Services to provide case services/supervision to a family. The child/children remain in the home and Children's Services is supposed to open a case and provide services. This is an interim order and generally only given to Children's Services.

C.O.P.S – Court Ordered Protective Supervision

A C.O.P.S. order is a final order. It allows the children to remain in the home but Children's Services is ordered to provide supervision and services to the family. This order remains in effect until the Annual Review (A.R.) or until the case is brought before the Court on a motion.

### P.C.C. – Permanent Court Commitment

Permanent Court Commitment for purposes of adoption is granted to Children's Services when it is not going to be possible to reunite the child with his/her parent/parents. If a child is in placement for 12 out of 22 months then Children's Services MUST file for a P.C.C. of the child. That doesn't mean that they (Children's Services) will get it, however by law it has to be filed.

Once a P.C.C. is granted, however, it terminates all parental rights. The Agency is then free to have this child adopted.

### O. Y.A.P – Ohio Youth Advocacy Program

O.Y.A.P is a managed agency that is used by Children's Services on about 1/3 of their cases. O.Y.A.P provides case management services, foster care homes and other services to families and youths.

### P.F.S.N. – Permanent Family Solutions Network

P.F.S.N is another managed care agency that is used by Children Services. This agency provides case management services and foster homes for Children Services clients.

### S.A.R. – Semi Annual Review

This is an informal review at half way through a case when Children's Services has a C.O.P.S or a T.C.C. order. It reviews the progress on the case plan etc. It is held at the Children's Services office.

### SHELTER CARE MOTION

This type of motion can be confusing. A shelter care motion is filed when a child is in substitute care, foster home or institution. It can be filed during a case or after disposition if a child is in substitute care.

### T.C.C. – Temporary Court Commitment

Temporary Court Commitment is awarded to Children's Services or to a relative. It is a temporary order by a final order of the Court. T.C.C. can be reviewed at any time by a party filing a motion with the Court for a "reevaluation" of the order. When Children's Services has a T.C.C. of a child/children the child cannot reside with a custodial parent. The child/children may be in foster care or in a relative placement of a "free" home. This would be a friend or someone that will provide for the child and doesn't get any \$\$\$ from Children's Services.

### T.C.C. TO CHILDREN'S SERVICES HAVE ANNUAL REVIEW DATES

### L.C. - LEGAL CUSTODY

Legal custody is awarded to a parent or a relative on an A/N/D cases. Once someone has been awarded legal custody, it takes a Change of Custody Motion to get it back before the Court and not a straight Re-evaluation Motion. A Change of Custody Motion has to say that there has been a change in circumstances of the custodian (the person who has legal custody) to warrant the state to change custody from the custodian to someone else – usually back to the parents.



# Working with Foreign Language Interpreters in the Courtroom

A BENCH CARD FOR JUDGES



THE SUPREME COURT of OHIO

INTERPRETER SERVICES PROGRAM

## How Do I know if a Party or Witness Needs an Interpreter?

A judge should presume a need for an interpreter when an attorney or pro se litigant indicates a party or a witness requests an interpreter. If a request for an interpreter is not made, but it appears a party or witness has limited English proficiency, a judge should ask the following questions **on the record** to determine if an interpreter is necessary:

### Determining the English Proficiency of a Party and the Need for an Interpreter

*(In general, avoid questions easily answered with “yes” or “no” replies.)*

- Please tell the court your name.
- How did you learn English?
- Please tell me about your country.
- Tell me more about your country.
- What is the highest grade you completed in school?
- Describe some of the things you see in this courtroom.
- **You have the right to a court-appointed interpreter.** Tell the court the best way to communicate with you and to let you know what is being said.

## How Do I Know if the Interpreter is Qualified?\*

A certified interpreter should be used. If one is not available, a candidate must have relevant training, specialized skills and knowledge, including familiarity with legal terminology, slang, idioms and dialectical variations. Candidates must also know the modes of interpretation (simultaneous, consecutive and sight-translation). **Being bilingual does not qualify a person to interpret. Children, relatives and friends should never be used to interpret. Judges, attorneys and court personnel should not function as interpreters.**

## Sample Voir Dire to Determine Interpreter Qualifications

- What training or credentials do you have as an interpreter?
- What is your native language?
- How did you learn your foreign language skills?
- Are you familiar with the National Association for Judiciary Interpreters and Translators’ “Code of Ethics and Professional Responsibility”? What are its main points?
- How many times have you interpreted in court?
- Describe your familiarity with legal terminology.
- What types of cases have you interpreted?
- Are you related to or close friends with anyone in this case?
- Do you understand you are to be a neutral party who is here to facilitate communication and that you should not offer advice or interject your opinion into these proceedings?

## When Satisfied with the Interpreter’s Qualifications, the Oath may be Given

**Interpreter Oath:** Do you solemnly swear or affirm you will interpret accurately, completely, and impartially, using your best skill and judgment in accordance with the standards prescribed by law and follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the solemn duties and obligations of legal interpretation and translation?

---

*\*Currently, Ohio law does not require interpreters to be certified. However, interpreters must be qualified under Evid.R.604.*

## How Can I Facilitate Communication in an Interpreted Proceeding?

- Advise everyone in the courtroom of the presence and role of the interpreter.
- Instruct all participants to speak loudly and clearly and allow only one person to speak at a time.
- Allow the interpreter to **converse briefly** with the non-English speaker to ensure understanding of accents, dialect, or pronunciation differences.
- Ask the non-English speaker if the speaker is able to understand and communicate through the interpreter. Instruct the speaker to interrupt or raise a hand if the speaker does not understand something.
- Allow the interpreter to view **court files** prior to the proceedings to become familiar with names, parties and technical vocabulary.
- Speak directly to the party or witness, not to the interpreter. Do not ask the interpreter to explain or restate anything said by the party. Always direct the interpreter to interpret in the **first person** in order for the record to be accurate.
- The interpreter must convey **all** questions, answers and courtroom dialogue. Therefore, the interpreter is constantly working. Advise the interpreter to notify the court when breaks are needed. If the proceeding will last longer than two hours, require the presence of **two interpreters** who can switch off as needed.
- Recognize that court proceedings can be confusing and intimidating for a non-English speaker since other countries' legal systems and concepts often vary from those of the United States.

*For more information, contact the Supreme Court of Ohio's Interpreter Services Program at 614.387.9403.*

## Clarification Language of an Interpreter's Role

### For the Defendant/Witness

**I**want you to understand the role of the interpreter. The court interpreter is a neutral party who is here only to interpret the proceedings and facilitate communication. The interpreter will interpret only what is said without adding, omitting or summarizing anything. The interpreter will say in English everything you say in your language, so do not say anything you do not want everyone to hear.

**Y**ou are here to listen and/or give testimony to this court. When speaking, please speak directly to the attorney or to me. Do not ask the interpreter for advice. If you do not understand the interpreter, then tell me. If you need a question or answer repeated, please tell me. Wait until the entire statement has been interpreted before you answer. Do you have any questions?

### For the Jury

**L**anguages other than English may be used during this trial. The evidence you are to consider is only that provided through the official court interpreters. Although some of you may understand the non-English language used, it is important for all jurors to consider the same evidence. Therefore, you must base your decision on the evidence presented in the English interpretation. You must not rely in any way upon your own interpretation of the witness' words.

## Additional Resources

U.S. Department of Justice: [www.lep.gov](http://www.lep.gov); National Association of Judiciary Interpreters and Translators (NAJIT): [www.najit.org](http://www.najit.org); Supreme Court of Ohio: [http://www.supremecourtofohio.gov/Judicial\\_and\\_Court\\_Services/interpreter\\_svcs/default.asp](http://www.supremecourtofohio.gov/Judicial_and_Court_Services/interpreter_svcs/default.asp). The information provided within this guide was collected by NAJIT (the National Association of Judiciary Interpreters and Translators); NAJIT's electronic discussion list of interpreters; NCSC (the National Center for State Courts) and from states having court interpreting standards and certification.



## Index

- Abortion. See **ABORTION CONSENT, Jane Doe**
- Abortion-related appeals, 28-5, 28-8
- A, N, D cases. See **Abuse Neglect, or Dependency**
- Abuse
- Appeals, 28-1
  - Records retention, 20-2
- Accelerated calendar, 28-1
- Adjudication, 22-4
- Adjudicatory hearings, 15-1
- Time requirements, 15-1
- Administrative Judge, 3-1
- Adoptions and parental rights appeals, 28-6
- Adult Misdemeanor, 4-2
- Affidavits, 13-1
- Affidavit of poverty, 13-1
- American Bar Association's Center on Children and the Law
- Benefits of precise docketing, 24-1
  - Docketing recommendations, 24-1
- Appearance Bonds, 9-1
- Appeal, 28-1
- Appellate procedure, 28-1
- Composition of record on appeal, 28-3
  - Correction or modification of the record, 28-3
  - Docketing statement, 28-4
  - Filing notice of appeal, 28-1
  - Procedure for juvenile appeals, 28-1
  - Rule 11.2: Expedited appeals, 28-5
  - Stay in juvenile actions, 28-3
  - Time for appeal, 28-2
  - Transmission of the record, 28-4
- Application for IV-D Services. See **Child Support**
- Appointment of counsel, 23-1
- Appearance and withdrawal, 23-2
  - Compensation, 23-2
  - Requirements and procedures, 23-2
- Appointment of employees, 7-1
- Appointment of guardians *ad litem*, 23-1
- Also acting as counsel, 23-3
  - Compensation, 23-3
  - Reports, 23-3
  - Requirements and procedures, 23-3
  - Withdrawal of, 23-3
- Appropriations, 8-1
- For administrative expenses, 8-1
  - For care, maintenance, and support of children, 8-1
  - For conferences, 8-3
  - For contracted providers of services to children on probation, 8-4
  - For operation of detentions facility, 8-3
  - Insufficient, 8-3
- Attorney registration number, 13-1
- BCI, BCI&I. See **Bureau of Criminal Identification and Investigation**
- BMV. See **Bureau of Motor Vehicles**
- Bind-over to adult court, 25-4
- "Blended" sentencing, 25-4
- Bonds, 9-1
- Appearance Bonds, 9-1
  - Forfeiture of Bond, 9-2
  - Performance Bonds, 9-2
- Block time docketing, 24-1
- In combination with time certain docketing, 24-1
- Bureau of Criminal Identification and Investigation (BCI&I, BCI)
- Reporting, 22-3
- Bureau of Motor Vehicles (BMV)
- Reporting, 22-2
- CASA (Court Appointed Special Advocate) / GAL, 23-4
- Capital Felony, 9-2
- Caretaker Authorization Affidavit (CAA), 36-1
- Case numbering system, 10-1
- And categorization of cases, 10-1
  - And multiple offenses, 10-1
- Case plans, 17-1
- And voluntary surrender of custody, 17-1
  - As part of dispositional hearing, 15-1
  - Semi-annual administrative review of, 15-3
- Cash Drawers, 27-1
- "Cattle call" dockets, 24-1
- Certification. See **Transfers, from another county**
- Certified Copies, 11-2
- Chief deputy clerk, 30-3 (see also, **Deputy Clerk of Courts**)
- Chief Justice of the Supreme Court of Ohio, 3-1
- And assignment of visiting judges, 3-1
  - And information, 22-1
  - And reports, 22-1
- Child endangering, 1-1
- Child support and visitation, 1-1
- Affidavit for IV-D Services, 11-2
- Children Services, 17-1
- Chronic Truant. See **Truancy**
- Citation, 14-1
- Citizen Review Board, 15-3
- Clerk of Common Pleas, 1-1
- As keeper of records of juvenile court, 1-1
- Clerk of Juvenile Court
- Administrative duties, 5-1
  - And fiscal management, 27-1
  - And relationships with other agencies, 31-1
  - Appointments of counsel and guardians *ad litem*, 23-1
  - As violations clerk for traffic cases, 26-1
  - Bond, 5-1
  - Judge as, 5-1
  - Record-keeping responsibilities, 20-1
- Compensation of court employees, 7-1
- Complaints, 11-1
- Form of complaint, 11-1
  - Procedure, 11-1
  - Screening before filing, 11-1
  - Transfer of, 11-2
- Composition of record on appeal, 28-3
- Computer management system (CMS), 24-3
- Confidentiality
- Of public or private agency personnel,

- 20-2
- Of records, 20-1
- Consent to marry / ed, 35-1
  - Guidelines, 35-1
  - Hearings, 35-1
  - Paperwork required, 35-1
  - Sample forms, 35-1
- Constitution of the State of Ohio, 1-1, 22-1
- Contempt, 4-3, 6-1, 9-1, 9-2
- Continuance, 24-2
  - And docketing, 24-2
- County Commissioners 5-1, 8-2, 25-1
- Court costs, 2-1, 4-3
- Court of Common Pleas, 5-1, 8-1, 9-1, 22-1
- Court Performance Standards (Appendix A), A-1
- Custody of children, 1-1, 4-2, 8-3
- DYS. See **Department of Youth Services**
- Data entry guidelines, 10-1
- Delinquency / Delinquent, 1-1, 4-1, 11-1, 15-3
- Department of Youth Services
  - Report, Felony-Adjudication, 22-4
- Dependency / Dependent, 11-1, 15-1, 16-1
- Depositions, 33-1
- Deputy clerk of courts, 1-1
- Detention hearings, 15-3
  - Notification, 15-3
  - Time requirements, 15-3
- Disbursements, 8-4, 27-3
- Dispositional hearings, 15-1
  - And case plans, 15-1
  - Requirements for, 15-1
  - Time requirements, 15-1
- Dispositional review hearings, 15-2
  - And citizens' review board, 15-2
  - Time requirements, 15-2
- Docket. See **Journalizing**
- Docket, control of, 24-1
  - And computer management system (CMS), 24-3
  - And continuances, 24-2
  - And tracking of information, 24-3
  - Benefits of precise docketing practices, 24-1
  - Block time docketing, 24-1
  - "Cattle call" dockets, 24-1
  - Combined block time and time certain docketing, 24-1
  - One family-one judge model, 24-2
  - Time certain docketing, 24-1
- Docketing statement, 28-1
- Enhanced / Enhancing Factors, 25-5
- Ex parte orders. See **Orders, ex parte**
- Exhibits and evidence, 33-1
  - Definition, 33-1
  - Destruction of, 33-1
  - Disposing of, 33-1
  - Identification of, 33-1
  - Retention of, 33-1
- Expedited appeals, 28-5
- Expungement, 21-1
- Extension of Custody, 16-1
- Failure to make support payments, 16-1
- Failure to send a child to school, 16-1
- Fees, 8-1
  - For calling and seating jury, 8-1
  - For computerization, 8-2
  - For mandated parenting classes or counseling, 8-3
  - For mediation, 8-2
  - For physical and mental examinations, 8-1
  - For shorthand reporters, 8-3
  - For special projects, 8-1
  - For summonses, warrants, citation, subpoenas, other writs, 8-1
  - For transportation of children, 8-1
  - None for delinquent, unruly, dependent, abused, neglected children, 8-1
  - Pursuant to order, 8-1
  - Reimbursements for costs of children in custody of court or agency, 8-3
  - Waiver of, 8-1
- Felony, 4-1, 21-4, 22-3
- Filings, 13-1
  - And attorney registration number, 13-1
  - And deposits, 13-1
  - By facsimile transmission, 13-1
  - Pro se, 13-2
  - Requirements for, 13-1
- Filings, pro se. See **Pro se filings**.
- Financial disclosure/affidavit of indigence, 23-2
- Fines, 2-1, 9-3, 26-1
- Fiscal management, 27-1
  - Controlling funds, 27-1
  - Deposits, 27-2
  - Disbursements, 8-4, 27-3
  - General procedures, 27-1
  - Receipt process, 27-2
- Forfeiture of Bond, 9-2
- Form D. See **Supreme Court Report**
- GRF (20), 9-1
- Grandparent Filings. See **Caretaker Authorization Affidavit, Power of Attorney**
- Guardian *ad litem*, 23-3, 28-5, 34-1
  - Also acting as counsel, 23-1
  - Compensation, 23-3
  - And judicial by-pass (abortion), 14-1
  - Practice standards, 23-3
  - Reports, 23-3
  - Requirements and procedures, 23-3
  - Task force, 23-3
  - Withdrawal of, 23-3
- Guardian *ad litem* task force, 23-3
  - Practice standards, 23-3
- Guidelines for Assignment of Judges, 3-1
- Habitual Truant. See **Truancy**
- Hearings. See **Adjudicatory hearings; Detention hearings; Dispositional hearings; Dispositional review hearings; Hearings, general; Out of county removal hearings**
- Hearings, general, 15-1
  - Informal, 15-1
  - Serious youthful offender, 15-1
- In loco parentis*, 23-1
- IV-D, IV-E. See **Support**
- Intake department, 11-1
- Interpreter Services, 37-1
- Interstate Compact, 4-1, 23-5
- Journalizing, 5-1, 28-6
- Judge, juvenile court, 4-2
  - Appointment of bailiffs, probation officers, other employees, 7-1
  - Appointment of deputy clerk of courts, 7-1
  - As clerk of juvenile court, 5-1

- Jurisdiction, 4-1
- Responsibilities, 1-1
- Judicial College of the Supreme Court of Ohio, 25-5
- Judicial By-pass (abortion), 14-1
  - Appeal of dismissal, 14-1
  - Complaint requirements, 14-1
  - And guardian *ad litem*, 14-1
- Jurisdiction of juvenile court, 4-1
- Juror compensation, 8-1
- Juror eligibility, 25-2
- Juror excuse and deferral, 25-3
- Juror notification and summoning, 25-2
- Juror provisions, 25-3
- Juror special needs, 25-3
- Jury draw, 25-2
- Jury Demand, 25-4
- Jury, ordering of, 25-2
- Jury trial, 25-1
  - Eligibility for, juveniles, 25-4
  - Eligibility for, adults, 25-4
  - Eligibility of jurors, 25-2
  - Excuse and deferral of jurors, 25-3
  - Juror compensation, 25-1
  - Juror provisions, 25-3
  - Jury draw, 25-2
  - Notification and summoning of jury, 25-2
  - Ordering of jury, 25-2
  - Special needs of juror, 25-3
- Juvenile court
  - Establishment of, 1-1
  - Jurisdiction, 1-1
- “Juvenile tobacco offender” status, 12-1
- Legal Custody, 18-1, 24-4, 36-2
- Legislation, new, 29-1
- Magistrate, 6-1
  - And traffic cases, 9-1
  - Appeal of orders, 6-1
  - Contempt orders, 6-1
  - Duties, 6-1
  - Filing of objections, 6-1
  - Must be attorney, 6-1
- Mandatory Transfer, 25-5
- Mediation, cost of, 8-2
- Mental illness of juvenile, 8-1, 14-1, 20-1
- Motion, 14-1
  - Oral motion, 14-1
  - Petition / Prayer, 14-1
- Moving Violation, 26-2
- Neglect, 11-1, 15-1, 16-1, 23-2, 24-4
- Notice of appeal, 28-1
  - Content, 28-1
  - Service, 28-1
  - Amendment, 28-1
- Non-Moving Violation, 26-2
- ORJP / Ohio Rules of Juvenile Procedure, 6-1, 11-1, 13-1
- Objection, 6-1, 18-4, 26-2
- Ohio Works First Program, 8-4
- One family-one judge docketing model, 24-2
- Orders, ex parte, 16-1
  - Review hearings for, 16-1
- Orders, temporary, 16-1
  - Notice, 16-1
- Out of county removal hearings, 15-4
- Parentage, 1-1, 20-3
- Parental bypass. See **Abortion Consent**
- Paternity, 4-2, 23-5
- Performance Bonds, 9-2
- Permanent Custody, 17-1
- Permanent Surrender, 17-1
- Petition / Prayer. See **Motion**
- Physical and mental examinations, 6-1
  - Records of, 6-1
- Power of Attorney (POA), 36-1
- Pro se filings, 13-2
  - Instructions to pro se litigants, 13-2
  - Role of clerks, 13-2
  - Standardized forms, 13-2
- Probation, 8-4, 15-2, 20-1, 24-4
- Protective Supervision, 15-3
- Records
  - Confidentiality of, 20-1
  - Confidentiality of agency personnel, 20-2
  - Of social history, physical/mental examinations, 20-1
  - Record checks and copies, 20-1
  - Requesting, 20-1
  - Requirements for, 20-1
  - Retention schedule, 20-2
- Recusal, 3-1
- Reimbursement for costs of children in custody of court or agency, 8-3
- Relational database software, 24-3
- Removal Action, 11-1, 15-4, 18-3, 23-2
- Removal Hearings, 15-4
- Reports, 22-1
- Restitution, 22-3, 24-5
- Rule 11.2, 28-5
- Rules of Superintendence, 10-1, 13-1, 20-2, 22-1, 23-1
- Sealing, 21-1
- Senate Bill 179, 25-4
- Serious youthful offenders (SYO), 25-4
  - Entitlement to adult rights, 25-4
- Service, 18-1
  - By publication, 18-1
  - Requirements for, 18-1
  - Subpoenas, 18-3
  - Summons and warrants, 18-2
  - When address is unknown, 18-1
- Service by publication, 18-1
- Sex offender and child-victim registration and notification, 30-1
  - Discretionary application of SOCVRN, 30-1
  - Listing of offenses, 30-1
  - Parental responsibility, 30-1
  - Petition to remove label, 30-1
  - Registration and notification, 30-1
  - Requirement for treatment, 30-1
  - Sample procedure, 30-3
- Sex Offender and Child-Victim Registration and Notification (SOCVRN) legislation, 30-1
- Shelter care hearing, 15-1
- Shorthand reporters, 33-4
- Smoking, See tobacco law violations, 12-1
- Social histories, 6-1
  - Records of, 11-2
- Stay in juvenile actions, 28-3
- Subpoenas, 18-3, 18-4, 18-5
  - Claim of privilege or protection, 18-5
  - Command to produce, 18-5
  - Costs and fees, 18-4
  - Failure to obey, 18-5

- Form and issuance, 18-3
- Objections to, 18-5
- Quashing and/or modifying of, 18-4
- Served by, 18-1
- Summons, 6-1, 18-2
  - Contents of, 18-2
  - Requirements, 18-2
  - Service of, 18-2
- Support. See **Child Support**
  - IV-D, IV-E, 8-3
- Support order, 4-2
  - Records retention, 20-2
- The Supreme Court of Ohio, 25-5
  - Judicial College, 25-5
- Supreme Court Report, 22-1
- Surety bond, 9-2
- Temporary Custody, 17-1
- Terminate Parental Rights, 24-4
- Time certain docketing, 24-4
  - In combination with block time docketing, 24-1
- Time guidelines
  - After service by mail, 19-1
  - Computation of, 19-1
  - Enlargement of, 19-1
  - Expiration of term and, 19-1
  - For motions/affidavits, 19-1
- Tobacco law violations, 12-1
  - Assessing court costs, 12-1
  - Definition, 12-1
  - Exceptions to, 12-1
  - Formal vs. informal disposition, 12-1
  - “Juvenile tobacco offender” status, 12-1
  - As misdemeanor, 12-1
- Tracking of information
  - And computer management system (CMS), 24-3
  - And docketing, 24-1
- Traffic offenders, juvenile, 1-1, 25-4, 26-1
  - Electronically produced tickets, 26-2
  - Exceptions to jurisdiction, 26-2
  - Moving traffic violations, 26-2
  - Non-moving traffic violations, 26-2
  - Parking infractions, 26-2
  - Procedures, 26-1
  - Records retention, 20-2
  - Referral to magistrate, 26-2
  - Schedules of fines and costs, 26-1
  - Violation clerk, 26-1
- Traffic violations, moving, 26-2
- Traffic violations, non-moving, 26-2
- Traffic violations, parking infractions, 26-2
- Training, 8-2
- Transcripts, 33-1
- Transfers, from another county, 4-2
- Transfer of complaints. See **Complaints**
- Transfer of Probation, 25-4
- Transferal to adult court (bind-overs), 25-4
- Truancy, 4-1, 18-2
  - Chronic Truant, 4-1
  - Habitual Truant, 4-1
- URESAs. See **Uniform Interstate Family Support Act**
- Uniform Interstate Family Support Act (UIFSA), 20-2
  - Records retention, 20-2
- Uniform Traffic Ticket, 11-2
  - As complaint, 26-2
  - As summons, 26-2
- Unrepresented Litigants. See **Pro se**
- Violations Bureau, 26-1
- Visiting judges
  - Assignment of, 3-1
  - “Blanket assignment” 3-1
  - Compensation, 3-1
  - Requesting, 3-1
  - Role of Chief Justice, 3-1
  - Terms, 3-1
- Visitation, records retention, 20-2
- Voir Dire*, 25-2
- Voluntary surrender of custody actions, 17-1
  - And thirty-day extension of agreements, 17-1
  - Approval of permanent surrender agreements, 17-1
  - Twelve-month review hearing, 17-1
- Ward, 4-1, 4-2, 11-1, 23-1
- Warrants, 6-1, 18-2
  - Contents of, 18-2
  - Records retention, 20-2
  - Service of, 18-2
- Website, 32-1
- Writ, 4-1, 8-1
- Writ of habeas corpus, 4-1, 11-1

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