

AN OVERVIEW OF OHIO'S RULES OF JUVENILE PROCEDURE

Prepared by:
Thomas G. Widman
The Law Office of Thomas G. Widman LLC
Columbus, Ohio

Juv. R. 1

Scope and Construction of the Rules

Juv. R. 1 says that the Ohio Rules of Juvenile Procedure are to be followed in all juvenile courts within Ohio. The rules are to be followed liberally and construed to effectuate the following purposes:

- To effect the just determination of juvenile court proceedings;
 - To secure simplicity and uniformity of procedure;
 - To provide for the care, protection and mental and physical development of children;
 - To protect the welfare of the community; and
 - To protect the public interest by treating children as persons in need of supervision, care and rehabilitation.
-

Juv. R. 2

Definitions

The definitions of the following terms are found in Juv. R. 2:

- Abused child
- Adjudicatory hearing
- Agreement for temporary custody
- Child
- Chronic truant
- Complaint
- Court proceeding
- Custodian
- Delinquent child
- Dependent child
- Detention
- Detention hearing

- Dispositional hearing
- Guardian
- Guardian ad litem
- Habitual truant
- Hearing
- Indigent person
- Juvenile court
- Juvenile judge
- Juvenile traffic offender
- Legal custody
- Mental examination
- Neglected child
- Party
- Permanent custody
- Permanent surrender
- Person
- Physical examination
- Planned permanent living arrangement
- Private child-placing agency
- Public children's services agency
- Removal action
- Residence or legal settlement
- Residual parental rights, privileges, and responsibilities
- Rule of court
- Serious youthful offender
- Serious youthful offender proceedings
- Shelter care
- Social history
- Temporary custody
- Unruly child
- Ward of court

Juv R. 3

Waiver of Rights

Per Juv. R. 3, a child's rights may generally be waived with permission of the court.

However, a child's right to be represented by counsel at a transfer/bindover hearing may not be waived.

Juv. R. 4

Assistance of Counsel Guardian Ad Litem Attorney Guardian Ad Litem Lay Guardian Ad Litem Notice

Juv. R. 4(A) gives every party the right to be represented by counsel and every child, parent, or custodian the right to appointed counsel if they cannot afford counsel.

If the Complaint alleges that a child is an abused child, the court must appoint an attorney to represent the interests of that child.

Juv. R. 4(B) itemizes the cases in which the court must appoint a guardian ad litem to protect the interests of a child or incompetent adult in juvenile court proceedings:

- When the child has no parents, guardian, or legal custodian;
- When the interest of the child and the interests of the parent may conflict;
- When the parent is under 18 years of age or appears to be mentally incompetent;
- When the court believes that the parent of the child is not capable of representing the best interest of the child;
- When 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;
- When there is an agreement for the voluntary surrender of temporary custody, and thereafter there is a request for extension of the voluntary agreement;
- When the proceeding is a removal action.
- When appointment of a guardian ad litem is otherwise necessary to meet the requirements of a fair hearing.

The rule says that the guardian ad litem may also act as attorney for the child if the guardian ad litem is admitted to the practice of law in Ohio. However, if a conflict of interest arises in such a situation, then the court is instructed by the rule to appoint a different person as guardian ad litem.

The rule also provides for lay (non-attorney) guardians ad litem.

The rule requires that the guardian ad litem be given notice of all proceedings in the same manner as given to any other party to the action.

Juv. R. 6

Taking Into Custody Ex Parte Emergency Custody Order Probable Cause Hearing

Juv. R. 6 itemizes the situations under which it is permissible for a child to be taken into custody. Those situations include:

- Court order;
- Law of arrest;
- Reasonable grounds to believe that child is suffering from illness or injury and is not receiving proper care;
- Reasonable grounds to believe that child is in immediate danger from the child's surroundings;
- Reasonable grounds to believe that a family member or household member has abused or neglected another child in the household;
- Reasonable grounds to believe that the child has run away;
- Reasonable grounds to believe that the child may abscond or be removed from the jurisdiction during the pendency of court proceedings.

Ex-parte emergency custody orders are permitted where it appears to the court that the best interest and welfare of the child require the immediate issuance of a shelter care order. When a child is taken into custody per an ex parte emergency order, a probable cause hearing must be held before the end of the next business day but not later than seventy-two hours after the issuance of the emergency order.

Juv. R. 7

**Detention
Shelter Care
Standards
Priorities in Placement
Initial Procedure
Procedure After Admission
Detention Hearing
Rehearing
Separation from Adults
Physical Exam
Telephone Rights
Visitation Rights**

Juv. R. 7 clearly states that a child shall not be placed in detention or shelter care prior to disposition except in situations where detention is required, it is necessary to protect

the child from immediate or threatened harm, it is necessary to protect others from immediate or threatened harm, the child may abscond or be removed, the child has no parent or other caregiver, or confinement is authorized by statute.

The court is instructed by the rule to release the child to a parent, guardian or other custodian, unless detention or shelter care appears to be required under the standards of the rule.

Any person who delivers a child to a shelter or detention facility shall give the admissions officer a signed report stating why the child was taken into custody and why the child was not released to a parent, guardian or custodian.

If the child is admitted to detention or shelter care, the admissions officer must prepare a report stating the reasons why the child was admitted, must advise the child of the right to telephone parents and counsel immediately and at reasonable times thereafter and the time, place, and purpose of the detention hearing, and must use reasonable diligence to contact the child's parent, guardian or custodian.

When a child has been admitted to detention or shelter care, a detention hearing must 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. Reasonable notice of the hearing must be given to the child and to the parents, guardian or custodian.

Prior to the hearing, the court must inform all the parties of their right to counsel and to appointed counsel if indigent, and of the child's right to remain silent in a traffic, delinquency or unruly case.

During the hearing, the court is permitted to consider any evidence without regard to the formal rules of evidence.

If a parent, guardian or custodian did not receive notice of the initial hearing and did not appear or waive appearance, the court shall rehear the matter promptly.

Per the rule, no child shall be placed in or committed to any prison, jail, lockup or similar place where the child can come in contact or communication with any adult convicted of crime, under arrest, or charged with crime.

During detention, the supervisor may provide for a physical exam of the child.

Per the rule, a child may telephone the child's parents and attorney immediately after being admitted and at reasonable times thereafter.

A child may be visited at reasonable visiting hours by the parents and adult members of the family, the child's pastor, and the child's teachers. The child may be visited by his/her attorney at any time.

Juv. R. 9

Intake

Court Action To Be Avoided

Juv. R. 9 makes it clear that all appropriate community resources should be utilized in an effort to avoid formal court action.

Juv. R. 10

Complaint

Complaint – Juvenile Traffic Offense

Complaint – Permanent Custody

Complaint - Temporary Custody

Complaint – Planned Permanent Living Arrangements

Juv. R. 10 sets forth the rules regarding the filing and the general form of a Complaint to initiate a juvenile court proceeding.

The rule states that 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 in the juvenile court.

The rule also states that a complaint seeking custody of a child can be filed in juvenile court if the child is not the ward of any other court.

A Uniform Traffic Ticket shall be used as the Complaint in a juvenile traffic proceeding.

Any complaint seeking permanent custody, temporary custody, or the placement of a child into a planned permanent living arrangement, is required to specifically state that said placement is sought.

Juv. R. 13

Temporary Orders

Emergency Medical Treatment

Ex Parte Proceedings

**Hearing Notice
Probable Cause Finding
Payment of Medical Treatment**

During the pendency of a case, the court may issue temporary orders with respect to the relations and conduct of other persons toward a child who is the subject matter of the complaint.

Upon the filing of an abuse, neglect or dependency complaint, the court may issue the following temporary orders pending the adjudicatory and dispositional hearings:

- An order granting temporary custody of the child to a particular party;
- An order for the taking of the child into custody;
- An order granting, limiting or eliminating visitation rights with respect to the child;
- An order for the payment of child support and continued maintenance of any health insurance policies for the benefit of the child;
- An order requiring a party to vacate a residence that will be lawfully occupied by the child;
- An order requiring a party to attend an appropriate counseling program;
- Any other order that restrains or otherwise controls the conduct of any party which conduct would not be in the best interest of the child.

These orders may be issued ex-parte if it appears that the best interest and welfare of the child require immediate issuance. If the court issues such an ex-parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next court day after the day on which it is issued, whichever occurs first. The court shall appoint a guardian ad litem for the child prior to the hearing. The court shall give written notice of the hearing by means reasonably likely to result in the party's receiving actual notice.

Wherever possible, the court shall provide an opportunity for hearing before issuing ex-parte orders.

Upon the certification of one or more reputable practicing physicians, the court may order such emergency medical and surgical treatment as appears to be immediately necessary for any child concerning whom a complaint has been filed. When this happens, the court may order the parent, guardian or custodian, if able, to pay for any emergency medical or surgical treatment that is provided. Failure to pay can be punishable as contempt of court.

Upon the finding of probable cause at a shelter care hearing that a child is an abused child, the court may do any of the following:

- Issue reasonable protective orders with respect to the interviewing or deposition of a child;
 - Order that the child's testimony be videotaped;
 - Set any additional conditions that are in the best interest of the child
-

Juv. R. 14

Termination of Temporary Custody Orders

Extension of Temporary Custody Orders

Modification of Temporary Custody Orders

Any temporary custody order shall terminate 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.

The temporary custody order may extend beyond a year and until the court issues another dispositional order when a public or private agency with temporary custody requests the same within certain time limits.

Upon the filing of an agency's motion for extension of temporary custody, the court shall schedule a hearing and give notice to all parties.

The court may extend the temporary custody order for a period up to six months. Prior to the end of the extension period, the agency may request one additional extension of up to six months.

The court shall grant either extension if it finds that the extension is in the best interest of the child, that there has been significant progress on the case plan, and that there is reasonable cause to believe that the child will be reunited with one of the child's parents or otherwise permanently placed within the period of extension.

Modification: The court, upon its own motion or that of any party, shall conduct a hearing with notice to all parties to determine whether any order should be modified or terminated. The court shall make its decision in accordance with the best interest of the child.

Juv R. 15 and Juv. R. 16

Service of Process

Summons

Juv. R. 15 and Juv. R. 16 provide the rules relating to service of the summons upon the child, the parents, guardian, custodian, and any other person who appears to the court to be a proper or necessary party.

The rule itemizes all of the information that must be included in the summons, including:

- the name of the child;
- a summary statement of the complaint;
- a statement that any party is entitled to be represented by an attorney and that the court will appoint an attorney for any indigent party;
- an order to the party or person to appear at a stated time and place with a warning that the party or person may lose valuable rights or be subject to court sanction if the party or person fails to appear;
- an order to the parent, guardian or other person having care of a child alleged to be unruly or delinquent to appear personally and to bring the child to the hearing with a warning that if the child fails to appear the parent, guardian or other custodian may be subject to court sanction including contempt;
- a statement that if a child is adjudicated abused, neglected or dependent and the complaint seeks an order of permanent custody, an order of permanent custody would cause the parents, guardian, or legal custodian to be permanently divested of all parental rights and privileges;
- a statement that if a child is adjudicated abused, neglected or dependent and the complaint seeks an order of temporary custody, an order of temporary custody would cause the removal of the child from the legal custody of the parents, guardian, or legal custodian until the court terminates the order of temporary custody or permanently divests the parents of their parental rights;
- a statement that if a 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 parents, guardian, or legal custodian;
- a statement, in a removal action, of the specific disposition sought;
- the name and telephone number of the court employee designated by the court to arrange for the prompt appointment of counsel for indigent persons.

If it appears that the summons will be ineffectual or the welfare of the child requires that the child be brought forthwith to the court, a warrant may be issued against the child. A copy of the complaint shall accompany the warrant.

Summons shall be served in accordance with Ohio's Rules of Civil Procedure. The rule permits publication service in certain situations.

Juv. R. 17

Subpoena
Service of Subpoena
Protection of Persons Subject to Subpoena
Duties in Responding to a Subpoena
Contempt of Court

Juv. R. 17 itemizes the rules relating to subpoenas.

A subpoena must meet the form requirement and must be served per the requirements set forth in the rule.

c

Service shall be made by delivering a copy of the same to the person, by reading it to him or her, or by leaving it at the person's usual place of residence, and by tendering to the person the fees for one day's attendance and the mileage allowed by law.

If a party is unable to pay the witness fees required by the rule, and upon a showing that the presence of the witness is necessary, the court shall order the subpoena to be issued and shall tax the witness fees as a cost in the same manner that similar costs and fees are paid in case of a witness subpoenaed on behalf of the state in criminal prosecution.

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 a subpoena.

Under certain circumstances itemized in the rule and upon timely motion, a subpoena can be quashed or modified. Examples include:

- The subpoena fails to allow reasonable time to comply;
- The subpoena requires disclosure of a privileged or otherwise protected matter and no exception or waiver applies;
- The subpoena 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;
- The subpoena subjects a person to undue burden.

The rule sets forth the duties in responding to a subpoena, and provides for sanctions (contempt) for failure to respond as ordered.

Juv. R. 18

**Time Computation
Enlargement of Time
Time for Motions, Notice of Hearings and Affidavits**

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, with or without motion or notice, order the period enlarged if application therefore is made before expiration of the period originally prescribed.

Upon motion, the court in certain situations may permit an 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.

A written motion, other than one which may be heard ex-parte, and notice of the hearing therefore, must 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.

When a motion is supported by affidavit, the affidavit must be served with the motion. Opposing affidavits must be served not less than one day before the hearing unless the court permits otherwise.

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

Juv. R. 19

**Motions
Memoranda in Support
Affidavits in Support**

An application to the court must be made by motion. A motion other than one made during trial or hearing must be in writing unless the court permits the motion to be made orally.

A motion must state with particularity the grounds upon which it is made and shall set forth the relief or order sought.

A motion must be supported by a memorandum containing citations of authority and may be supported by an affidavit.

Juv. R. 20

Service and Filing of Papers When Required Subsequent to the Complaint Proof of Service

Juv. R. 20 sets forth the rule regarding service and filing of papers subsequent to the complaint.

All written notices, requests for discovery, designation of record on appeal, written motions, and similar papers must be served upon each of the parties, or their counsel if they are represented by counsel.

All papers required to be served upon a party shall be filed simultaneously with or immediately after service.

Papers filed with the court may not be considered until proof of service is endorsed thereon or separately filed. The proof of service must state the date and the manner of service.

Juv R. 21

Preliminary Conference

Juv. R. 21 states that the court may, at any time after the filing of the complaint, order one or more conferences to consider any matter that will promote a fair and expeditious proceeding.

Juv. R. 22

Pleadings

Complaint

Answer (if any)

Motion to Dismiss

Amendment of Pleadings

Pre-Adjudication Motions

Deadline for Filing Motions

State's Right to Appeal Upon Granting of Motion to Suppress

Pleadings in a juvenile proceeding shall be the complaint and the answer, if any, filed by a party.

A party may move to dismiss the complaint or for other appropriate relief.

Any pleading may be amended at any time prior to the adjudicatory hearing. After the commencement of the adjudicatory hearing, a pleading may be amended upon agreement of the parties, or upon order of the court if the interests of justice require.

A complaint charging certain acts of delinquency may not be amended unless agreed by the parties.

When requested, the court must grant a party reasonable time in which to respond to an amendment.

No answer is necessary. A party may file an answer, but is not required to do so.

Any defense, objection or request which is capable of determination without hearing on the allegations of the complaint may be raised before the adjudicatory hearing by motion.

The following must be heard before the adjudicatory hearing:

- Defenses or objections based on defects in the institution of the proceeding;
- Defenses or objections based on defects in the complaint;
- Motions to suppress evidence on the ground that it was illegally obtained;
- Motions for discovery;
- Motions to determine whether the child is eligible to receive a sentence as a serious youthful offender.

Except for a motion to determine whether the child is eligible to receive a sentence as a serious youthful offender, all prehearing motions must be filed by the earlier of:

- seven days prior to the hearing, or
- ten days after the appearance of counsel.

Motions to determine whether the child is eligible to receive a sentence as a serious youthful offender must be filed by the later of:

- twenty days after the date of the child's initial appearance in juvenile court; or
- twenty days after denial of a motion to transfer.

In a delinquency proceeding, the State of Ohio has the right to appeal upon the granting of a motion to suppress evidence, if, in addition to filing a notice of appeal, the prosecuting attorney certifies that the appeal is not taken for the purpose of delay and the granting of the motion has rendered proof available to the state so weak in its entirety that any reasonable possibility of proving the complaint's allegations has been destroyed.

Juv. R. 23

Continuance

Juv. R. 23 says that continuances shall only be granted when imperative to secure fair treatment of the parties.

Juv. R. 24

Discovery

Request for Discovery

Order Granting Discovery

Limitations

Sanctions

Upon written request, each party shall, to the extent not privileged, promptly produce for inspection, copying or photographing the following information, documents, and material in that party's custody, possession or control:

- The names and last known addresses of each witness to the occurrence that forms the basis of the charge or defense;
- Copies of any written statements made by any party or witness;
- Transcriptions, recordings, and summaries of any oral statements of any party or witness, except the work product of counsel;
- Any scientific or other reports that a party intends to introduce at the hearing or that pertain to physical evidence that a party intends to introduce;
- Photographs and any physical evidence which a party intends to introduce at the hearing;
- Except in delinquency and unruly child proceedings, other evidence favorable to the requesting party and relevant to the subject matter involved in the pending action;
- In delinquency and unruly proceedings, the prosecuting attorney shall disclose to respondent's counsel all evidence, known or that may become known to the prosecuting attorney, favorable to the respondent and material either to guilt or punishment.

If a request for discovery is refused, application may be made to the court for a written order granting the discovery. Motions for discovery shall certify that request for discovery has been made and refused.

If it is brought to the attention of the court that a person has failed to comply with a discovery order, the court may grant a continuance, prohibit the person from introducing in evidence the material not disclosed, or enter such other order as it deems just.

Juv. R. 25

Depositions

Per Juv. R. 25, for good cause shown, the court may grant authority to take the deposition of a party or other person upon such terms and conditions and in such manner as the court may fix.

Juv. R. 27

Hearings

Public Access to Hearings

Separation of Juvenile and Adult Cases

No Jury Trials

Special Provisions for Abuse, Neglect and Dependency Proceedings

The juvenile court may conduct its hearings in an informal manner.

The court may excuse the attendance of the child at the hearing in abuse, neglect or dependency cases.

In serious youthful offender proceedings, hearings shall be open to the public. In all other proceedings, the court may exclude the general public from any hearing, but may not exclude either of the following:

- persons with a direct interest in the case;
- persons who demonstrate, at a hearing, a countervailing right to be present.

Cases involving children shall be heard separate and apart from the trial of cases against adults, except for cases involving chronic or habitual truancy.

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.

In abuse, neglect, and dependency hearings, at which the court removes a child from the child's home or continues the removal of a child from the child's home, or in a proceeding where the court orders detention, the court shall determine if the person

who filed the complaint has custody of the child, or will be given custody and whether the person has made reasonable efforts to do any of the following:

- Prevent the removal of the child from the child's home;
- Eliminate the continued removal of the child from the child's home;
- Make it possible for the child to return home.

In abuse, neglect, and dependency cases, if the court must examine the child to determine whether the child is a competent witness, the examination must:

- Occur in an area other than a courtroom or hearing room;
- Be conducted in the presence of only those individuals considered necessary by the court for the conduct of the examination or the well being of the child;
- Be recorded.
- The court may allow the prosecutor, guardian ad litem, or attorney for any party to submit questions for use by the court in determining whether the child is a competent witness.

In an abuse proceeding, the court may order that the testimony of the child be taken by deposition in the presence of a judge or a magistrate. On motion, the court may order the deposition to be videotaped. All or part of the deposition is admissible in evidence where all of the following apply:

- It is filed with the clerk;
- Counsel for all parties had an opportunity to develop testimony by direct, cross, or redirect examination;
- The judge or magistrate determines there is reasonable cause to believe that if the child were to testify in person at the hearing, the child would experience emotional trauma as result of the child's participation at the hearing.

Juv. R. 29

Adjudicatory Hearing

Scheduling the Hearing

Advisement and Findings at the Commencement of the Hearing

Entry of Admission or Denial

Initial Procedure upon Entry of an Admission

Initial Procedure upon Entry of a Denial

Procedure upon Determination of the Issues

The date for the adjudicatory hearing shall be set when the complaint is filed or as soon thereafter as is practicable.

If the child is the subject of a complaint alleging a violation of a section of the Revised Code that may be violated by an adult and that does not request a serious youthful offender sentence, and if the child is in detention or shelter care, the hearing must be held not later than fifteen days after the filing of the complaint. Upon the showing of good cause, the adjudicatory hearing may be continued and shelter care or detention extended. The prosecuting attorney's filing of either a notice of intent to pursue or a statement of an interest in pursuing a serious youthful offender sentence shall constitute good cause for continuing the adjudicatory hearing and extending shelter care or detention.

If the complaint alleges abuse, neglect or dependency, then the hearing must be held no later than thirty days after the complaint is filed. For good cause shown, the adjudication 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 service on all parties or complete any necessary evaluations. However, the adjudication must be held no later than sixty days after the complaint is filed.

NOTE: The failure of the court to hold an adjudicatory hearing within any time period set forth in this rule 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.

At the beginning of the adjudicatory hearing, the court must do all of the following:

- Ascertain if notice requirements have been complied with and, if not, whether the affected parties waive compliance;
- Inform the parties of the substance of the complaint, the purpose of the hearing, and possible consequences of the hearing, including the possibility of transfer/bindover if the complaint requests that relief;
- Inform unrepresented parties of their right to counsel and determine if those parties are waiving their right to counsel;
- Appoint counsel for any unrepresented party under Juv. R. 4(A) who does not waive the right to counsel;
- Inform any unrepresented party who waives the right to counsel of the right to obtain counsel at any stage of the proceedings, to remain silent, to offer evidence, to cross-examine witnesses, and, upon request, to have a record of all proceedings made, at public expense if indigent.

The court must ask each party against whom allegations are made in the complaint to either admit or deny the allegations. A failure or refusal to admit shall be deemed a denial, except in cases where the court consents to entry of a plea of no contest.

If an admission is entered, the court must address the party personally and determine both of the following:

- The party is making the admission voluntarily with understanding of the nature of the allegations and the consequences of the admission;
- The party understands that by entering an admission the party is waiving the right to challenge the witnesses and evidence against the party, to remain silent, and to introduce evidence at an adjudication.

If a party denies the allegations the court must:

- Direct the prosecuting attorney or another attorney to assist the court by presenting evidence in support of the allegations of a complaint;
- Order the separation of witnesses, upon request of any party;
- Take all testimony under oath in either question-answer or narrative form;
- Determine the issues by proof beyond a reasonable doubt in juvenile traffic offense, delinquency, and unruly proceedings; by clear and convincing evidence in dependency, neglect and abuse cases, and in a removal actions; and by a preponderance of the evidence in all other cases.

Upon a determination of the issue, the court shall do one of the following:

- Dismiss the complaint;
- If the allegations of the complaint, indictment, or information are admitted or proven, do any one of the following unless precluded by statute:
 - Enter an adjudication and proceed forthwith with disposition;
 - Enter an adjudication and continue the matter for disposition for not more than six months and may make appropriate temporary orders;
 - Postpone entry of adjudication for not more than six months;
 - Dismiss the complaint if dismissal is in the best interest of the child.
- Upon request, make written findings of fact and conclusions of law.
- Ascertain whether the child should remain or be placed in shelter care until the dispositional hearing in an abuse, neglect or dependency case. In making a shelter care determination, the court must make written findings of fact with respect to reasonable efforts and to relative placement.

Juv. R. 30

Relinquishment of Jurisdiction for Purposes of Adult Prosecution (aka Transfer or Bindover)

Preliminary Hearing

Probable Cause

Mandatory Transfer

Discretionary Transfer

Investigation and Mental Examination

Amenability Hearing

In any proceeding where the court considers the transfer of a case for criminal prosecution, the court must hold a preliminary hearing to determine if there is probable cause to believe that the child committed the act alleged and that the act would be an offense if committed by an adult. The hearing may be upon motion of the court, the prosecuting attorney, or the child.

In any proceeding in which transfer of a case for criminal prosecution is required by statute upon a finding of probable cause, the order of transfer shall be entered upon a finding of probable cause.

In any proceeding in which transfer of a case for criminal transfer is permitted, but not required, by statute, and in which probable cause is found at the preliminary hearing, the court shall continue the proceeding for full investigation. The investigation shall include a mental examination of the child by a public or private agency or by a qualified person. When the investigation is completed, an amenability hearing must be held to determine whether to transfer jurisdiction.

The child may waive the mental examination referenced above. Refusal by the child to submit to a mental examination or any part of the examination shall constitute a waiver of the examination.

Written notice of any hearing held pursuant to Juv. R. 30 must be given to the state, the child's parents, guardian or other custodian and the child's counsel at least three days prior to hearing, unless written notice is waived on the record.

If the court chooses not to transfer the case for criminal transfer, it shall set the case for hearing on the adjudication.

Juv. R. 32

Social History and Physical or Mental Examination Before Adjudication Limitation on Preparation and Use Availability of Social History or Investigation Report Investigation for Allocation of Custody and Visitation Rights

The court may order and utilize a social history or physical or mental examination at any time after the filing of a complaint under any of the following circumstances:

- Upon the request of the party concerning whom the history or exam is to be made;
- Where the transfer of a child for adult prosecution is an issue;

- Where a material allegation of a neglect, dependency or abused child complaint relates to matters that a history or examination may clarify;
- Where a party's legal responsibility for the party's acts or the party's competence to participate in the proceedings is an issue;
- Where a physical or mental exam is required to determine the need for emergency medical care;
- When authorized per statute as part of a child admission into detention.

Any social history, physical exam or mental exam ordered per this rule shall be utilized only for the limited purposes specified. The person preparing a social history or making a physical or mental exam shall not testify in a delinquency, unruly or traffic case except as may be required in a hearing to determine whether the case should be transferred to adult court for prosecution.

A reasonable time before the dispositional hearing, or any other hearing at which a social history or physical or mental exam is to be utilized, counsel shall be permitted to inspect any social history or report of a physical or mental exam. The court may, for good cause shown, deny such inspection or limit its scope to specified portions of the history or report. The court may order that the contents or history of the report, in whole or in part, not be disclosed to specified persons. If inspection or disclosure is denied or limited, the court shall state its reason for such denial or limitation to counsel.

In any custody/visitation case (aka allocation of parental rights and responsibilities) heard in juvenile court, the court may cause an investigation to be made as to the character, health, family relations, past conduct, present living conditions, earning ability, and financial worth of the parties to the action. The report of the investigation shall be confidential, but shall be made available to the parties or their counsel upon written request not less than three days before hearing. The court may tax as costs all or any part of the expenses of each investigation.

Juv. R. 34

Dispositional Hearing
Scheduling the Hearing
Hearing Procedure
Dispositional Orders
Protective Supervision
Case Plan
Modification of Temporary Order
Restraining Orders
Advisement of Rights after Hearing

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. 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. 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. Upon the request of any party or the guardian ad litem, the court may continue a dispositional hearing for a reasonable time not to exceed the time limit set forth in these rules to enable a party to obtain or consult counsel. The dispositional hearing shall not be held more than ninety days after the date on which the complaint in the case was filed. If the dispositional hearing is not held within this ninety day period of time, the court, on its own motion or the motion of any party or the guardian ad litem, shall dismiss the complaint with prejudice.

In all other juvenile proceedings, the dispositional hearing shall be held pursuant to Juv. R. 29(F)(2)(a) through (d) and the ninety day requirement shall not apply. Where the dispositional hearing is held immediately following the adjudicatory hearing, the court, upon the request of any party shall continue the hearing for a reasonable time to enable the party to obtain or consult counsel.

The dispositional hearing shall be conducted in the following manner:

- The judge or magistrate who presided at the adjudicatory hearing shall, if possible, preside;
- Except as provided in division (I) of Juv. R. 34, the court may admit evidence that is material and relevant, including but not limited to, hearsay, opinion, and documentary evidence.

After the conclusion of the dispositional hearing, the court shall enter an appropriate judgment within seven days. A copy of the judgment shall be given to any party requesting a copy. In all cases where a child is placed on probation, the child shall receive a written statement of the conditions of probation. If the judgment is conditional, the judgment shall state the conditions. 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.

In abuse, neglect or dependency cases, the court may make any of the following orders of disposition:

- Place the child in protective supervision;

- Commit the child to the temporary custody of a public or private agency, either parent, a relative, or a probation officer for placement in a certified foster home or approved foster care;
- Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody;
- Commit the child to the permanent custody of a public or private agency, if the court determines that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines that permanent commitment is in the best interest of the child;
- Place the child in a planned permanent living arrangement with a public or private agency if the agency request the court for placement, if the court finds that a planned permanent living arrangement is in the best interest of the child, and if the court finds that one of the following exists:
 - The child because of physical, mental, or psychological problems or needs is unable to function in a family-like setting;
 - The parents of the child have significant physical, mental or psychological problems and are unable to care for the child, adoption is not in the best interest of the child and the child retains a significant and positive relationship with a parent or relative;
 - The child is sixteen years of age or older, has been counseled, is unwilling to accept or unable to adapt to a permanent placement and is in an agency program preparing the child for independent living.

If the court issues an order for protective supervision, the court may place any reasonable restrictions upon the child, the child's parents, guardian, or other any person.

As part of its dispositional order, the court shall journalize a case plan for the child. The agency required to maintain a case plan shall file the case 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. The plan shall specify what additional information, if any, is necessary to complete the plan and how the information will be obtained. 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. If all parties agree to the contents of the case plan and the court approves it, the court shall journalize the plan as part of its dispositional order. 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.

Any party, or the department of human services, or any other public or private agency, other than a parent whose parental rights have been terminated, may at any time file a motion requesting a modification or termination of the order of disposition. 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. The court, on its own motion and upon proper notice to all parties and any interested agency, may modify or terminate any order of disposition.

In any proceeding where a child is made a ward of the court, the court may grant a restraining order controlling the conduct of any party if the court finds that the order is necessary to control any conduct or relationship that may be detrimental or harmful to the child and tend to defeat the purposes of the dispositional order.

At the conclusion of the dispositional hearing, the court shall advise the child of the child's right to record expungement and, where any part of the proceeding was contested, advise the parties of their right to appeal.

Juv. R. 35

Proceedings After Judgment Continuing Jurisdiction Invoked by Motion Revocation of Probation Detention

The continuing jurisdiction of the court shall be invoked by motion filed in the original proceeding, notice of which shall be served in the manner provided for the service of process.

The court shall not revoke probation except after a hearing at which the child shall be present and apprised of the grounds on which revocation is proposed. The parties shall have the right to counsel and the right to appointed counsel if indigent. Probation shall not be revoked except upon a finding that the child has violated a condition of probation of which the child had been notified.

During the pendency of probation revocation proceedings, a child may be placed in detention in accordance with the provisions of Juv. R. 7.

Juv. R. 36

Dispositional Review Court – Annual Review Hearing Agency - Semi Annual Review (SAR) Written Report Revised Case Plan

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.

A court that issues a dispositional order must 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 in shelter care. The court shall schedule the review hearing at the time that it holds the dispositional hearing. 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. The court shall schedule each subsequent review hearing at the conclusion of the review hearing immediately preceding the review hearing to be scheduled.

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 the complaint in the case was filed or the child was first placed in shelter care. After the first administrative review, the agency shall complete semiannual administrative reviews no later than every six months. The agency shall prepare and file a written summary of the semiannual administrative review that shall include an updated case plan. 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. If the court does not object to the revised case plan, it shall journalize the case plan within fourteen days after it was filed with the court. If the court does not approve of 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. 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. The court shall give notice of the hearing to all parties. The court shall take one of the following actions:

- Approve or modify the case plan based on the evidence presented;
- 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.
- Journalize the terms of the updated case plan.

Juv. R. 37

Recording of Proceedings

Restrictions on Use of Recording or Transcript

The court must make a record of adjudicatory and dispositional proceedings in abuse, neglect, dependency, unruly, and delinquency cases, permanent custody cases and proceeding before magistrates. In all other proceedings a record shall be made upon request of a party or upon motion of the court. The record shall be taken in shorthand, stenotype, or by any other adequate mechanical, electronic, or video recording device.

No public use shall be made by any person, including a party, of any juvenile court record, including the recording of a transcript of any juvenile court hearing, except in the case of an appeal or as authorized by order of the court or by statute.

Juv. R. 38

Voluntary Surrender of Temporary Custody Voluntary Surrender of Permanent Custody Permanent Custody Agreement and Case Plan

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 the approval of the juvenile court. The agency may request the court to grant a thirty day extension of the original agreement. The court may grant the original extension if it determines the extension to be in the best interest of the child. A case plan shall be filed at the same time the request for extension is filed. At the expiration of the original thirty day extension period, the agency may request the court to grant an additional thirty day extension. The court may grant the additional extension if it determines the extension to be in the child's best interest. The agency shall file an updated case plan at the same time it files the request for additional extension. At the expiration of the additional thirty day extension 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.

The agreement 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. The agency may request the court to extend the temporary custody agreement for thirty days. A case plan shall be filed. 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.

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. A public children service agency shall request and a

private child placing agency may request the juvenile court to approve the permanent surrender agreement. The court may approve the agreement if it finds it to be in the best interest of the child. The agency requesting approval shall file a case plan at the same time it files its request for approval of the permanent surrender agreement.

An agreement for the surrender of permanent custody of a child to a private service agency need not 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.

One year after the agreement 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.

Juv. R. 39

Out of County Removal Action and Removal Hearing

Upon the filing of a removal action (a statutory action filed by the superintendent of a school district for the removal of a child in an out-of-county foster home placement), 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 a notice of the removal hearing. The court that issued the original dispositional order shall respond within five days after receiving the request.

Notice of the removal hearing shall be sent at least five days before the hearing to:

- The court issuing the dispositional order;
- The guardian ad litem;
- Counsel for the child;
- The placing entity;
- The custodian entity;
- The complainant;
- The guardian ad litem and counsel presently representing the child in the court that issued the original dispositional order;
- Any other persons the court deems to be appropriate.

Juv. R. 40

Magistrates Appointment

Compensation
Authority
Proceedings in Matters Referred to Magistrates
Magistrate's Order
Motion to Set Aside Magistrate's Order
Magistrate's Decision
Findings of Fact and Conclusions of Law
Objection to Magistrate's Decision
Judgment

Juv. R. 40 details the rules relating to the appointment of magistrates. The rule itemizes the cases that can be heard by magistrates

The court may appoint one or more magistrates who must be attorneys at law admitted to practice in Ohio.

The compensation of magistrates shall be fixed by the court, and no part of the compensation shall be taxed as costs.

Magistrates may:

- Determine any motion in any case, except a case involving the determination of a child's status as a serious youthful offender;
- Conduct the trial of any case that is not a jury trial, except the adjudication of a case against an alleged serious youthful offender;
- Upon written unanimous consent of the parties, preside over the trial of a case that will be tried to a jury, except the adjudication of a case against an alleged serious youthful offender;
- Exercise any other authority vested in magistrates by statute.

Magistrates are authorized to regulate all proceedings as if by the court and to do everything necessary for the efficient performance of those responsibilities, including but not limited to:

- Issuing subpoenas;
- Ruling upon the admissibility of evidence;
- Putting witnesses under oath and examining them;
- Calling the parties to the action and examining them under oath;
- Imposing appropriate sanctions for civil or criminal contempt.

The court may refer a particular case or matter or a category of cases or matters to a magistrate by a specific or general order of reference or by rule. A court may limit a reference by specifying or limiting the magistrate's powers, including but not limited to, directing the magistrate to determine only particular issues, directing the magistrate to

perform particular responsibilities, directing the magistrate to receive and report evidence only, fixing the time and place for beginning and closing any hearing, or fixing the time for filing any magistrate's decision on the matter or matters referred.

A magistrate may enter orders without judicial approval if necessary to regulate the proceedings and if not dispositive of a claim or defense of any party. A magistrate's order shall be in writing, identified as a magistrate's order in the caption, signed by the magistrate, filed with the clerk, and served upon all the parties or their counsel. A magistrate's order includes any of the following:

- Pretrial proceedings
- Discovery proceedings
- Appointment of attorneys or guardians ad litem
- Taking a child into custody
- Detention hearings
- Temporary orders
- Extension of temporary orders
- Summons and warrants
- Preliminary conferences
- Continuances
- Deposition orders
- Orders for social histories, physical or mental exams
- Proceedings upon application for the issuance of a temporary protection order
- Other orders as necessary to regulate the proceedings

Any party may file a motion with the court to set aside a magistrate's order. The motion shall state the moving party's reasons with particularity and shall be filed not later than ten days after the magistrate's order is filed. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order, though the magistrate or the court may by order stay the effectiveness of a magistrate's order.

A magistrate must prepare and file a written magistrate's decision. A magistrate's decision may be general unless findings of fact and conclusions of law are timely requested by a party or otherwise required by law. A request for findings of fact and conclusions of law shall be made before the entry of a magistrate's decision or within seven days after the filing of a magistrate's decision. If a request for findings of fact and conclusions of law is timely made, the magistrate may require any or all of the parties to submit proposed findings of fact and conclusions of law.

A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen day period. If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. If a party makes a timely request for findings of fact and conclusions of law, the time for filing objections

begins to run when the magistrate files a decision that includes findings of fact and conclusions of law.

An objection to a magistrate's decision shall be specific and state with particularity all grounds for objection.

An objection to a factual finding shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available. The objecting party shall file the transcript or affidavit with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause.

A magistrate's decision is not effective until and unless it is adopted by the court.

Whether or not objections are timely filed, a court may adopt or reject a magistrate's decision in whole or part, with or without modification. A court may hear a previously-referred matter, take additional evidence, or return the matter to the magistrate.

If one or more objections to a magistrate's decision are timely filed, the court shall rule on those objections. In ruling on objections, the court shall undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law. Before so ruling, the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.

The court may enter a judgment either during the fourteen days permitted for objections or after the fourteen days have expired. If the court enters a judgment during the fourteen days permitted for objection, the timely filing of objections to the magistrate's decision shall operate as an automatic stay of execution of the judgment until the court disposes of those objections.

The court may enter an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections where immediate relief is justified.

Juv. R. 42

Consent to Marry

Application Where Parental Consent is Not Required

Application Where Female Pregnant or Delivered of Child Born Out of Wedlock

When a minor desires to get married and has no parent, guardian, or custodian whose consent to the marriage is required by law, the minor shall file an application under oath

in the county where the female resides requesting that the judge of the juvenile court give consent and approbation in the probate court for such marriage.

Where a female is pregnant or delivered of a child born out of wedlock and the parents of such child seek to marry even though one or both of them is under the minimum age prescribed by law, such persons shall file an application under oath in the county where the female resides requesting that the judge of the juvenile court give consent in the probate court to such marriage.

Upon receipt of an application under subdivision © of Juv. R. 42, the court shall set a date and time for hearing and shall direct that an inquiry be made as to the circumstances surrounding the applicants.

If neglect or abandonment is alleged in an application and the address of the parent is known, the court shall cause notice of the date and time of hearing to be served upon such parent.

If the court finds that the allegations in the application are true, and that the granting of the application is in the best interest of the applicants, the court shall grant the consent and shall make the applicant a ward of the court.

A certified copy of the judgment entry must be transmitted to the Probate Court.
