

## RULES OF THE LORAIN COUNTY JUVENILE COURT

### RULE 1. COURT RECORDS

Reports and records of the Probation Department, Children Services, Voices for Children and Investigations by the Court shall be considered confidential information and shall not be made public. The inspection of Court Records by attorneys and other interested parties shall be governed by Rule 32(c) of the Ohio Rules of Juvenile Procedure. Any probation, social, physical or mental examination prepared at the direction of the Court shall not be copied by counsel without leave of the Court. The Court may limit or deny inspection for good cause shown pursuant to aforementioned Rule 32(c).

Traffic Records maintained by the Court are confidential and shall not be made public. Inspection by attorneys or any interested party may be allowed by leave of the Court.

Family History files shall be considered confidential information and shall not be made public. Inspection by attorneys or any interested parties may be allowed by leave of Court.

Record checks by counsel, law enforcement and other agencies shall be directed to the Intake/Delinquency department which shall provide reasonable access to public records.

## RULE 2. CONTINUANCES AND ADVANCEMENTS

Requests for continuances and advancements will be made in accordance with Supreme Court of Ohio Superintendence Rule 7 and Ohio Rules of Juvenile Procedure Rules 19 and 23.

All applications for continuances or advancements shall be made as far in advance of hearing dates as practicable except as herein provided. All requests shall be in writing with a proposed new date included. Requests will be considered only after notice to all other counsel and/or parties involved. No case will be continued on the day of hearing except for good cause shown. Unless otherwise directed, it will be the responsibility of the attorney obtaining the continuance to notify all other counsel and parties of the new hearing date. Attorneys shall make reasonable efforts to have a contested request for continuance heard prior to the hearing date. If a request for continuance is not granted, then the case shall proceed to hearing as originally scheduled.

Ruling on a continuance request may be reserved until the scheduled hearing date where continuances on the record are necessary to preserve service on parties.

## RULE 3. NOTICES TO COUNSEL & APPOINTED FEES

The Court shall maintain an individual file for each attorney for the purpose of providing appointments, notices and other matters as may be necessary. It will be the

responsibility of counsel to inspect said file not less than weekly.

Rates of compensation shall be as determined from time to time by the Court. In addition thereto, necessary and reasonable expenses may be allowed if prior approval of the Trial Judge is obtained. Expenses include such items as expert witness fees, polygraph costs, long distance phone calls, photocopying, certain travel and other necessary items as approved by the Court. The Trial Judge may not allow for any fixed office overhead expenses, Court transcripts or depositions, except as provided by law.

Requests for extraordinary fees must be made by written motion and should be submitted with supporting information, including all regular billing documents, to the assigned Judge.

All applications for fees and/or expenses are to be submitted within thirty days of counsel's last activity on the case and on forms approved and provided by the Court. It will also be the responsibility of counsel to have an affidavit of indigency filed with each application for payment of fees. Any interim bills must be specifically approved by the Judge.

#### RULE 4. CUSTODY ACTIONS

(A) All actions seeking custody of a child shall be initiated by sworn complaint, or in preexisting cases by

Motion, accompanied by a child custody affidavit pursuant to law.

(B) A social investigation concerning the best interests of any child or children shall be conducted by Children Services in all abuse, neglect and dependency cases unless expressly waived by a Judge. In other actions for custody, divorce investigation shall conduct an investigation when ordered by the court and in all custody cases, involving children under the age of twelve.

#### RULE 5. DETENTION/SHELTER CARE HEARINGS

All juveniles received into detention or shelter care shall be brought before a Referee for a Detention/Shelter Care Hearing within 24 hours except weekend and holiday admissions and then within 72 hours.

An objection to detention shall be filed in writing requesting a review by a Judge. The Judge shall hear said matter as soon as possible.

Request for Detention/Shelter Care Hearings based upon new information shall be in writing and will be heard on the next Court day, or as soon as practicable.

#### RULE 6. OBJECTIONS TO RECOMMENDATIONS OF REFEREES

A recommendation of a Referee may be reviewed by the Judges of this Court by filing an Objection in accordance with Rule 40 of the Ohio Rules of Juvenile Procedure.

The Objection shall be accompanied by a supporting memo-

randum. If a finding of fact or weight of the evidence is part or all of the basis for the Objection, a transcript of the testimony is necessary to support the Objection to the Referee's Report and must be filed with the Court by the moving party within fifteen (15) days after the filing of the Objections, unless the Judge, in writing, extends the time. Partial transcripts may be permitted upon leave of the Court.

Failure to file a transcript when one is required by this Rule is a basis for dismissal of the Objection.

All Objections shall be set for oral hearing by the moving party and shall be scheduled with the assignment office at time of filing. Notice shall be made by the moving party on all other parties including the guardian ad litem. Oral hearings may be waived by agreement of all parties and the Judge scheduled to hear the Objection.

Memoranda Contra Objections may be filed by any party within seven (7) days of the filing of said Objections, unless additional time is granted by the Court.

#### RULE 7. MOTIONS

All Motions shall be made in writing in accordance with Rules 19 and 22 of the Ohio Rules of Juvenile Procedure unless otherwise permitted by the Court. The Motion shall be supported by a memorandum containing citations of authority and may also be supported by an affidavit. All pre-trial and post-trial motions shall be set for oral hearing by the mov-

ing party and shall be scheduled with the assignment office at the time of filing. Notice shall be made by the moving party on all other parties including the guardian ad litem. Oral hearings may be waived by agreement of all parties and the Judge or Referee scheduled to hear the motion.

#### RULE 8. TRANSCRIPTS/RECORDING OR PROCEEDINGS

Pursuant to Rule 37 of the Ohio Rules of Juvenile Procedure a complete record of all testimony or other oral proceedings shall be taken in shorthand, stenotype, or by any other adequate mechanical or electronic recording device upon request of a party.

No public use shall be made by any person, including a party, of any record or transcript thereof except in the course of the proceedings or appeal or as authorized by the Court.

The request for making of transcripts shall be filed with the Clerk of Courts. The costs of same shall be as the Court shall from time to time determine at a per page amount. At the time of ordering of a transcript, the ordering counsel or party shall arrange for payment.

Requests for transcripts for the benefit of indigent parties shall be submitted to the Court and supported by an order of the Court directing that the transcript be prepared at public expense. This order shall serve in lieu of the deposit otherwise required by this Rule.

RULE 9. WARRANTS

Warrants for the arrest of juveniles will be issued only upon authorization of a Judge by way of Journal Entry.

RULE 10. TRAFFIC OFFENSES/MISDEMEANOR CITATIONS

(A) Traffic matters will generally be heard by a Referee of this Court unless a hearing before a Judge is requested in writing.

(B) The following offenses require an appearance before the Court for adjudication:

- (1) Minor Misdemeanors filed on Citations
- (2) Second or Subsequent Moving Violation within one year of the first citation and all third moving violations.
- (3) Reckless Operation of a Motor Vehicle
- (4) Leaving the Scene of an Accident
- (5) Fleeing a Police Officer
- (6) Operating a Vehicle While Under the Influence of Alcohol and/or Drugs
- (7) Passing a Loading or Unloading School Bus
- (8) Operating a Vehicle without a Valid Operator's License
- (9) Operating a Vehicle while the Operator's License is under Suspension or Revocation
- (10) Offense involving Serious Injury or Property Damage
- (11) Speeding in Excess of 20 m.p.h. over the Posted Speed Limit
- (12) Drag Racing

- (13) Toys in the street.
- (14) Riding/Transporting outside of vehicle
- (15) Railroad Crossing Violation.
- (16) The Court reserves the right to set a hearing on any matter before a Judge or Referee.

(C) Upon determination of the Juvenile Clerk's Office that a mandatory appearance is not required, a Juvenile Traffic Offender will receive notice to proceed with a Court appearance upon the following conditions: A parent, guardian must be present with the offender. A waiver will be executed. Said waiver shall constitute an admission to the facts as alleged in the complaint and to the traffic violation. It shall further constitute a waiver of the right to trial, the right to cross-examine witnesses against the offender, the right to remain silent and right to counsel. Upon said admission and waiver, a fine shall be assessed by the Court in accordance with schedules established by the Court.

#### RULE 11. EXPUNGEMENT/SEALING OF RECORD

All expungements and sealing of records shall be made in accordance with Section 2151.358 of the Ohio Revised Code. Any person seeking expungement or sealing of juvenile records shall make a written request through the Court. The expungement or sealing of record shall be granted upon the approval of the Court. Upon journalization of an expungement or sealing of record the Court shall notify all appropriate court departments and law enforcement agencies.

RULE 12. INFORMAL INTAKE CONFERENCES

Ohio Revised Code Section 2151.01 and Rule 9 of the Ohio Rules of Juvenile Procedure speak to the desirability, in appropriate cases, of avoiding formal actions.

2151.01 Construction: purpose

The sections of Chapter 2151. of the Revised Code, with the exception of those sections providing for the criminal prosecution of adults, shall be liberally interpreted and construed so as to effectuate the following purposes:

(A) To provide for the care, protection, and mental and physical development of children subject to Chapter 2151. of the Revised Code.

(B) To protect the public interest in removing the consequences of criminal behavior and the taint of criminality from children committing delinquent acts and to substitute therefor a program of supervision, care, and rehabilitation.

Rule 9 of Ohio Rules of Juvenile Procedure

(A) Court action to be avoided. In all appropriate cases formal court action should be avoided and other community resources utilized to ameliorate situations brought to the attention of the court.

(B) Screening: referral. Information that a child is within the court's jurisdiction may be informally screened prior to the filing of a complaint to determine whether the filing of a complaint is in the best interest of the child

and the public.

As part of the Court's overall effort to conform with the above provisions, informal intake conferences may be conducted in lieu of formal actions for certain delinquency and unruly cases.

Generally, informal conferences will be available only for first time misdemeanor charges and status offenses. Although no formal finding or record shall result, to be eligible for an informal conference a youth must be willing to admit to the operative facts to the action.

Discretion regarding the availability of an informal conference shall be exercised by the Intake Department. If, after review by the Intake Supervisor, a request for an informal conference has been denied, the matter may still be handled informally if so ordered by the Court.

#### RULE 13. REFEREE HEARINGS

The Court Referees shall hear and make recommendations to the Court in the following matters.

A. All motions, except motions for a new trial or to vacate and set aside any matter heard and decided by a Judge.

B. Contempt citations, unless assigned before a Judge.

C. Motions filed upon Civil Rule 59 and 60 should be heard by the Judge or Referee who heard the matter originally.

D. All hearings under 3113.21 of the Ohio Revised Code.

In addition to the above duties, the Court Referees shall conduct hearings on complaints initiated in the Juvenile Division for custody, delinquency, unruliness, parentage (except jury trials), juvenile traffic offenses, and for abuse, neglect and dependency.

E. Applications to expunge or seal a juvenile record.

RULE 14. EX PARTE ORDER PRACTICE

EX PARTE ORDER OF PRACTICE

(A) General procedure applicable to this Rule and to be followed in conjunction with the Juvenile Rules involving abuse, neglect, dependency cases.

- (1) No ex parte order for restraint from removal from the jurisdiction, or any other ex parte extraordinary relief sought from the Court, shall be granted without a specific showing or allegation that serious and/or irreparable harm would result prior to the oral hearing, if immediate relief is not granted.
- (2) Every reasonable effort shall be made by counsel attempting to obtain an ex parte order to give notice to opposing counsel of such intent and when such attempt shall be made.
- (3) Hearings both for Probable Cause to grant requests for Ex Parte Orders and for Review of Ex Parte Orders shall take preference on the Docket as to

time.

- (4) All hearings with respect to Probable Cause to Grant and Review of Ex Parte Orders shall be on the record with the exception of abuse, neglect and dependency cases, which shall be recorded upon request. The transcription of the record shall be provided upon request and the posting of reasonable costs therefor, and the Court shall expedite the production of such record when requested for purposes of the filing of responsive pleadings or preparation for review hearing.

#### Pleadings

- (1) All requests for Ex Parte Orders shall be made by motion, and shall be supported by Affidavit, stating with specificity the basis for the request for extraordinary relief, and setting forth with specificity the reasons for the necessity for the extraordinary relief requested.
- (2) The Affidavit of the Moving Party shall contain a statement as to whether the Responding party has retained or is otherwise represented by Counsel, or if said information is unknown to the Affiant.
- (3) Counsel for the moving party shall prepare and present to the Court a proposed order for the specific relief requested, which may be altered by

interlineation at the direction of the Court, and which shall also contain Notice of the date and time of the Review Hearing. Additionally, if the moving party has been unavailable to the Court for examination, the entry shall contain specific findings as to the extraordinary reasons which have made the Affiant unavailable to the Court.

- (4) Briefs and affidavits in opposition to the Ex Parte orders may be filed on or before the date of hearing, together with any authorities or citations relied upon. Reply or additional briefs and submissions may be filed with leave of Court.

Hearing for Probable Cause to grant the Ex Parte relief requested

- (1) Counsel requesting extraordinary relief shall produce the Party seeking the relief or statement on the record, under oath, as to why the relief is sought and why immediate relief is necessary. Presence of the moving party may be excused by the Court for extraordinary cause being shown and specifically described in the Proposed Journal Entry presented to the Court. The moving party shall be subject to examination by the Court.
- (2) Hearing under this Section may be conducted in camera, however the statement of the Movant shall

be on the record.

- (3) Hearing under this Section shall be conducted by the Judge assigned to hear the case, or his designee if he is unavailable.

Hearing to Review the Grant of Ex Parte Relief, Notice, Procedure, Scope of Testimony, Waiver

- (1) Hearing on the merits of the Ex Parte order shall be within ten (10) days of Journalization of the Order, unless waived by both parties or statutorily mandated to be heard at an earlier time.
- (2) Hearing shall be conducted by the Judge assigned to hear the case, or his designee, and shall be on the record except for abuse, neglect and dependency cases unless a request to record is made by a party.
- (3) Hearing shall take precedence on the docket, shall be set at the time of the hearing to secure the Ex Parte order by the moving Counsel, and a notice of the date and time of the hearing shall be contained in the body of the Ex Parte order.
- (4) The testimony presented and heard at the Merit Hearing provided under this Rule 9 (E) shall be limited to whether the Ex Parte order was providently granted, whether there was basis for the extraordinary relief granted, whether the relief

requested and granted was consistent with the nature of the emergency which existed and which was presented as the basis for the request for extraordinary relief by the Court, whether the order shall be continued in entirety, in part, or vacated. Abuse, neglect and dependency cases shall be governed by Juv. Rules 6 and 7 and ORC Sections 2151.31, 2151.31.4 and 2151.31

- (5) In the event that the Court designated a Referee to conduct the merits hearing, the order of reference shall contain the authority to immediately set aside the Ex Parte orders should no just cause for their issuance be found, or otherwise be modified according to law.

#### RULE 15. CASE MANAGEMENT SYSTEM

In all abuse, neglect and dependency cases, a pre-trial, adjudicatory and proposed dispositional hearing shall be set at the time of filing. The pre-trial shall be set no later than 20 days after filing, the adjudicatory no later than 30 days after the filing and the proposed dispositional no later than 60 days after filing. Any continuances must be approved by the Court and every effort shall be made to resolve issues at the time of the pre-trial.

In all delinquency cases an arraignment shall be

set no later than 45 days after filing. Upon denial of the charge a pre-trial shall be set no later than 30 days after the arraignment, except for good cause shown. The case must be set for trial no later than 120 days after filing except for good cause shown.

In all unruly and traffic cases, an arraignment must be set within 30 days of filing and any denial will be set for pre-trial within 30 days. The adjudicatory and dispositional hearing must be completed by the 90th day.

In paternity cases when no answer is filed a default hearing shall be set within 45 days after the time for answering has been exceeded. In cases when answers are filed the complainant is to submit an agreed entry for genetic testing within 20 days of answer or set the matter for hearing within 20 days.

After the genetic test results are returned the complainant shall notify the other party of the test results and the parties shall negotiate settlement if possible. If settlement is not obtained within 15 days the matter shall be set for final pre-trial by Plaintiff within 30 days. If the matter is not resolved at final pre-trial the matter shall be set for hearing within 90 days.

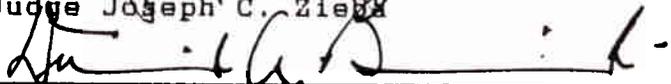
In all incoming URESA cases, a pre-trial conference is to be set within 30 days. If the defendant fails to appear a hearing is to be set before a Judge within 30 days.

In cases seeking modification the matter is to be set for hearing within 30 days and concluded within 90 days.

All cases are to be monitored for activity by a monthly review of the computer activity log by the clerk.

Approved as of 4th day of October, 1991.

  
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Judge Joseph C. Zieba

  
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Judge David A. Basinski

Effective date of these Rules: October 15, 1991.