



# Juvenile Division

# Local Rules of Court

JUDGE ROBERT C. DELAMATRE

Effective November 12, 2013

ERIE COUNTY JUVENILE COURT  
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Sandusky, OH 44870  
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COURT STAFF :

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|--------------------------------------|---------------------|
| Judge.....                           | Robert C. DeLamatre |
| Senior Magistrate.....               | Bruce Croteau       |
| Magistrate .....                     | Greg McGory         |
| Court Administrator.....             | Shirley Hohler      |
| Director of Court Services.....      | Tammy Barbato       |
| Drug Court Coordinator /Intake ..... | Mary Bower          |
| Business Manager.....                | Julie Fidler        |
| Superintendent of Corrections.....   | Krista Collins      |

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## GENERAL PROVISIONS

### **Rule 1. Adoption and Amendment of Rules**

The Erie County Juvenile Court hereby promulgates and adopts the following rules of practice pursuant to authority under Article IV, Section 5(B) of the Ohio Constitution and Rule 5 of the Rules of Superintendence for the Courts of Ohio. These rules are effective November 1, 2013 and may be amended from time to time as necessary. These rules shall be known as the Rules of Practice of the Erie County Juvenile Court and maybe cited as “Erie Juv. R. \_\_\_\_\_”.

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

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

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

### **Rule 3. Hours of the Court**

Offices of the Erie County Juvenile Court located at 323 Columbus Avenue, Sandusky shall be open Monday through Thursday from 8:00 a.m. to 4:00 p.m. and Friday from 8:00 a.m. to 5:00 p.m. The Court will be closed on all legal holidays as determined by the Erie County Commissioners.

### **Rule 4. Servicemen’s Civil Relief Act**

Actions involving a person on active duty in the Armed Forces of the United States may require application of the Servicemen’s Civil Relief Act, Public Law 108-109, 117 State. 2835. The Court, in its discretion, may continue the case to accommodate a scheduled leave.

### **Rule 5. Courtroom Decorum**

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

Cellular telephones, pagers, radios, compact disc or cassette players, headphones, and other electronic devices shall be prohibited and not utilized except by consent of the Court.

All parties and witnesses shall wear appropriate attire. The following are not appropriate: excessively revealing attire, bare feet, cutoffs, tank tops, crop tops, and visible undergarments. All hats should be removed before entering the Courtroom.

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

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

Counsel and parties shall act in a professional and respectful manner. Argument shall be directed to the Court and not to opposing counsel or parties.

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

## **Rule 6. Appearances**

Any juvenile summoned to appear as an alleged Delinquent child, alleged Unruly child, alleged Juvenile Traffic Offender or alleged Juvenile Tobacco Offender shall appear and be accompanied by a parent, custodian or guardian, unless otherwise notified by the Court.

Any person summoned to appear before the Court who fails to do so may be punished as in other cases for contempt of Court.

## **Rule 7. Magistrates**

Pursuant to Rule 40 of the Rules of Juvenile Procedure, Rule 19 of the Rules of Criminal Procedure, Rule 53 of the Civil Rules of Procedure and Ohio Revised Code Section 2151.16, the Magistrates are empowered and authorized to conduct hearings, make orders, and render decisions in any case assigned to the Magistrates.

# **RECORDS**

## **Rule 8. Court Records**

8.1 Inspection of Case Files. The following records are confidential and shall not be made available to the public, including any party to the case:

- (a) Child abuse, neglect and dependency investigative records. O. R. C. § 5153.17 and O. R. C. § 2151.421(H)(1);
- (b) Confidential law enforcement investigatory records. O. R. C. § 2151.141(B)(2)(b);
- (c) Victim impact statements. O. R. C. § 2152.19(D)(3);
- (d) Records relating to parental notification of abortion proceedings. O. R. C. § 2151.85(F) and O. R. C. § 149.43(A)(1)(c);
- (e) Fingerprints or photographs of a child arrested or taken into custody. O. R. C. § 2151.313;
- (f) Sealed or Expunged juvenile adjudications or arrests. O. R. C. § 2151.358; and
- (g) All confidential records maintained in the Court's unofficial files, including the following:
  - (1) Court-ordered diagnostic assessments, mental and physical examinations;
  - (2) Records and reports of the probation department;
  - (3) Guardian ad Litem reports;
  - (4) CASA Guardian ad Litem reports;
  - (5) Drug/alcohol assessments;
  - (6) School records and reports;
  - (7) Traffic records; and
  - (8) Reports from community agencies serving the Court.

All other records are contained in the Court's case file. The case file may be reviewed by the parties or their attorney. Exhibits properly introduced and admitted at a trial or hearing shall be maintained separately by the Clerk's Office.

8.2 Copies of Case Files. The Judge, as ex-officio Clerk of the Juvenile Court, is responsible for all pleadings and papers filed. No records shall be taken from the Court without the Court's permission. Copies of all pleadings and journal entries of record shall be available for counsel or representing any party to a case or to a pro se party. The clerk shall provide copies as requested, excepting official transcripts. Copies shall be provided during regular business hours within a reasonable time as determined by the clerk based upon the extent of the request. A fee for photocopying may be charged as the Court may determine from time to time.

## **Rule 9. Pleadings**

All pleadings, motions, judgment entries and memoranda filed with the Court shall contain and comply with the following:

- (a) Name, address, telephone number and Supreme Court registration number of counsel;
- (b) Current address of all parties to the action on original and post-judgment pleadings.
- (c) All documents must be typed or legibly printed on 8 ½ by 11-inch paper with sufficient space for file stamp to appear.
- (d) When reference to Juvenile Forms (Juve. Form) or to model forms (see Rule 32.4) is made in these rules, those forms or similar documents shall be accepted by the Court as compliant with said rules.
- (e) All pleadings and other documents filed in this Court shall include the full name of juveniles and all other parties. The use of initials to replace any name will not be permitted

without permission of the Court. Any decision submitted for publication, as well any public presentation or other publicly disseminated information will be redacted by using initials.

**Rule 9.01 - Use of electronically produced ticket.**

- (A) **Authorization.** The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Erie County Common Pleas Court, Juvenile Division. The electronically produced ticket shall conform in all substantive respects to the "Ohio Uniform Traffic Ticket" set forth in the Ohio Traffic Rules' Appendix of Forms. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall serve the defendant with the defendant's paper copy of the ticket as required by Rule 3(E) of the Ohio Traffic Rules
- (B) **Form of Affidavit.** In every case in which an electronically produced ticket is used and filed, the ticket shall use forms that are substantially similar to Form 29.01-A (Court record) and Form 29.01-B (Abstract).
- (C) **Applicability.** The purpose and scope of this rule is limited to the use and filing of a ticket and filing of a ticket other than an e-ticket or paperless ticket.

**Rule 10. Motions**

All motions, unless made during a hearing or trial, shall be made in writing in accordance with Juvenile Rule 19 and Juvenile Rule 22, unless otherwise permitted by the Court. All motions shall state with particularity the grounds and shall clearly state the relief or order sought.

**Rule 11. Record of Hearing**

11.1 Official Record. A complete record of all testimony or other oral proceeding shall be made in all official cases by means of an audio or audiovisual recording device provided by the Court. Any party may provide a Court reporter at his/her own expense to make a record of any proceeding before the Court.

11.2 Inspection of the Audio or Audiovisual Record. Any person who is a party to a case as defined by the Juvenile Rules or that person's attorney or guardian ad litem may request to listen to or view the record made in a case. The judge, the Court administrator, or the magistrate may authorize such requests.

11.3 Transcription of the Record. If a request for a transcript is made for purposes of appeal or for purposes of objections filed pursuant to Juvenile Rule 40, the person seeking the transcript shall be responsible for selecting an appropriate Court reporter to transcribe the record. All original transcripts shall be filed by the official Court reporter with the clerk and shall thereby become the official record of the case.

11.4 Request for Copy of Recording of Proceedings. A party or counsel may request a copy of the recording be provided for the sole purpose of filing objections to a Magistrate's

Decision. Said request shall be made by filing a request and judgment entry (Juve. Form 1 and 2).

## **Rule 12. Deposit of Costs**

12.1 Deposit Required When. The Erie County Juvenile Court requires a security deposit for costs in the filing of any original action, except complaints alleging a child is delinquent, unruly, neglected, dependent, abused, or a juvenile traffic or tobacco offender, petition for juvenile civil protection orders and in criminal actions filed against adults. The amount of the security deposit will be established in the Court's fee schedule.

12.2 Inability to Pay Costs. If a litigant claims inability to either pre-pay or give security for costs, the litigant shall complete an Affidavit of Poverty (Juve. Form 3) required by *O. R. C. § 2323.30 and O. R. C. § 2323.31*, substantiating such inability, all of which shall be filed with the pleadings and treated as other papers in such case. Said Affidavit (Juve. Form 3) will be reviewed by the Court to determine whether to waive the deposit, and said determination is subject to review and revision by the Court at any stage of the proceedings.

## **Rule 13. Deposit for Fees of Guardian Ad Litem**

Any party requesting appointment of a Guardian Ad Litem in a proceeding involving custody, parenting time or visitation shall, at the time of the filing of the motion, deposit with the Clerk the sum of \$1,000.00, to be applied toward the satisfaction of the Guardian Ad Litem fees. The Court will address the request for a Guardian Ad Litem at the next scheduled hearing. The Court may require additional deposits by any party and reassess said fees to any party at any time during the proceedings.

## **Rule 14. Filing by Facsimile**

14.1 "Facsimile transmission" means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits, and reconstructs the signals to print a duplicate of the source document at the receiving end. "Facsimile machine" means a machine that can send and receive a facsimile transmission either as a stand alone device or as part of a computer system.

14.2 Applicability. The following documents will not be accepted for fax filing:  
(1) any pleading which requires an accompanying filing fee;  
(2) any pleading that exceeds ten (10) pages, including attached exhibits;  
(3) any complaint; and  
(4) pleadings in specialized juvenile proceedings, including but not limited to parental by-pass, petitions for protection orders.

14.3 Original Filing. A document filed by fax shall be accepted as the establishing the original filing time and date. The person making a fax filing shall file any original source document with the Clerk of Court shall be filed with the Court, as a separate document, not



later than five (5) Court days following the filing of the facsimile document. Failure to file as required by this paragraph may result in the Court striking the document and/or exhibit.

14.4 Cover Page. The person filing a document by fax shall also provide therewith a cover page containing the following information:

- (a) Name of the Court;
- (b) Title of the case;
- (c) The case number;
- (d) Title of the document being filed (e.g. Complaint for Custody, Motion to Modify Support);
- (e) Date of transmission;
- (f) Transmitting fax number;
- (g) Number of pages in the transmission, including the cover page;
- (h) Name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document, if available. If a document is sent by fax to the Juvenile Court, without the cover page information listed above, the document will not be filed.

The Juvenile Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk may inform the sending party of a failed fax filing. Burden of confirming receipt of a fax filing is on the sending party.

14.5 Signature. A party who wishes to file a signed source document by fax shall either:

- (a) fax a copy of the signed source document; or
- (b) fax a copy of the document without the signature but with the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.

A party who files a signed document by fax represents that the physically signed source document is in her/his possession or control.

14.6 Exhibits. Each exhibit to a facsimile-produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the Court otherwise orders, the missing exhibit shall be filed with the Court, as a separate document, not later than five (5) Court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the Court striking the document and/or exhibit. Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the Court, title of the case, the case number, name of the judge and the title of the exhibit being filed and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this Court.

14.7 Time of Filing. All documents sent by fax and accepted by the Clerk shall be considered filed with the Juvenile Court as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The Juvenile Court will be deemed open to receive facsimile transmission of documents on the same days and at

the same time the Court is regularly open for business. The Juvenile Court may, but need not, acknowledge receipt of a facsimile transmission.

The risk of transmitting a document by fax to the Juvenile Court shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk through whatever technological means are available.

14.8 Fees and Costs. No document filed by facsimile requiring a filing fee shall be accepted by the Clerk. No additional fee shall be assessed for facsimile filings.

14.9 Length of Document. Facsimile filings shall not exceed ten (10) pages in length including attached exhibits. The filer shall not transmit service copies by facsimile.

### **Rule 15. Publication by Posting**

Pursuant to Ohio Juvenile Rule 16(A), service by publication shall be made by posting, unless otherwise ordered by the Court.

Upon request, the Clerk may post service in a conspicuous place in the Courthouse and in the following public place within the county:

- 1.) Erie County Department of Jobs and Family Services, 221 West Parish Street, Sandusky, Ohio; and
- 2.) Erie County Office Building, 2900 Columbus Avenue, Sandusky, Ohio

The notice shall contain the same information required to be contained in a newspaper publication. The notice shall be posted in the required locations for seven consecutive days. The clerk 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 and shall obtain a certificate of mailing. 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, the clerk shall cause the summons and accompanying pleadings to be mailed to the corrected or forwarded address.

After the seven days of posting, the clerk shall note on the docket where and when notice was posted. Service shall be complete upon the entry of posting.

### **Rule 16. Jury Demand**

The Court shall hear and determine all cases involving Juveniles without a jury, except for the Adjudication of a serious youthful offender complaint, indictment, or information in which a trial by jury has not been waived.

In cases where an adult has been charged with a criminal offense in the Juvenile Court, the Defendant is entitled to a jury trial pursuant to Criminal Rule 23(A). An adult charged with a misdemeanor offense may demand a jury in writing, which demand shall be filed no later than thirty (30) days prior to the date set for trial or before the third (3rd) day following the receipt

of the notice of the date set for trial, whichever is later. A Defendant's failure to demand a jury trial as stated in this rule shall be deemed a complete waiver of the rights thereto.

**Rule 17. Reserved**

## HEARINGS

**Rule 18. Counsel of Record**

Each attorney retained to represent a party in the Juvenile Court shall immediately file a written Entry of Appearance with the Court, and provide a copy of the Entry to all other counsel of record in the case and any unrepresented parties. Upon the filing of an Entry of Appearance, the attorney or his/her firm will be considered counsel of record until such time as a Judgment Entry of Withdrawal is approved by the Court and filed in the case.

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

**Rule 19. Withdrawal of Counsel**

An attorney seeking to withdraw as counsel of record shall timely file a written motion stating the grounds for withdrawing from the case; that the attorney has notified or made every possible attempt to notify the client of the intended action, the subsequent hearing dates, and the necessity of the client's appearance at such hearings; and that the attorney has notified opposing counsel of the intended action.

The Court may deny said request but reconsider same upon the Entry of Appearance of new counsel or upon the written consent of the party affected.

**Rule 20. Appointment of Counsel**

20.1 Appointment List. The Court shall maintain a list of appointees qualified to serve in the capacity designated by the Court. Any attorney in good standing and licensed to practice in the State of Ohio may submit his/her name for consideration on the appointment list. The Court may consider the skill and expertise of the appointee in the designated area of the appointment and the management by the appointee of his or her current caseload. The Court may maintain separate lists for different types of appointments.

20.2 Fees and Expenses. Reimbursement for assigned counsel fees shall be made in accordance with the Resolution of the Board of the Erie County Commissioners in effect at the time the legal services are performed and up to the maximum amounts stated in the Resolution. Applications for fees which are greater than the maximum allowed by the Ottawa County Fee Schedule for Assigned Counsel must be accompanied by a Motion for Extraordinary Fees and a proposed Judgment Entry. Fees and expenses for representation shall be submitted to the Court on the forms established by the Office of the Ohio Public Defender within sixty (60) days of final disposition. Applications for fees submitted after 90 days shall not be paid.

## **Rule 21. Guardians Ad Litem**

All requests to Appoint a Guardian Ad litem shall be made to the Court at the earliest opportunity. For appropriate cases, subject to availability, the Court shall consider appointing a CASA trained GAL. All other requests shall be made from a list of appointees qualified to serve in the capacity as a GAL. Qualifications include, but are not limited to, appropriate training approved by the Supreme Court of Ohio or training through an approved CASA program. The Court may consider the skill and expertise of the appointee in the designated area of the appointment and the management by the appointee of his or her current caseload.

## **Rule 22. Continuances**

All requests for continuances shall be made in writing and shall provide verification that other counsel or pro se parties have been contacted and whether they have objections to a continuance. If a continuance is requested because an attorney is already scheduled to be in another Court of record, proof of such prior assignment shall be attached to the Motion for Continuance.

All motions for continuances shall state the reasons for the request and shall be filed with the Clerk's Office no later than 14 days before the hearing sought to be continued and served upon all other parties. Upon good cause shown, said 14-day period may be waived. Said motions shall be accompanied by a proposed judgment entry ordering the reassignment of said case in the event the motion is granted, as well as a space to deny said request.

## **Rule 23. Exhibits**

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

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

When evidence requires the use of other devices to be seen or heard, the proponent of the evidence bears the responsibility for producing such equipment or device at the hearing. The following Court equipment may be utilized subject to availability through prior arrangement with a Court officer: DVD player, video monitor, computer interface for video display, video conferencing and dry erase board.

## **Rule 24. Hearing Closure**

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

The right of a victim to attend a hearing pursuant to R. C. 2930.09, the right of a foster parent, relative or prospective adoptive parent to attend a hearing pursuant to R. C. 2151.424, and the right of any other person who has a lawful right to attend a hearing shall be preserved.

## **Rule 25. Request to Observe and Report on Court Proceedings.**

25.1 Public. Any member of the public, not a party to the matter, may request to attend and observe proceedings before the Court. Said request shall be made orally or by written motion and shall be subject to approval by the Court after inquiry of and waiver of closure requests by all involved parties and/or counsel. Any person so permitted shall be subject to removal as determined by the Court if proceedings are disrupted in any way. Because of the limited space available in the courtrooms, the Court reserves the right to consider space, required occupancy and safety issues when determining any such request.

25.2 Media Requests. Any member of the media may request to attend and observe proceedings before the Court. Said request shall be made by filing a Media Request and Judgment Entry, Juve. Form 3 and 4, prior to the scheduled hearing before the Court. Said request shall be determined after inquiry of the parties and their counsel and subject to their request for closure of said hearing. Any member of the media requesting relief from the conditions in the Court form shall make a request for a hearing at least 3 days before the involved hearing unless said time is waived upon good cause shown. Because of the limited space available in the courtrooms, the Court reserves the right to consider space, required occupancy and safety issues when determining any such request.

## **Rule 26. Judgment Entries**

The Court may order or direct any party to prepare a judgment entry. When so ordered, the party shall prepare a proper judgment entry and submit it to the opposing party within 14 days, unless the time is extended by the Court. The opposing party shall have 10 days in which to approve or reject the judgment entry. If the opposing party fails to take any action on the judgment entry within 7 days, the preparer shall submit the entry with the notation, "Submitted but not returned" with certification of the date opposing party was served with said entry.

In the event of rejection or if the parties are unable to agree, each may prepare his/her version for consideration. The Court may:

(a) Sign the entry that it deems a proper statement of the parties' agreement or the Court's decision;

- (b) Prepare its' approval; or own entry without submitting same to counsel for review;
- (c) Schedule the matter for further hearing.

If no entry is furnished to the Court within 21 days of the Court's decision, upon notice of such failure to the parties and their counsel, the Court may:

- (a) Dismiss the action for want of prosecution;
- (b) Order the Clerk to enter judgment; or
- (c) Make such other Order as deemed appropriate under the circumstances.

Consent judgment entries may be presented to the Court on or before the date of hearing. In the event the parties notify the Court that an agreement has been reached the parties shall appear and read the agreement onto the record, the entry shall be submitted within 14 days of the hearing date.

### **Rule 27. Juvenile Restraints**

No child appearing before the Court for any hearing shall be in physical restraints unless, the Judge or Magistrate, after hearing, makes a specific determination that:

- (a) There is no less restrictive alternative to the use of physical restraint; and
  - (1) The use of physical restraint is necessary because the youth presents a significant threat to the safety of themselves or other persons in the courtroom; or,
  - (2) There is a significant risk the youth shall flee the courtroom.
- (b) Any party, including court personnel, shall have the right to request a hearing on the issue of whether or not the use of physical restraint is necessary for the youth in the pending matter.
- (c) In the event that restraint is found to be necessary, the youth's writing hand shall be unrestrained while in the courtroom to allow for assistance in their defense to any charge.
- (d) All physical restraints utilized during the transportation of the youth shall be removed in the bailiff's waiting area, unless the use of restraints in the courtroom has been approved.

## DELINQUENCY, UNRULY AND JUVENILE TRAFFIC OFFENSE CASES

### **Rule 28. Diversion of Cases**

(1) Pursuant to Juvenile Rule 9(A), if the best interests of the child and of the public require, a matter may be referred to unofficial status and the child subject to the complaint referred to diversion, in lieu of formal Court action. The Intake Director, Director of Court Services, Probation Officer, a Magistrate or the Judge may refer a matter for diversion.

(2) Unofficial cases considered by the Court shall not be subject to the other provisions of these rules.

(3) Unofficial cases shall not be part of the permanent record of the child and shall be removed from the child's file when he/she is no longer subject to the jurisdiction of the Juvenile Court. No person, except for Court staff, shall have access to records of unofficial matters, without the consent of the Court.

(4) Cases that might otherwise qualify for diversion may remain in an official status where there are multiple offenders not all of whom are eligible for diversion or where family or other circumstances indicate that the best interests of the child and the public are not served by a referral to diversion and unofficial status.

### **Rule 29. Waiver of Counsel**

A Youth appearing before the Court requesting to waive their right to counsel shall do so in writing by Juve. Form 5, after inquiry and approval from the Court.

### **Rule 30. Competency Proceedings**

30.1 General Purpose: The purpose of these rules is to expedite proceedings under sections 2152.51 to 2152.59 of the Revised Code, to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under these sections.

30.2 Expedited Hearings: Juvenile competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or by this rule.

30.3 Notice: Upon the conclusion of each hearing, the court shall provide written notice to the prosecuting attorney, the child's attorney, the child's guardian ad litem, and the child's parents, guardian, or custodian of the date, time and place of the next scheduled hearing. Mailed notice shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.

30.4 Stay of Proceedings: Upon the filing of a motion for a determination regarding a child's competency or upon the court's own motion the court shall stay all delinquency proceedings pending a determination of competency. If, upon a determination of competency, the court determines that the child is not competent but could likely attain competency, the court order staying the delinquency proceedings shall remain in effect until such time as the child attains competency or the proceeding is dismissed.

### **Rule 31. Specialized Dockets**

31.1 Establishment of Specialized Dockets: For the purposes of decreased recidivism and increased family stability, the Court has established Specialized Docket programs.

#### 31.2 Family Dependency Treatment Court:

(A) Pursuant to Superintendence Rule 36.20 to 36.29 Specialized Dockets, the Court hereby creates Solid Foundations, a Family Dependency Treatment Court. This specialized docket has been in operation since May 2003. The mission of Solid Foundations is to provide parents with substance dependence an opportunity through an intensive, individualized, judicially supervised treatment program to develop a safe, sober, self-sufficient lifestyle; to protect and support the children during the process; to preserve or reunify families, and to provide permanency for the children. The program goals include reduction in the time children are in an out of home placement, reduction in the length of time it takes an individual to enter the program, increase in the number of participants who complete treatment and integrate their treatment knowledge into their lifestyle and improvement in the living circumstances of participants through education, employment, stable housing and routine medical care.

(B) Referral forms for Solid Foundations are available from the Drug Court Coordinator. A referral may be submitted by the Department of Job and Family Services, Prosecutor, Defense Counsel, Treatment Provider, Law Enforcement, an individual wishing to participate in the program, family member or any other interested party. Individuals wishing to participate must meet the legal eligibility guidelines which include the following: a parent in a pending abuse, neglect or dependency case, a resident of Erie County, a willingness and ability to participate in treatment, a willingness to develop a sober support system, an acknowledgement that drugs and or alcohol have had a negative impact in their lives and a willingness to abstain from future use. An individual with a history of serious violent criminal acts, a history of serious physical abuse or sexual abuse of a child and current allegations of serious physical abuse or sexual abuse are not eligible for the program. Individuals who have a history of drug trafficking and misdemeanor or felony convictions will be considered on a case by case basis. Individuals wishing to participate must also meet the clinical eligibility guidelines which include the following: individual must meet the criteria for chemical dependency, display problems that interfere with a combination of work, school, family, health, legal or social concerns and the individual must be able to actively participate in the program.



(C) An individual, who wishes to participate in the program, meets the eligibility criteria and who is approved by the Judge will begin the orientation phase immediately upon approval. Solid Foundations is divided into four phases: Compliance, Engagement, Self-sufficiency and Maintenance. The program is designed to last from 36 to 82 weeks depending on participant's progress. During the program, a participant will have an individualized treatment plan to meet their individual needs. All participants will receive random drug screens, drug alcohol treatment, mental health treatment, case management services, and wrap around services. A Participant may also receive life skills coaching, education and job training services and such other assistance that is deemed necessary by the treatment team. A participant will be expected to obtain and maintain a sober support system, stable housing, employment and/or participate in an educational program and develop a reasonable financial plan to provide for themselves and their children. Complete programs details are available in the Solid Foundations Program Description, Participant Handbook and Program Agreement which are incorporated by reference.

(D) Unsuccessful program termination is determined on a case by case basis taking into consideration program participation and compliance with program requirements. A participant may be terminated unsuccessfully from the program for one or more of the following: refusal to follow program requirements, a pattern of noncompliance and/or resistance to program requirements, charged with a new criminal charge that is a felony offense of violence, raises concerns about safety of other participants and staff or is a misdemeanor offense of violence with injuries to victim, charged with a probation violation, engage in a pattern of criminal behavior or committed a major and/or serious program violation. The abuse, neglect or dependency case will proceed in the traditional manner under the law. A participant's actions and behaviors while participating in Solid Foundations may be presented in the traditional case. Unsuccessful termination may have a negative impact on the participant in the traditional case.

A participant may receive a neutral discharge from the program if it is determined that the participant can no longer comply with the program requirements due to a change in circumstances. The abuse, neglect or dependency case will proceed in the traditional manner. A participant's actions and behaviors may be presented in the traditional case.

### 31.3 Juvenile Drug Court

(A) Pursuant to Superintendence Rule 36.20 through 36.29 Specialized Dockets, the Court hereby creates Juvenile Success Division, a post-dispositional Juvenile Drug Court. The specialized docket has been in operation since April 2005. The mission of Juvenile Success Division is to strengthen families and the community by assisting court-involved youth experiencing issues with substance abuse to become accountable, responsible, productive citizens through a judicially supervised, comprehensive, individualized, strength based program. The program goals include reduction in substance use by program participants, reduction in unruly and delinquent behaviors by program participants, increase in the number of

participants who complete treatment and integrate their treatment knowledge into their lifestyle, improvement of educational outcomes for program participants and to improvement in family relationships for program participants.

(B) Referral forms for Juvenile Success Division are available from the Drug Court Coordinator. A referral may be submitted by a Magistrate, Probation Counselor, Diversion Counselor, other Juvenile Court Staff, Erie County Department of Job and Family Services, Prosecutor, Defense Counsel, Treatment, Law Enforcement, School Officials, Family Members, youth or any other agency working with the youth. Individuals wishing to participate must meet the legal eligibility guidelines which include the following: youth must be a resident of Erie County and have a case pending in Erie County Juvenile Court. Youth with an adjudication a delinquency by reason of committing a sex offense, drug trafficking or an offense involving a firearm are not eligible for the Program. Youth with an adjudication involving a felony offense of violence or youth with identified gang involvement will be considered on a case by case basis. Individuals wishing to participate must also meet the clinical eligibility guidelines which include: youth must be drug dependent or otherwise identified as high need by treatment provider and youth must be able to actively participate in the program.

(C) A youth, who wishes to participate in the program, meets the eligibility criteria and who is approved by the Judge will begin the program within 7 days of approval. Juvenile Success Division is divided into four Phases: compliance, engagement, using my new skills and moving forward. The program is designed to last 32 weeks. During the program, participant will have an individualized treatment plan to meet their individualized needs. All participants receive random alcohol/drug screens, drug alcohol treatment, mental health treatment, thinking errors program, thinking for a change program, probation supervision and wrap around services. A participant may also receive additional services if determined necessary by the treatment team. Participant's parent or guardian will also have an individualized plan for services to assist parent with any parenting or other family needs to assist in caring for participant. Parent or Guardian will be required to attend Parent Project. Complete program details are available in the Juvenile Success Division Program Description, Participant Handbook and Participant Agreement which are incorporated by reference.

(D) Unsuccessful program termination is determined on a case by case basis taking into consideration program participation and compliance with program requirements. A participant may be terminated unsuccessfully from the program for one or more of the following: refusal to follow program requirements, a pattern of noncompliance and/or resistance to program requirements, charged with a new delinquency charge that is a felony offense of violence, raises concerns about safety of other participants and staff or is a misdemeanor offense of violence with injuries to victim, engaged in a pattern of delinquent behavior or committed a major

and/or serious program violation. The Court may consider participant's actions and behaviors while participating in Juvenile Success Division when making further dispositional orders in current or future cases involving youth.

A participant may receive a neutral discharge from the program if it is determined that the participant can no longer comply with the program requirements due to a change in circumstances. The Court may consider any actions or behaviors by the participant during the program in making further dispositional orders regarding participant.

## ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES (CUSTODY, PARENTING TIME AND MOTION TO SHOW CAUSE)

### **Rule 32. Commencement of the Case**

32.1 Commencement. Before commencing an action for custody, parenting time, allocation of parenting rights and responsibilities, or modifications to and enforcement of existing orders of such nature, the person filing the complaint must make a good faith effort to identify the true and accurate names of the child, mother, father or fathers, and any other person who has a legal interest in the proceeding.

32.2 Documents Required At Filing. Original actions shall be initiated by sworn complaint. Requests to modify pre-existing orders shall be by motion. All documents must be typed or legibly printed on 8 ½ by 11-inch paper with sufficient space for file stamp to appear. A completed copy of the following documents must be filed with the complaint or motion:

- (a) Parenting Proceeding Affidavit (Juve. Form 6)
- (b) Affidavit of Income and Expenses (Juve. Form 7)
- (c) Request for Service (Juve. Form 8)

32.3 Filing Fee. The party initiating the action shall submit the filing fee at the time of filing. If the party is indigent and unable to pay the fee, the clerk may accept the filing if accompanied by an affidavit of indigence (Juve. Form 9). The judge or magistrate shall review all affidavits of indigence. If a party's financial status changes during the course of the proceedings, the party is under a duty to inform the Court. The Court may order subsequent payment of the filing fee.

32.4 Model Forms. Parties are encouraged to use the model forms adopted by this Court and which are included in the appendix of these rules. Said forms are also available at the Court's website ([www.eriecounty.oh.gov](http://www.eriecounty.oh.gov)) and from the Court upon request. These forms have been adapted from the Supreme Court of Ohio Uniform Juvenile and Domestic Relations forms which are available at [www.supremecourt.ohio.gov](http://www.supremecourt.ohio.gov). Other forms adopted by the Supreme Court of Ohio as Uniform Forms shall be accepted as applicable.

## **Rule 33. Mediation**

### **33.1 General Information.**

(a) After service of summons in an action filed in Juvenile Court requesting custody, parenting time or other child related matters, any party or the Court may request that the parties participate in Mediation. The decision to refer parties to Mediation will be made by the Judge or assigned Magistrate.

(b) Mediation will not be used as an alternative to the prosecution or adjudication of domestic violence nor will it be used to determine whether to grant a protective order, or to determine the terms and conditions of a protective order, or to determine the penalty for violation of a protective order.

(c) When a case is referred to Mediation, all parties will be allowed to participate in the process, and if the parties wish, their attorneys are allowed to participate in the process. The Court will notify the parties and non-party participants of the referral and will advise the parties of their right to attend Mediation with legal counsel and of their right to waive presence of legal counsel, which may be rescinded at any time.

(d) If an agreement is reached as a result of mediation, the parties may submit an agreed entry to the Court for approval within thirty (30) days.

### **33.2 Qualifications and Training for Juvenile Court Mediation.**

(a) Generally, the Court will assign cases to the Court's Mediation/Diversion staff. If Court staff are unavailable or upon request of any party the Court may approve independent mediators who have completed the training as set forth in the Local Rules.

(b) General Qualifications .An independent Mediator to whom the Court approves for Mediation of custody; allocation of parental rights and responsibilities; the care of, the visitation with minor children; or abuse, neglect, and dependency cases, must satisfy all of the following:

(1) Possess a law degree and an active license to practice law in the State of Ohio, is in good standing, and has at least two (2) years of professional experience with families. "Professional experience with families" includes counseling, case work, legal representation in family law matters, juvenile law, or such other equivalent experience satisfactory to the Court.

(2) Complete at least twelve (12) hours of basic mediation training or equivalent experience as a Mediator that is satisfactory to the Court.

(3) After completing the basic mediation training, complete at least forty (40) hours of specialized family or divorce mediation training that is provided by a training program approved by the Dispute Resolution Section in accordance with standards established by the Supreme Court Advisory Committee on Dispute Resolution.

(c) Specific Qualifications and Training, Abuse, Neglect and dependency Cases. In addition to the requirements of Local Rules of Practice and Procedure, a Mediator to whom the Court makes referral for mediation of abuse, neglect or dependency cases must satisfy both of the following:

(1) Possess experience in mediating family disputes;

(2) Complete at least thirty-two (32) hours of specialized child protection mediation training through either a formal training session or through a mentoring program approved by the Dispute Resolution Section in accordance with the standards established by the Supreme Court Advisory Committee or Dispute Resolution.

(d) Aspiration Standards. Mediators providing services for the Court shall comply with the Model Standards of Practice for Family and Divorce Mediation, and the Special Policy Considerations for the State Regulation of Family Mediators and Court Affiliated Programs as set forth in Rule 16 of the Supreme Court of Ohio Rules of Superintendence for the Courts of Ohio.

### 33.3 Domestic Violence.

#### (a) Screening.

(1) Before referring a case to Mediation, the Court will review the complaint, all case filings and all facts and allegations presented during the course of the case to determine if domestic violence or fear of violence is alleged, suspected or present in the case. A case will not be referred to Mediation for the purpose of determining any of the prohibited issues set forth in Local Rules of Practice and Procedure. 33.1(b).

(2) After a case is assigned to Mediation, the assigned Mediator will review all of the filings, facts and allegations presented during the course of the Mediation proceeding to determine if domestic violence or fear of violence is alleged, suspected or present. If the Mediator makes the determination that domestic violence or fear of violence is alleged, suspected or present, and it appears the Mediation is being used to determine any of the prohibited issues set forth in Local Rules of Practice and Procedure 33.1 (b), the case will be returned to the docket of the referring Judge or Magistrate.

(3) When domestic violence or fear of violence is alleged, suspected or present, the Court or Mediator will encourage the victim or suspected victim of domestic violence to obtain legal counsel and will encourage indigent parties, including the victim or suspected victim of domestic violence, to engage other support services.

(4) When domestic violence or fear of violence is alleged, suspected or present, Mediation on issues other than those prohibited under Local Rules of Practice and Procedure 33.1 (b), may proceed only if the assigned Mediator has specialized training as set forth in Local Rules of Practice and Procedure 33.2(c), and the Court determines that all of the following conditions are satisfied:

a. The person who is or may be the victim of domestic violence is fully informed about the Mediation process and his or her right to decline participation in the Mediation process;

b. The person who is or may be the victim of domestic violence is informed he or she has the option to have a support person present at all sessions;

c. The parties have the capacity to mediate without fear of coercion or control;

d. That appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence; and

e. That procedures are in place for issuing written findings of fact, as required by ORC 3109.052, to refer certain cases involving domestic violence to Mediation.

### **Rule 34. Parenting Time (Visitation and companionship)**

34.1 Parenting Time Generally. No specific schedule will satisfy the changing needs of both children and parents over the years. Critical to the success of any schedule is that each parent be flexible, based upon the changing needs of a child as the child grows older and becomes involved in different activities. It is the Court's view that a specific parenting time order is in the best interests of children, in most cases. The Court has adopted a "Standard Schedule for Parenting Time" which provides for the minimum amount of parenting time which the Court considers reasonable, in most cases. However, this schedule may or may not be appropriate in any given case. It is recognized that each situation and each child is different, and it is preferred that parents attempt to tailor the parenting schedule to meet the specific needs of their children. Parties may agree to, and the Court may approve, more or less parenting time than that provided for in this standard schedule. However, any agreement regarding parenting time must contain specific times and dates for parenting time.

The Court has adopted a Standard Schedule for Parenting Time (Juve. Form 10). The Court has also adopted a Standard Schedule for Parenting Time-Long Distance for those who live over 250 miles apart. (Juve. Form 11). Anytime a Judgment Entry orders parenting time in accordance with these schedules, a copy of this form shall be attached to and incorporated into the Judgment Entry.

APPENDIX:

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|---------------|--|
| Juve. Form 1  | Request for Recording of Proceedings               |
| Juve. Form 2  | Judgment Entry for Recording Request               |
| Juve. Form 3  | Media Request                                      |
| Juve. Form 4  | Judgment Entry for Media Request                   |
| Juve. Form 5  | Waiver of Counsel                                  |
| Juve. Form 6  | Parenting Proceeding Affidavit                     |
| Juve. Form 7  | Affidavit of Income and Expenses                   |
| Juve. Form 8  | Request for Service                                |
| Juve. Form 9  | Affidavit of Indigency                             |
| Juve. Form 10 | Standard Schedule for Parenting Time (Visitation)  |
| Juve. Form 11 | Standard Schedule for Parenting Time-Long Distance |

Model Forms:

|              |  |
|--------------|--|
| Model Form 1 | Complaint for Parentage, Allocation of Parental Rights and Responsibilities (Custody), and Parenting Time (Companionship and Visitation) |
| Model Form 2 | Motion for Change of Parental Rights and Responsibilities (Custody) and Memorandum in Support  |
| Model Form 3 | Motion for Change of Parenting Time (Visitation) and Memorandum in Support   |
| Model Form 4 | Motion for Change of Child Support, Medical Support, Tax Exemption, or Other Child-Related Expenses and Memorandum in Support            |
| Model Form 5 | Motion For Contempt and Affidavit  |
| Model Form 6 | Show Cause Order, Notice and Instructions to the Clerk   |