

**17A JUDICIAL DISTRICT
JUVENILE COURT LOCAL RULES**

ABUSE / NEGLECT/ DEPENDENCY CASES

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**17A JUDICIAL DISTRICT
LOCAL RULES FOR JUVENILE COURT**

Abuse / Neglect / Dependency Cases

Rule 1. SCOPE

These rules apply to all cases in which a petition is filed alleging that a Juvenile is abused, neglected or dependent, and in proceedings for termination of parental rights. These rules are to be used in conjunction with the North Carolina General Statutes. The rules cited herein are available for downloading on the website of the Administrative Office of the Court at: www.nccourts.org.

Rule 2. PURPOSE

These rules establish procedures for Juvenile Court, which are designed to fulfill the purposes of the North Carolina Juvenile Code and related statutes and the Adoption and Safe Families Act. To that end, these rules serve the following purposes:

- 1) To help achieve a safe and appropriate placement for the child when removal from the child's parent or legal custodian is necessary and in the child's best interests;
- 2) To provide a just, thorough, speedy and efficient determination of juvenile protection matters before the court and ensure due process for all persons involved in the proceedings;
- 3) To ensure a coordinated decision-making process;
- 4) To reduce unnecessary delays in court proceedings; and
- 5) To encourage the involvement of parents and, when appropriate, juveniles in the proceedings.

Rule 3. CONSTRUCTION AND ENFORCEMENT

These rules shall be construed to accomplish the purposes set forth in Rule 2. The Court may impose sanctions against a party or attorney who fails to comply with these rules, however, no rule shall be construed, applied or enforced in a manner that will endanger or harm a child or prejudice the rights of a party.

Rule 4. APPOINTMENT OF COUNSEL

- A. The Clerk shall maintain a current list of attorneys eligible to be appointed to represent parents of juveniles alleged to be abused, neglected or dependent and in termination of parental rights procedures. To be included on the list an attorney

must have a telephone number at which they can be contacted and maintain a mailbox in the Clerk's Office of the Rockingham County Courthouse.

- B. When a petition is filed alleging abuse, neglect or dependency, the Clerk shall appoint separate counsel to represent each parent named in the petition. The Clerk shall prepare a "Summons" to be served on the parent with the petition. The summons shall include the attorney's name, business address, and telephone number and shall direct the parent to contact the attorney. The summons shall also inform the parent:
 - 1) that the parent may retain counsel of his/her own choosing;
 - 2) that the court, at the first hearing, will determine whether the parent qualifies for appointed counsel and, if the parent does, whether the parent waives the right to counsel;
 - 3) that the court will dismiss the appointed counsel if the parent does not qualify for appointed counsel, the parent retains counsel, or the parent waives the right to counsel;
- C. Before appointing a specific attorney, the clerk shall confirm that the attorney has not filed for secure leave or notified the clerk in advance of unavailability for the date scheduled for the Child Planning Conference and the first hearing in the case and, to the best of the attorney's knowledge, for every stage of the proceeding. The clerk may make this determination either by talking with the attorney or by pre-arrangement with one or more attorneys on the appointment list.

Rule 5. RESPONSIBILITIES OF PARENT ATTORNEYS

- A. To qualify for appointment to represent parents, attorneys must satisfy the court;
 - 1) that they have sufficient experience and skills to provide competent representation;
 - 2) that they have a good working knowledge of juvenile law and juvenile court procedures;
 - 3) that they have a good understanding of Child Welfare Services and the related mandates that apply to the DSS and the Guardian ad Litem;
 - 4) that they have completed satisfactorily any initial and continuing training specified by the Chief District Court Judge;
 - 5) that they have met with the Court Improvement Project Director prior to being appointed as a parent attorney.
- B. After a parent's attorney enters an appearance or accepts an appointment in a case, he or she shall represent the parent through all stages of the proceedings as long as the child continues within the jurisdiction of the Court. Leave of Court to withdraw from a case shall only be granted for compelling reasons.
- C. An attorney who represents a parent in a case scheduled for hearing shall appear at calendar call which is handled by the DSS Attorney at 9:00 AM unless excused by the Court or by agreement of all other parties. Juvenile Court shall have priority among the other District Courts for purpose of calendar calls. An attorney who has

a conflict in another court shall comply with the relevant rules relating to priority and, when absent from juvenile court because of a conflict, shall keep the Courtroom Clerk informed of his or her location at all times.

- D. Attorneys shall timely notify the Juvenile Court Clerk of any Continuing Legal Education, secured leave, or other court conflicts. The attorney should not accept the appointment of a case if they are unable to attend the Child Planning Conference.

Rule 6. APPOINTMENT OF GUARDIAN AD LITEM

- A. Appointment of a Guardian ad Litem (GAL), in accordance of N.C.G.S. 7B-601, for the child named in the petition shall occur upon the filing of a petition alleging abuse or neglect. When a child is alleged to be dependent, the court may appoint a GAL.
- B. The GAL and the attorney advocate have the responsibility to represent the child in all stages of the court process. The appointment shall terminate when the permanent plan has been achieved for the child and approved by the court.
- C. A GAL shall be appointed in accordance with the provisions of G.S.1A-1, Rule 17, to represent a parent who is under the age of 18 and who is not married or otherwise emancipated. The appointment of a GAL under this subsection shall not affect the minor parent's entitlement to a GAL pursuant to G.S. 7B-601 in the event the minor parent is the subject of a separate juvenile petition. G.S. 7B-602(b).
- D. The court may appoint a GAL for a child's parent in accordance with G.S. 1A-1, Rule 17, if the court determines that there is a reasonable basis to believe that the parent is incompetent or has diminished capacity and cannot adequately act in his or her own interest. G.S. 7B-602(c).

Rule 7. RESPONSIBILITIES OF GUARDIAN AD LITEM AND ATTORNEY ADVOCATE

- A. The duties of the Guardian ad Litem program shall be to make an investigation to determine the facts, the needs of the child, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; to conduct follow-up investigations to insure that the orders of the court are being properly executed; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile until relieved of the responsibility by the court. G.S. 7B-601(a).

Rule 8. SERVICE: SUMMONS AND PETITION; NOTICE OF HEARING

- A. From the date the petition is filed until the adjudication hearing, the petitioner shall have a continuing duty to identify and locate any parent or other respondent who has not been served with a copy of the summons and petitions.
- B. All petitions, Summons, Notice of the date and time of the Child Planning Conference, Notice of the Non-Secure Hearing, and other documents relevant to the proceedings shall be served in accordance with the N.C.G.S. 7B-406 through 7B-413. The Summons, in accordance with N.C.G.S. 7B-407, shall be served upon the parent, custodian, or caretaker, not less than five (5) days prior to the scheduled hearing. The service may be waived in the discretion of the court.
- C. It is the responsibility of the parent and the DSS to notify the Juvenile Clerk of Court of any change of address of the parent and child until a permanent plan has been achieved for the child and approved by the court. The DSS will provide the Clerk with an updated list of addresses and placement providers no later than the first (1st) of each month.
- D. It is the responsibility of the Juvenile Clerk to provide Notice of Hearings to all Parents and or, Caretakers, Placement Providers, and children who are 12 years of age and older.

Rule 9. UCCJEA AFFIDAVIT

The information required by G.S. 50A - 209 (Uniform Child Custody Jurisdiction Act) shall be included in the petition, in an affidavit attached to and served with the petition, or in a separate affidavit filed with the court and served on the parties as soon as feasible after the petition is filed.

Rule 10. CHILD PLANNING CONFERENCE

- A. Whenever a juvenile petition is filed alleging a child to be abused, neglected, or dependent, a Child Planning Conference shall be held on the first Tuesday after the filing of the petition. If the petition is filed after 12:00 noon on Monday, the Child Planning Conference will be scheduled for the second Tuesday after the filing of the petition or as otherwise arranged to ensure all parties have been properly served and notified. The Juvenile Clerk will schedule the Child Planning Conference after consulting with the Court Improvement Project Director and will note the date, time, and location of the conference on the juvenile summons that is served on the parents. The Juvenile Clerk will notify the DSS Attorney of the conference at the time of the filing of the petition.
- B. The purpose of the Child Planning Conference is to expedite the process of establishing stability for the child by bringing all the interested parties and community resources together in a timely manner to begin the planning process for the child's well-being.

- C. It should be understood by all parties, participation in the Child Planning Conference is non-prejudicial to the parent in terms of the adjudication.
- D. The Child Planning Conference will be facilitated by the Court Improvement Project Director and will take place in a designated courtroom at the Rockingham County Courthouse. The conference may be attended by:
 - 1) the parents and the Parent Attorneys / Guardian ad Litem (if appointed);
 - 2) staff from the DSS including the DSS Attorney, Child Protective Services and Foster Care Social Workers, any DSS Supervisor, and a Child Support Agent;
 - 3) any relatives or friends of the family;
 - 4) the Guardian ad Litem District Administrator and the appointed GAL Volunteer;
 - 5) community resources including Mental Health, Youth Services, HELP, Inc./ Center Against Violence, Health Department, Juvenile Probation, Rockingham County Schools, Foster Parents or other placement providers.
- E. The Child Planning Conference covers a two hour period such as this example:
 - 9:00 to 9:30 am – Parents meet with the facilitator and view video, “The Choice Is Yours”
 - 9:30 to 10:00 am – Parents meet with the Parent Attorneys / GAL’s
 - 10:00 to 11:00 am – Conference begins with all parties present
- F. At the Child Planning Conference, the Court Improvement Project Director shall:
 - 1) introduce himself or herself and the parties;
 - 2) explain the nature of the proceeding and the purposes of the conference;
 - 3) advise all parties of the nature and extent of confidentiality for the conference;
 - 4) require all participants to sign a confidentiality agreement;
 - 5) review the adequacy of notice and service of process;
 - 6) review the names and dates of birth of the children and names and addresses of the parents for accuracy;
 - 7) attempt to ascertain the identity and whereabouts of any parent, guardian, custodian of the child who is not present, whether those persons have been served, and the steps to be taken to identify, locate, or serve any such person;
 - 8) hear information from the parties, regarding:
 - a) the conditions alleged in the petition;
 - b) the conditions or risks that precipitated the nonsecure custody order, including consideration of the results of the petitioners risk assessment;
 - c) the conditions or risks justifying nonsecure custody under N.C.G.S. 7-B-503; and

- d) the efforts made by the petitioner to prevent or eliminate the need for nonsecure custody and whether the conditions established at the time of the petition continue.
- 9) the following issues are to be covered in the conference:
- a) placement
 - b) visitation
 - c) paternity
 - d) child support
 - e) services available to the parents
 - f) risk assessment
- G. After giving all parties an opportunity to present information and to ask questions of other parties, the conference facilitator shall determine whether there is an agreement among the parties as to the need for the child to remain in nonsecure custody.
- 1) When all parties agree that the child shall remain in nonsecure custody until the scheduled adjudication hearing, the facilitator shall prepare a “Memorandum of Agreement and Consent Order” including but not limited to the following:
- a) that the Child Planning Conference constitutes the need for a hearing to determine the need for continued nonsecure custody;
 - b) the date of the Adjudication Hearing;
 - c) placement options for the child, including possible relative placements, and efforts to keep siblings together;
 - d) information concerning parental and sibling visitation and the date, time, and location of the first visit;
 - e) the date and time of the Family Team Meeting that the parent is to attend after placement;
 - f) services needed, requested and agreed upon by the parents to begin prior to the adjudication hearing;
 - g) appointment dates and times arranged for the parents with community resource providers;
 - f) specific steps the parties agree to take before the next hearing;
 - g) the date, time, and location of the Pre-adjudication Conference.
- 2) All parties will be given the opportunity to review the Memorandum of Agreement and decide whether to sign it;
- 3) The facilitator will then advise the District Court Judge who has been assigned to the case of the agreement and Memorandum of Agreement and the parties will appear before the Judge to ensure the parties understand the proposed order. This hearing before the Judge will be recorded by the Juvenile Clerk.

- 4) The facilitator then files the Memorandum of Agreement with the Juvenile Clerk and sends a copy to all parties;
- 5) If all parties agree the child does not need to remain in nonsecure custody:
 - a) the conference facilitator shall explore the following issues with the parties:
 - 1) service needs and referrals;
 - 2) specific steps the parties will take before the first hearing;
 - 3) give all parties an opportunity to ask questions;
 - 4) set a specific date for the first hearing and explain the purpose of the hearing;
 - 5) in any case in which a parent's identity or whereabouts are unknown or the paternity of the child has not been legally established, specify in writing any steps that are to be taken to identify the parent, locate the parent or establish paternity.
 - b) summarize in writing, in the form of a "Memorandum of Agreement and Consent Order" releasing the child from nonsecure custody, the basis for that agreement, including the proposed plan for the child pending a hearing;
 - c) give all parties an opportunity to review the proposed order and decide whether to sign it;
 - d) if all parties voluntarily sign the proposed consent order, the facilitator will present it as soon as possible to a district court judge, who shall conduct a hearing and shall make findings of fact to support the order of the court.
- 6) If the parties can not agree that the child needs to remain in nonsecure custody and the parents are requesting a nonsecure hearing the facilitator will:
 - a) determine with the District Court Judge assigned to the case, when the nonsecure hearing will occur;
 - b) advise all parties including the parents and their attorneys, the DSS, the GAL, and the Juvenile Clerk of the date, time, and location of the hearing;
 - c) advise all parties that the purpose of the nonsecure hearing is to determine the need for continued custody.
- 7) In the event no parent, guardian, or custodian of the child attends the Child Planning Conference, the Court Improvement Project Director may reschedule the conference for a time agreed upon by all parties.

Rule 11. TIMELINESS REQUIREMENTS: ABUSE, NEGLECT, DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS HEARINGS

The time frames for scheduling hearings will be as follows unless the Court orders otherwise for good cause.

- A. Nonsecure custody hearings – within seven (7) calendar days for a hearing on the merits or a hearing to determine the need for continued custody and hearing thereafter shall be scheduled at intervals of no more than thirty (30 days) unless waived by the parties. (N.C.G.S. 7B-506)
- B. Adjudication hearing – shall be scheduled for the earliest date and in no event more than sixty (60) days after the filing of the petition unless the Judge pursuant to G.S. 7B-803 orders that it be held at a later time. (N.C.G.S. 7B-801(c))
- C. Disposition hearing – immediately following the adjudication or within thirty (30) days thereafter unless the court orders otherwise.
- D. Review hearing – shall be held at a time the Judge designates in the dispositional order, but in no event more than ninety (90) days from the date of the dispositional hearing. In no event shall the second hearing be held more than six (6) months from the date of the first review hearing. (N.C.G.S. 7B-906)
- E. Permanency Planning hearing shall be held either:
 - 1) within twelve (12) months after the date of the initial order removing custody, and the hearing may be combined, if appropriate, with a review hearing as required by G.S. 7B-906. (N.C.G.S. 7B-907)
 - 2) within thirty (30) calendar days after the date of the hearing in which the court finds that reasonable efforts to eliminate the need for the child’s placement are not required or shall cease. (N.C.G.S. 7B-507(c))
- F. Termination of Parental Rights hearing – shall be held no later than ninety (90) days from the filing of the petition or motion unless the judge pursuant to subsection (d) of this section orders that it be held at a later time. (N.C.G.S. 7B-1109)
- G. Post Termination of Parental Rights hearing – shall be held no later than six (6) months from the date of the termination hearing or the relinquishment by the parent and within every six (6) months thereafter until the child is placed for adoption and the adoption is filed. (N.C.G.S. 7B-908)

Rule 12. NON-SECURE CUSTODY HEARINGS

Nonsecure custody hearings shall be held as provided by N.C.G.S. 7B-506 See Rule 11.A. above for timing of the hearing.

- A. The Child Planning Conference can take the place of the Nonsecure Custody hearing, if all parties enter into a “Memorandum of Agreement” that is reviewed and signed by the judge and that MOA becomes an order of the court.

- B. A nonsecure custody hearing can be requested by any party in the case prior to the Adjudication hearing.
- C. The purpose of the nonsecure hearing is to hear sworn testimony from the parties aimed at determining:
 - 1) whether a condition or risk justifying continued nonsecure custody exists under N.C.G.S. 7B-503;
 - 2) what efforts the petitioner has made to eliminate the need for nonsecure custody;
- D. If the judge finds that continued custody is necessary, the judge may review or explore with the parties the following:
 - 1) the appropriateness of the child’s placement and other placement options, including possible relative placements and efforts to place or keep siblings together;
 - 2) any efforts needed to ensure that a school-aged child’s school placement is not disrupted;
 - 3) visitation for the child with parents and siblings;
 - 4) services needed;
 - 5) financial support for the child;
 - 6) whether additional orders are needed to address the child’s immediate needs, such as an immediate need for medical treatment or clinical evaluation;
 - 7) any steps that a parent, the DSS, or the GAL needs to take before the next scheduled hearing to facilitate permanence for the child.
- E.. If the judge finds that continued custody is not warranted, the judge may explore with the parties:
 - 1) services needed;
 - 2) any steps that a parent, the DSS, or the GAL needs to take before the next scheduled hearing to facilitate permanence for the child.
- F. The judge will ensure that a Pre-adjudication conference has been scheduled for the parties with the Court Improvement Project Director.

Rule 13. PREADJUDICATION / DISPOSITION CONFERENCES

There shall be a preadjudication / disposition conference held in all cases where a petition has been filed alleging abuse, neglect, and dependency prior to the adjudication hearing.

- A. The preadjudication / disposition conference shall be scheduled:
 - 1) at the Child Planning Conference, or
 - 2) at the Nonsecure Custody hearing, if necessary
- B. The conference will be facilitated by the Court Improvement Project Director.

- C. At a minimum, the conference shall include the parents attorney, the DSS attorney, and the GAL District Administrator. The judge shall not be a party to this Conference.
- D. The conference will be held no less than seven (7) days prior to the adjudication hearing and may not be waived unless counsel for all parties so stipulate in writing, and the court approves the stipulation.
- E. The purpose of the conference shall be to explore the possibility of settlement, to narrow the issues as much as possible, to stipulate those facts that are not in dispute, to insure full sharing of information, and to allow the fullest opportunity for negotiation in the best interest of the child by all parties.
- F. At or before the conference, each party shall provide to all parties a written list of all prospective witnesses and exhibits and copies of all available listed exhibits intended for use at the adjudication and disposition hearings. Any listed exhibit that is not available for distribution at or before the conference shall be distributed as soon as it is available. The listed exhibits do not require any further authentication.
- G. At the conference the facilitator shall assist the parties in:
 - 1) sharing witness lists, exhibit lists, and exhibits;
 - 2) defining the issues;
 - 3) identifying matters that can be stipulated and make stipulations, and
 - 4) considering any proposed consent order.
- H. At the conclusion of the conference, the facilitator shall prepare an agreement in the form of a “Preadjudication Order” reflecting the outcome of the conference. All parties will be given the opportunity to review and sign the agreement prior to the adjudication hearing. This agreement will be presented to the judge on the date of hearing.

Rule 14. DISCOVERY

- A. Orders: Discovery of the records is available by use of a discovery order either by consent of the parties or by order of the court after hearing.
- B. Access: The GAL Attorney, the DSS Attorney, and any party with a discovery order may have access to any records subpoenaed (including videotapes) intended to be used as an exhibit when received by the Court.
- C. Timeliness: Requests for discovery shall be made in a manner to not delay scheduled hearings and shall not serve as a ground for continuance for other than good cause found by the court.

Rule 15. STIPULATIONS IN ABUSE, NEGLECT AND DEPENDENCY

The court can accept stipulations in adjudication and dispositional hearings:

- A. If the parties agree to stipulate to certain findings, conclusions, and/or provisions of the court's decree, the court shall determine, before accepting the stipulation in open court, that the parties understand the content and consequences of the stipulation, including the possibility that the child may be removed permanently from the home or that their parental rights may ultimately be terminated, and that they voluntarily consent to the stipulation. The Court's findings shall be set forth on the record. A party's nonresistance to entry shall be deemed as a stipulation.
- B. In lieu of stipulation, in order to protect the parent's constitutional rights or for any reason, a parent may choose not to resist the entry into evidence of the petition, court summary, medical reports, or other documents forming the basis of an adjudication. A statement that a party does not resist the findings / stipulations shall be deemed a sufficient finding of fact. Further, a parent may choose not to resist a determination by the court that a juvenile is abused, neglected, and/or dependent.

Rule 16. ADJUDICATION HEARING

Adjudication hearings shall be held within sixty (60) days from the filing of the petition, unless the judge, for good cause, orders that it be held at a later time as provide by N.C.G.S. 7B-801 (c).

- A. At any hearing the court, in its discretion, shall determine whether the hearing or any part shall be closed to the public. N.C.G.S. 7B-801 (a).
- B. The adjudication hearing shall be designed to adjudicate the existence or nonexistence of any of the conditions alleged in the petition. N.C.G.S. 7B-802.
- C. The allegations in the petition shall be proved by clear and convincing evidence. N.C.G.S. 7B-805.
- D. If the court determines that the allegations in the petition have been proven, the court shall so state. If the court finds that the allegations have not been proven, the court shall dismiss the petition and if the child is in nonsecure custody, the child shall be released to the parent, custodian, or caretaker. N.C.G.S. 7B-807 (a).

Rule 17. DISPOSITIONAL HEARINGS

The dispositional hearing shall be held immediately following the adjudication or within thirty (30) days thereafter unless the court orders otherwise.

- A The court may consider written dispositional reports or other evidence that is believed to be relevant, reliable, and necessary to determine the needs of the child and the most appropriate disposition. (See Rule 27 regarding reports)

The court shall not review the report prior to adjudication unless the parties have settled all adjudication issues or unless the parties otherwise agree.

- B. At the conclusion of the hearing, the judge shall determine the date of the first review hearing.

Rule 18. REVIEW HEARINGS

When a child remains in the jurisdiction of the court following the original disposition hearing, a review hearing shall be held at a time the judge designates in the disposition order, but in no event more than ninety (90) days from the date of the dispositional hearing. Thereafter, if the child remains out of the home following a review hearing, another review hearing shall be held at a time the judge designates in the review hearing order, but in no event more than six (6) months from the date of the previous review hearing. N.C.G.S. 7B – 906.

- A. The goal of each hearing is to achieve permanency for the child.
- B. The DSS and the child’s GAL shall make available copies of the Review Court Report to the parent attorneys, the Juvenile Clerk, and to each other, no later than seven (7) days prior to the scheduled review hearing.
 - 1) this rule contemplates that review reports may be required to be updated as of the date of the review hearing in order to reflect matters that have occurred during the interim.
 - 2) the contents of the report is listed in Rule 27.E.
- C. At least three (3) days prior to the review hearing, any party or attorney shall deliver in writing to the DSS attorney, the GAL, and all other parties any and all of the party’s disagreements with or objections to the DSS or GAL written court summary.
- D. The party who files any additions and/or objections bears the burden of producing evidence at the subsequent review hearing.

Rule 19. PERMANENCY PLANNING HEARINGS

The court shall conduct an intensive permanency planning of each case where custody is removed from a parent, guardian, custodian, or caretaker, within twelve (12) months after the date of the initial order removing custody, and the hearing may be combined with the review hearing. Subsequent permanency planning hearings shall be held at least every six (6) months thereafter, or earlier as set by the court.
N.C.G.S. 7B-907.

- A. The purpose of the hearing shall be to develop a plan to achieve a safe, permanent home for the child within a reasonable time period.
- B. The DSS and child’s GAL shall make available copies of Permanency Planning Court reports as outline in Rule 16. B, C, D.

Rule 20. TERMINATION OF PARENTAL RIGHTS HEARINGS

The termination of parental rights hearing shall be conducted by the court at such time and place that the chief district court judge shall designate, but no later than ninety (90) days from the filing of the petition of motion unless ordered to be held at a later time. N.C.G.S. 7B-1109 (a)

- A. The filing and hearing of the termination of parental rights petition or motion shall be held as provided in Article 11, N.C.G.S. 7B-1100 – 1113.

Rule 21. REVIEW OF AGENCY’S PLAN FOR PLACEMENT

- A. A placement review hearing shall be held as provided according to N.C.G.S. 7B-909, for the hearing of matters in any case where:
 - 1) one parent has surrendered a child for adoption and the termination of parental rights proceedings have not been instituted against the nonsurrendering parent within six (6) months of the surrender by the other parent; or
 - 2) both parents have surrendered a child for adoption and the child has not been placed for adoption within six (6) months from the date of the more recent parental surrender.

Rule 22. POST TERMINATION OF PARENTAL RIGHTS REVIEWS

A placement review shall be held no later than six (6) months from the date of the termination of parental rights. These hearings shall be held every six (6) months thereafter until the child is placed for adoption and the adoption petition is filed. N.C.G.S. 7B-908.

- A The Court shall consider at least the following in the reviews:
 - 1) the adequacy of the plan developed by the DSS for a permanent placement relative to the child’s best interest and the efforts the DSS has made to implement such plan;
 - 2) whether the child has been listed for adoptive placement with the North Carolina Adoption Resource Exchange, the North Carolina Photo Adoption Listing Service, or any other specialized adoption agency; and
 - 3) the efforts previously made by the DSS to find a home for the child.

Rule 23. CONTINUANCES

A. Juvenile cases, including motions for review in abuse, neglect and dependency matters should be disposed at the earliest opportunity, including the first setting for hearing. Requests for continuances that are made after the first setting for hearing on the merits of the case shall only be granted for extraordinary causes.

- B. All applications for continuance shall be made to the District Court Judge who has been assigned to the case and who will be presiding over the session of court for which the case is calendared.
- C. The various levels of court should work together to try to move cases as expeditiously as possible. Age of case, subject matter, and priority of setting should be given as much primacy as the level of court when resolving court conflicts.
- D. Attorneys shall notify the court and opposing counsel of any other court conflict(s) as they become known and shall keep the court advised of the resolution of that conflict. All judges shall communicate with other judges to resolve such conflicts. In resolving court conflicts juvenile cases shall take precedence over all other district court matters.
- E. All orders for continuance should be documented in writing, and shall include the name of the moving party, and objections to the continuance, and the basis for the continuance.
- F. All motions for continuances shall be made in writing to the court as soon as a conflict is identified and all impacted (opposing counsel, unrepresented parties, subpoenaed witness, or court staff charged with subpoenaing witnesses) shall be notified as soon as possible by the moving party.
- G. All parties should have the opportunity to be heard on a motion to continue.
- H. Factors to be considered by the appropriate court official when deciding whether to grant or deny a motion for continuance should include:
 - 1) the best interests of the child;
 - 2) the opportunity to exercise the right to effective assistance of counsel;
 - 3) the age of the case and the seriousness of the charge;
 - 4) the incarceration status of the child;
 - 5) the effect on children and spouses if the issue is continued and not resolved;
 - 6) the impact of a continuance on the safety of the parties or any other persons;
 - 7) the status of the trial calendar for the session;
 - 8) the number, moving party, and grounds for previous continuances;
 - 9) the due diligence of counsel in promptly making a motion for continuance as soon as practicable and notifying opposing counsel;
 - 10) the period of delay caused by the continuance requested;
 - 11) the presence of witnesses, including the child;
 - 12) the availability of witnesses for the present session, or for a future session;
 - 13) whether the basis of the motion is the existence of a legitimate conflict with another court setting;
 - 14) the availability of counsel;
 - 15) consideration of the financial consequences to the public, the parties, the attorneys, or witnesses if the case is continued; and
 - 16) any other factor that promotes the fair administration of justice.

- I. Upon granting a motion for continuance, the judge shall reschedule the case for a specific date, taking into consideration the availability of counsel, parties, and witnesses.
- J. All court orders shall contain findings of fact sufficient to establish that the matter was continued for good cause shown.
- K. All adjudication of abuse, neglect and dependency cases should be within sixty (60) days of service of the petition. All termination of parental rights cases should be within ninety (90) days after service of the petition or motion.

Rule 24. CALENDARING

- A. The juvenile calendar for DSS cases shall be maintained by the Clerk assigned to Juvenile Court. No case shall be scheduled or removed from the calendar except by the Clerk or with the consent of the Presiding Judge.
- B. If the need arises for a nonsecure custody hearing at the Child Planning Conference, the Court Improvement Director will schedule a hearing with the judge who has been assigned to the adjudication hearing of the case. A nonsecure custody hearing can also be scheduled by the assigned judge in conjunction with the Juvenile Clerk.
- C. In an effort to have one judge hear all matters before the court for a family, any cases involving a juvenile previously adjudicated abused, neglected, dependent, delinquent or undisciplined shall be heard by the same judge who presided at the adjudication, unless circumstances otherwise require.
- D. At or before the conclusion of each hearing, the next hearing date shall be set and notice of the hearing shall be given to the parent in writing prior to them leaving court.
- E. Court calendars shall be provided to the DSS attorney, the GAL District Administrator and Attorney Advocate, and the Court Improvement Project Director no later than fourteen (14) days prior to the scheduled court date.
- F. Juvenile Court will be held on specified days each month as set forth in the District Court Assignments Calendar, a copy of which is available in the District Court Judge's Office. If additional court sessions are needed, the Chief District Court Judge will schedule them after consulting with the Juvenile Clerk and the Court Improvement Director.

Rule 25. RELEASE OF PARENT ATTORNEYS

In cases of abuse, neglect, and dependency, the parent has the right to counsel and to appointed counsel in cases of indigence unless that person waives that right. When a petition is filed alleging abuse, neglect, or dependency, the juvenile clerk shall appoint provisional counsel for each parent named in the petition. At the first hearing, the court shall dismiss the provisional counsel if the parent:

- 1) does not appear at the hearing;
- 2) does not qualify for court-appointed counsel;
- 3) has retained counsel of his/her choosing;
- 4) waives the right to counsel. N.C.G.S. 7B-602 (a)

Attorneys are appointed to cases by the Juvenile Clerk and will continue to represent the parent until the assigned judge dismisses the attorney. If at the court's discretion the attorney is released from further responsibility in the case, the attorney is not responsible for further appearances unless re-appointed by the court.

Rule 26. COURT REPORTS

The North Carolina General Statute requires only a "Predisposition" Court Report be completed in abuse, neglect, and dependency cases. The North Carolina Division of Social Services, however, in their efforts to comply with state and federal guidelines requires the completion of court reports for nonsecure, adjudication, dispositional, review, permanency planning, and post termination of parental rights review hearings. The Court will consider the information provided in each report from the DSS and the GAL which should include information specific to the purpose of that hearing. The reports shall include information about the child and family as outlined in The North Carolina Division of Social Services Family Services Manual, Volume I, Chapter X, Section X (A, B, C, D, E)

- A.** In accordance with N.C.G.S. 7B-808 whenever DSS files a petition, DSS shall prepare a **PREDISPOSITION REPORT** that shall include at least the following:
- 1) a description of the placement plan for the child and how that plan is appropriate to the needs of the child;
 - 2) a description of the plan of services for the child and their family, and how that plan is appropriate to the needs of the child;
 - 3) a statement of changes in parental behavior which are needed to correct the conditions that led to the abuse, neglect, or dependency and the actions the parents must take; and
 - 4) if there is a recommendation that the child be removed from the home, the report shall also include:
 - a) a statement of the efforts by DSS to prevent the need for placing the child outside the home;
 - b) a description of the efforts by DSS to reunify the family, including services which have been offered, provided or rejected;
 - c) a statement of why the child cannot be reasonably protected from the identified problems while remaining in the child's home;
 - d) the identity of all relatives and friends who have been contacted about providing a placement for the child;
 - e) a suggested visitation for the child with the parents and siblings;
 - f) a statement of the child's special needs and how they may be met;

- g) the identity and location of the child’s siblings and statement of steps required to maintain contact between the siblings and reunify the family.
- 5) if reunification efforts are not to be continued, reasons shall be specifically given in the report for this recommendation.
- B. The GAL for the child may also prepare a predispositional report to assist the court in reaching a disposition that will serve the needs of the child.
- C. The Court will not review the predispositional report prior to the Adjudication hearing unless the parties have settled all adjudication issues or unless the parties otherwise agree.
- D. The DSS and the child’s GAL shall make available copies of the predispositional reports to all parties and their counsel, and to each other, at or before the Preadjudication Conference. If, for any reason, a Preadjudication Conference does not occur, the reports to the parties and their counsel, and to each other, are due no later than ten (10) days prior to the scheduled Adjudication hearing. The reports will be submitted by the DSS and the GAL to the Court on the date of the hearing.
 - 1) this rule contemplates that the predispositional reports may be required to be updated as of the date of the dispositional hearing to reflect matters that have occurred during the interim.
- E. When a child remains in the custody of the DSS after the dispositional hearing, the DSS and the child’s GAL shall prepare and make available copies of the **REVIEW AND PERMANENCY PLANNING AND POST TERMINATION OF PARENTAL RIGHTS COURT REPORTS** to the parent attorneys, the Juvenile Clerk, and to each other, no later than seven (7) days prior to the scheduled review and permanency planning hearings.
- F. The North Carolina General Statutes do not require the DSS or GAL to submit a **TERMINATION OF PARENTAL RIGHTS COURT REPORT**, however, if the DSS or GAL does submit such a report, it will not be reviewed by the Judge prior to the termination of parental rights adjudication unless all parties stipulate for the report to be reviewed by the Judge prior to court. If a report is submitted, copies shall be made available to the parent attorneys, the Juvenile Clerk, and to each other, no later than seven (7) days prior to the scheduled hearing.

Rule 27. REASONABLE EFFORTS

- A. An order placing or continuing the placement of a child in the custody of the DSS, whether an order for continued nonsecure custody, a dispositional order, or a review order shall contain findings as to whether the DSS has made reasonable efforts to prevent or eliminate the need for placement of the child or whether reasonable efforts were precluded by an immediate threat or risk of harm to the juvenile unless the court has previously determined that such efforts are not required or shall cease.

- B. The DSS shall present evidence as to the need for services in the following areas on a case specific basis. The efforts made to provide those services, the availability or unavailability and the reason that services in a particular area are not provided:
- 1) general public assistance programs;
 - 2) health services;
 - 3) crisis counseling;
 - 4) emergency caretaker or homemaker services;
 - 5) cash assistance or goods to provide for the essential needs of the child on a temporary basis;
 - 6) counseling services;
 - 7) daycare;
 - 8) parent training;
 - 9) transportation;
 - 10) visitation between parents or caretakers and child as frequently as possible;
 - 11) employment and training support services
 - 12) housing and home improvement services;
 - 13) nutrition services;
 - 14) education services;
 - 15) permanency planning;
 - 16) any other services ordered by the Court.
- C. Reasonable efforts shall be reported with specificity as to the type of service and the date of delivery. The Court should also consider the response of the parents or caretakers to the services offered or provided, including attendance, level of cooperation, and demonstration of improvement.
- D. A finding that reasonable efforts have not been made by the DSS shall not preclude the entry of an order authorizing the child's placement when the court finds that placement is necessary for the protection of the juvenile. Where efforts to prevent the need for placement were precluded by an immediate threat of harm to the child, the court may find that the placement of the child in the absence of such were reasonable.

Rule 28. COURT ORDERS AND DISTRIBUTION

- A. The DSS attorney or designated attorney for the DSS shall prepare all orders, unless otherwise provided herein or instructed by the presiding judge.
- B. All orders must be filed with the Juvenile Clerk within thirty (30) days following the conclusion of the hearing. A draft of all orders shall be circulated among the attorneys involved in the proceeding prior to the submission of the original order to the Court for signature. In no event, shall an order be entered later than thirty (30) days following the hearing unless for good cause shown.

- C. All orders are filed with the Juvenile Clerk and placed in the juvenile's file. A copy of the order is mailed to the parent's attorney, the parent, and the GAL Administrator by the DSS Attorney. If the parent is not represented by an attorney and the parents address is known, a copy will be mailed to the parent.

Rule 29. TRANSLATORS

- A. Any court hearing shall not proceed unless a language translator is present when it is determined that such is needed. The need for translator will be determined by the Court Improvement Project Director or presiding judge having initial contact with the client.
- B. If it is determined a translator is needed the Juvenile Clerk or the Court Improvement Project Director will make the arrangements.
- C. Preference in securing a translator's services for the court process will be given to those translators who are certified by the Administrative Office of the Courts.

Rule 30. WRITS

If a parent is detained in a jail, prison, or detention center and requests to be present at a Juvenile hearing concerning their child, it is the responsibility of the parents attorney to advise the Juvenile Clerk of this request. The Juvenile Clerk will complete an Application and Writ of Habeas Corpus Ad Testificandum and submit it to a District Court Judge for their approval or denial of the request. If the request is approved, the Juvenile Clerk will then submit it to the Department of Corrections for them to carry out the order. The parent will then be brought before the Court on the specified date and time.

RULE 31. PRIORITY OF JUVENILE COURT

Juvenile cases involving abuse, neglect, and dependency cases have priority over district court matters in accordance with the provisions of Rule 3.1 of the General Rules of Practice for the Superior and District Courts.

Rule 32. ET. SEQ. RESERVED FOR FUTURE RULES

These Rules as Revised are effective on December 1, 2010.

Original Effective Date: These Rules shall apply to all petitions filed on or after March 1, 2006, and shall apply to all pending matters as of April 15, 2006.

Last review: May 1, 2009

APPENDEIX A

AOC FORMS

- A.** JUVENILE PETITION AOC-J-130
- B.** ORDER FOR NONSECURE CUSTODY AOC-J-150
- C.** UCCJEA AFFIDAVIT AOC-CV-609
- D.** JUVENILE SUMMONS AND NOTICE OF HEARING AOC-J-142
- E.** WRIT OF HABEAS CORPUS AD TESTIFICANDUM AOC-G-112

APPENDEIX B

LOCAL FORMS

- A.** Child Planning Conference
 - 1) Confidentiality Statement and Agreement to Participate
 - 2) Placement Possibilities
 - 3) Memorandum of Agreement
- B.** Prehearing Conference
 - 1) Pre-Adjudication Hearing Conference Order

APPENDEIX C

DSS FORMS

- A.** Court Reports
 - 1) Dispositional and Review Hearings
 - 2) Permanency Planning Hearings
 - 3) Post Termination of Parental Rights Hearings