

# **15B District Juvenile Court Local Rules for Delinquency/Undisciplined Hearings**

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## **15B District Juvenile Court Local Rules for Delinquency/Undisciplined Hearings**

### **Rule 1. Scope**

These Rules apply to all cases in which a petition is filed alleging that a juvenile is delinquent or undisciplined and to cases locally supervised through the Department of Juvenile Justice and Delinquency Prevention Interstate Compact on Juveniles.

### **Rule 2. Purpose**

These local Rules establish procedures for Juvenile Court, which are designed to fulfill the purposes of the North Carolina Juvenile Code, NC General Statutes Chapter 7B-1500. To that end, these Rules are intended:

- 1) To help the Court oversee case planning;
- 2) To make Juvenile Court and its proceedings accessible and understandable to families and children;
- 3) To encourage the involvement of families and children in the decision-making process;
- 4) To promote the integration of services for the parents and children involved in hearings and to increase their access to community resources;
- 5) To eliminate unnecessary delays in Court proceedings and
- 6) To help the parties present issues and evidence to the Court in a timely, efficient and concise manner.

### **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. Definitions**

Unless the context clearly requires otherwise, the following definitions apply:

- 1) **Chief Court Counselor** — The person responsible for administrations and supervision of juvenile intake, probation and post-release supervision in each Judicial District, operating under the supervision of the Department of Juvenile Justice and Delinquency Prevention.
- 2) **Clerk** — Any Clerk of Superior Court, acting Clerk or Assistant or Deputy Clerk.
- 3) **Court** — The District Court division of the General Court of Justice.

- 4) **Court Counselor** — A person responsible for probation and post-release supervision to juveniles under the supervision of the Chief Court Counselor.
- 5) **Delinquent Juvenile** — Any juvenile who, while less than sixteen (16) years of age, but at least six (6) years of age, commits a crime or infraction under State Law or under an Ordinance of Local Government, including violation of the Motor Vehicle Laws.
- 6) **“DJJDP”** — The Department of Juvenile Justice and Delinquency Prevention created under Article 12 of Chapter 143B of the General Statutes.
- 7) **Detention or Secure Custody** — The secure confinement of a juvenile under a Court order in a facility operated by DJJDP.
- 8) **Dentition Facility** — A facility approved to provide secure confinement and care for juveniles. Dentition facilities include both State and Locally administered detention homes, centers and facilities.
- 9) **DSS** — The Orange or Chatham County Department of Social Services.
- 10) **Intake Counselor** — A person who screens and evaluates a complaint alleging that a juvenile is delinquent or undisciplined to determine whether the complaint should be filed as a petition.
- 11) **Interstate Compact on Juveniles** — An agreement ratified by the 50 states and the District of Columbia, providing a formal means of returning a juvenile who is an absconder, escapee or runaway to the juvenile’s home state and codified in Article 28 of the Chapter.
- 12) **Juvenile** — Any person who has not reached the person’s eighteenth (18<sup>th</sup>) birthday and is not married, emancipated or a member of the Armed Forces of the United States. Wherever the term “juvenile” is used with reference to rights and privileges, that term encompasses the attorney for the juvenile as well.
- 13) **Movant** — Any individual, agency or other interested party that files motions or motions for review.
- 14) **Petitioner** — The individual who initiates court action by the filing of a petition alleging the matter for adjudication.
- 15) **Probation** — The status of a juvenile who has been adjudicated delinquent is subject to specified conditions under the supervision of a Court Counselor and may be returned to the Court for violation of those conditions during the period of probation.
- 16) **Protective Supervision** — The status of a juvenile who has been adjudicated undisciplined and is under the supervision of a Court Counselor.
- 17) **Undisciplined Juvenile:**
  - a) A juvenile who, while less than sixteen (16) years of age, but a least six (6) years of age is unlawfully absent from school, or is regularly disobedient to and beyond the disciplinary control of the juvenile’s parent, guardian or custodian, or is regularly found in places where it is unlawful for a juvenile to be; or has run away from home for a period of more than 24 hours; or
  - b) A juvenile who is sixteen (16) or seventeen (17) years of age and who is regularly disobedient to and beyond the disciplinary control of the juvenile’s parent, guardian or custodian; or is regularly found in places where is it unlawful for a juvenile to be; or has runaway from home for a period of more than 24 hours.

## **Rule 5. Appointment of Counseling/Filing Action**

- 1) The appointment of attorneys for juvenile cases will follow the local regulations for appointment of counsel as administered by the Judicial District 15B Public Defender's office. The Juvenile Clerk shall maintain a current list of attorneys eligible to be appointed to represent juveniles alleged to be delinquent, undisciplined juveniles alleged to be in contempt of Court and parents alleged to be in contempt. To be included on the list, an attorney must maintain an office in Orange or Chatham County, have a local working telephone number at which he or she can be contacted and complete any initial or follow-up training specified by any administrative order of the Chief District Court Judge and approved by the Chief District Court Judge. Attorneys shall pick up petitions relating to delinquency and undisciplined matters from the attorney mailboxes in Clerks of Court offices, or upon making arrangements with the Juvenile Clerk, may receive copies by mail, fax or email.
- 2) Upon the filing of a petition, the Clerk shall then immediately prepare summons and subpoenas, including the notification of the attorney appointed on the summons and provide copies of petition, summons and subpoenas to the District Attorney. An attorney shall not accept appointment in a case if he or she knows any reason why he or she may not be available for a hearing within thirty days (30) of the petition filing.
- 3) Attorneys are encouraged to contact the District Attorney as soon as possible and at least the week prior to the hearing date to address any issues relevant to discovery or resolution of the case.

## **Rule 6. Responsibility of Attorneys**

- 1) Before being eligible for appointment to represent juvenile defendants, attorneys must satisfy the court;
  - a) That they have sufficient experience and skill to provide competent representation;
  - b) That they have a good working knowledge of juvenile law and Juvenile Court procedures;
  - c) That they have a good understanding of the role and responsibilities of Juvenile Court Counselors and the related mandates that apply to DJJDP;
  - d) That they have completed, satisfactorily, any initial or continuing training specified by the Chief District Court Judge or the Public Defender's office.
- 2) An attorney who represents a party in a case scheduled for hearing shall appear at the calendar call, unless excused by the Court or by agreement of all other parties. An attorney who has a conflict in another Court shall comply with the relevant rules relating to priority and it shall be the responsibility of the attorney to keep the courtroom Clerk informed of his or her location at all times. Juvenile Court shall have priority among the other District Courts for purposes of calendar calls, adjudication and disposition.

- 3) After an attorney enters an appearance or accepts an appointment in a case, he or she shall represent his or her client through all stages of the proceedings as long as the child continues within the jurisdiction of the Court. Upon written notice, Leave of Court to withdraw from a case shall only be granted for compelling reasons and only by the presiding Judge or in the alternate, the Chief District Court Judge.

## **Rule 7. Responsibility of Judge**

It is the responsibility of the presiding Judge to provide leadership in the Juvenile Court as to resource management of services for juvenile offenders. The Judge shall make every effort to inquire or have Court personnel investigate resource availability and the level of realistic acquisition of services before ordering such services.

## **Rule 8. Hearing Schedule**

- 1) Delinquent adjudications/dispositions, undisciplined petitions, contempt for parents and undisciplined juveniles, notions for review, severe custody hearing, first appearances on felony petitions and probable cause hearings shall be scheduled to be heard and calendared in advance in the appropriate county. Cases shall be scheduled at time consistent with the Juvenile Code. Orange County secure custody hearings may be heard in Chatham County and vice versa. Secure custody reviews shall be held each ten (10) calendar days, but may be waived by the juvenile's attorney.

### First Appearances for Felony Cases G.S. (7B-1808)

- a) A juvenile who is alleged in the petition to have committed an offense that would be a felony if committed by an adult, shall be summoned to appear before the Court for a **first appearance within ten (10) days of the felony petition**. If the juvenile is in secure or non-secure custody, the first appearance shall take place at the initial hearing required by G.S. 7B-1906. Unless the juvenile is in secure or non-secure custody, the Court may continue the first appearance to a time certain for good cause.

### Probable Cause G.S. (7B-2202)

- (a) The Court shall conduct a hearing to determine probable cause in all felony cases in which a juvenile was thirteen (13) years of age or older when the offense was allegedly committed. **The hearing shall be conducted within fifteen (15) days of the date of the juvenile's first appearance.** The Court may continue the hearing for good cause.

### Adjudication G.S. (7B-2403)

The adjudicatory hearing shall be held within a reasonable time in the district at the time and place the Chief District Court Judge designates.

- 2) Emergency hearings regarding secure or non-secure custody shall be scheduled on the next available Court date.

## **Rule 9. Continuances**

- 1) No extension of time or continuance beyond the time specified by statute, order, or these rules shall be granted, except for good cause. The consent of the parties, juvenile and the District Attorney, alone is not good cause for an extension or continuance. Absence of reports that are dispositional in nature may be good cause to continue the disposition, but not good cause to continue the adjudication. In considering granting a continuance, the Court should consider the availability of the parties and all witnesses, whether such continuance would promote the purposes of these rules, adhere to the statutory mandate of protecting the public, protect the rights of the parties and the best interest of juvenile and promote the ends of justice.
- 2) Whenever possible, motions for continuance shall be made in writing and served on all the parties at least five (5) days prior to the scheduled hearing. Service may be effected by hand delivery, mail, or facsimile transmission. All parties shall have an opportunity to be heard on the motion.
- 3) All orders for extension or continuance shall appear on the record or be in writing, havestate supporting reasons and set the next hearing date.

## **Rule 10. Calendar**

- 1) The juvenile calendar shall be maintained by the Clerk assigned to Juvenile Court. No case shall be scheduled on such calendar except by said Clerk or with the consent of the Presiding Judge.
- 2) Any cases involving a juvenile previously adjudicated delinquent or undisciplined, shall be heard by the same Judge who presided at the adjudication, unless circumstances otherwise require.
- 3) At or before the conclusion of each hearing, the next hearing date shall be set, if applicable.
- 4) Court calendars shall be provided to the Chief Court Counselor, the District Attorney and by fax to the appointed attorney(s) for that particular date.
- 5) At the conclusion of the calendar call, the District Attorney shall announce the order in which cases are to be called and the approximate time required to complete each case. Cases involving juveniles in secure custody, law enforcement officers, and large number of witnesses are to receive priority in scheduling. To the extent possible, the Court shall establish a schedule in order to allow attorneys, parties and witnesses to address business elsewhere while waiting for their cases to be reached. Attorneys who are excused until a certain time, shall return at that time and shall keep the courtroom Clerk informed of their location until that time.
- 6) Any attorney or unrepresented party making or filing any motions in Juvenile Court, shall, forthwith upon such filing, serve a copy of the motion upon all unrepresented parties or respondents and upon all attorneys of record; provided,

however, when the motion or other matter is being set or noticed for the same date as previously set or noticed, then the attorney or unrepresented party need serve only all unrepresented parties. The motion should include the requested Court date. As soon as practical, attorneys withdrawing or discharged from juvenile cases shall notify the new attorney of all pending reviews, motions, pre-trial conferences and other hearing dates.

- 7) After receiving notice of appointment, all attorneys in juvenile cases shall be responsible for recording and maintaining all review, motion, pre-trial and other hearing dates set by Court order or announced in open Court and need not be noticed or served as to those review, motions, pre-trial or hearing dates.

## **Rule 11. Discovery**

Attorneys are encouraged to provide all other attorneys with discoverable materials at any time upon request and without court involvement pursuant to G.S. 7B-2300. An exception may be in delinquency cases where it is likely that a case will be transferred to Superior Court. The petitioners, which includes law enforcement, school personnel Court Counselors or other interested parties are encouraged to provide attorneys with discoverable materials in misdemeanor cases at any time upon request and without Court involvement. In felony cases, discovery will be provided by the District Attorney's office, upon written request following the Court's finding probable cause or a written waiver and stipulation to probable cause by defense counsel. Petitioners have a continuing duty to inform attorneys and the District Attorney of new discoverable material brought to the attention of the petitioner after discovery has been provided. Otherwise, discovery may be obtained as outlined in Article 23 of the Juvenile Code. Any party, including the child, may file a motion to compel discovery of specific information and material. The motion shall be heard at the net session of District Juvenile Court following the date of the signed order, or earlier with the consent of all parties. Discoverable materials including witness statements, also to be provided by Court Counselor's office, as well as by the school system. If discovery is not supplied within seven (7) days before adjudication, this shall be grounds for the case to be continued with motion.

## **Rule 12. Notice to Other Agencies**

If subsequent to adjudication or disposition, it appears that the best interest of a juvenile or the community may require that the juvenile receive evaluation and/or treatment services from a public agency, the Court may schedule a hearing to determine the need of the juvenile and to consider the appropriate type and level of services required. In such cases, the Court may order the Orange-Person-Chatham Mental Health Center to form an interdisciplinary team to address such issues and report back to the Court at a designated time. In such cases that it appears that the juvenile will require out of home placement, the juvenile should be referred to the Orange-Person-Chatham At-Risk Children's Program for evaluation and services. If the juvenile cannot be served in a reasonable time by the At-Risk Children's Program and the parent/guardian is unable to pay for the juvenile's treatment, the Court may schedule a hearing to determine if the county should be responsible for the cost of treatment. In such case, the county must receive



notice regarding such hearing through the Court Attorney. Juveniles should not be placed in DSS custody for the purpose of paying for treatment costs without exhausting At-Risk Children's Program funding.

### **Rule 13. Service of Summons and Petition**

- 1) The Sheriff's office will assist in serving the summons and a copy of the petition in a manner to meet the scheduling guideline outlines in Rule 5.
- 2) From the date the petition is filed until the adjudication hearing, the petitioner shall have a continuing duty to identify and locate any parent who has not been served with a copy of the summons and petition and to have the summons and petition served on any such parent. Additionally, any motion for service by certified or registered mail shall be liberally granted. When a petition comes back unserved, it is the Clerk's responsibility to notify petitioner and DJJDP staff.

### **Rule 14. Duty of Juvenile Court Counselor and DSS in Case of a Juvenile Who May be Abused or Neglected**

- 1) Upon approval for filing a petition alleging a juvenile to be delinquent or undisciplined, the Juvenile Court Counselor shall determine whether there is reason to suspect that the juvenile is abused, neglected, or dependent. If the Juvenile Court Counselor determines that there is such reason, he or she shall immediately notify DSS, both verbally and in writing (by Court order) and document said notification in the record. The notification shall include the date of the next hearing, if such is known. If not known at the first notification, DSS shall be notified as soon as the hearing date is determined by either the Clerk or Court Counselor. Once notified, DSS will determine whether an investigation is appropriate to investigate the allegations and report its findings, if any, by letter to the petitioner, in addition to complying with the requirements of .G.S. 7B-302. DSS will follow standard procedure for investigating any allegation of abuse, neglect or dependency. If DSS substantiates the allegations, it shall inform the Court whether or not it intends to file a petition. It is presumed, DSS will undertake an investigation when a referral is received from a Juvenile Court Counselor.
- 2) If the Juvenile Court Counselor does not approve a petition for filing, he or she shall, nevertheless, determine whether there is reason to suspect that the juvenile is abused, neglected or dependent. If the Juvenile Court Counselor determines that there is such evidence, he or she shall proceed as in (1) above.

### **Rule 15. Secure Custody Hearings**

- 1) The Sheriff shall be responsible for the transportation of juveniles in custody, except that the Court Counselor shall attempt to utilize DJJDP transportation teams and the Court Counselors shall transport juveniles committed to DJJDP Youth

Development Centers. The Sheriff's office is to be given proper notice regarding transportation.

- 2) If a juvenile is placed in secure custody pending adjudication, the first secure custody hearing must be held within five (5) days of the child being placed in custody. This hearing may not be waived.
- 3) Subsequent secure custody hearings must be held within ten (10) days of the prior detention hearing, unless waived by the juvenile through counsel. 4) Juveniles may be released from custody under an Alternatives to Secure Custody Order and will be supervised during that time by a Juvenile Court Counselor. If in the judgment of the supervising Juvenile Court Counselor the juvenile violates the terms of release, the juvenile may be placed back into secure custody without further hearing until adjudication of the case.

## **Rule 16. First Appearances**

- 1) The first appearance for juveniles alleged to have committed a felony offense, must be held within ten (10) days of the filing of the petition. For juveniles held in secure custody, the first appearance will be incorporated in the child's first detention hearing.
- 2) In the summons to parent, the parent shall be informed of the date of the first appearance and ordered to appear with the juvenile. If the parent fails to appear for the first appearance, an order to show cause may be issued informing the parent of the consequences of being found in contempt for failure to appear. If the juvenile, who has been served, fails to appear at the first appearance, a secure custody order may be issued.
- 3) At the first appearance, the parties shall determine whether there will be an admission or a denial of the allegations contained in the petition. Admissions can be completed at the conclusion of the first appearance.

## **Rule 17. Probable Cause Hearings**

- 1) Probable cause hearing shall be scheduled at the first appearance and shall be held within fifteen (15) days after the first appearance, unless the Court continues the hearing for good cause (1). If probable cause is found, upon motion of the Prosecutor, or the juvenile's attorney or upon its own motion, the Court shall either proceed to transfer the hearing or set a date for that hearing.
- 2) If a motion for transfer to Superior Court is granted, the order shall specify the reasons for transfer. When the case is transferred to Superior Court, the Superior Court has jurisdiction over that felony, any offense based on the same act or transaction, or on a series of acts or transactions connected with or constituting parts of a single scheme or plan of that felony and any greater or lesser included offense in that felony.
- 3) If no request for transfer to Superior Court is made, the Court shall either proceed to an adjudicatory hearing or set a date for that hearing.

(1) “Good cause” may include that there is a regular scheduled juvenile Court date available within a reasonable period of time.

### **Rule 18. Admissions in Undisciplined and Delinquency Cases**

- 1) Undisciplined. Whether a juvenile alleged to be undisciplined admits or denies the allegations in the petition, the State shall present clear and convincing evidence for the Court to determine the facts and to adjudicate whether or not the juvenile is in fact undisciplined as alleged in the petition. In the case where a juvenile has been found to be undisciplined and is motioned to the court for violation of protective supervision, the juvenile shall be represented by counsel, appointed before the hearing date.
- 2) Delinquency. When a juvenile alleged to be delinquent desires to admit the allegations of the petition, or, with the consent of the State, desires to admit the allegations of a lesser offense, the juvenile’s attorney shall prepare a Transcript of Admission on a form to be supplied by the Clerk. The attorney shall review the transcript with the juvenile and determine that the juvenile’s admission is the product of his or her informed choice and that it is voluntary. The juvenile and his or her attorney shall then sign the form and present it to the Court at the time of the admission. The Court shall then review the form with the juvenile prior to accepting the juvenile’s admission, in order to determine the informed and voluntary nature of the admission.

### **Rule 19. Time for Disposition Hearing**

Whenever possible, the disposition shall take place immediately after adjudication. The disposition will otherwise be set before the same Judge, as soon as practicable. In cases involving a juvenile held in secure custody pending disposition, the juvenile will automatically have a hearing every thirty (30) days before the same Judge who had presided in the adjudication hearing.

### **Rule 20. Predisposition Reports for Delinquent/Undisciplined Juveniles**

- 1) After adjudication, the Juvenile Court Counselor providing intake services shall provide a summary of information gathered on the juvenile and family, obtained during the intake evaluation. As this information is gathered solely for the purpose of making a decision for approving a case for filing, it is not expected to meet the standard expected for a Court-ordered dispositional study. However, this information may be useful for determining continued Court jurisdiction and supervision. Such information should include the following:
  - a) The Risk and Needs Assessment provided by the Department of Juvenile Justice and Delinquency Prevention and required by the Juvenile Code;

- b) A summary of contact that the juvenile has had with law enforcement or the Office of Juvenile Justice, including history points, if there had been a prior adjudication;
  - c) The juvenile's willingness or ability to accept responsibility for the behavior;
  - d) The response of the parent(s) to the offense as it relates to discipline and correction;
  - e) A general description as to the juvenile's adjustment in the home, school and the community, including information obtained from other agencies;
  - f) A statement as to the family's history of utilizing community resources in the past and the present need for utilizing community resources;
  - g) A recommendation as to the need of Court services, including any conditions that the juvenile and parent(s) should follow; or
  - h) In the event that information has not been gathered or if it appears that the juvenile's needs exceed what is normally ordered in probation, to recommend that disposition be continued pending a comprehensive dispositional study.
- 2) If so ordered by the Court to conduct a dispositional study, the Juvenile Court Counselor shall provide a written report to be presented to the juvenile's attorney and the District Attorney prior to the dispositional hearing that includes information normally gathered at the intake stage and the following additional information:
- a) The results of any home study;
  - b) Information concerning both parents, including their location, their contact with the juvenile, any mental health or substance abuse history and any other relevant information;
  - c) A summary of the juvenile's court history;
  - d) A summary of services previously provided the juvenile;
  - e) The juvenile's educational history and present school placement;
  - f) A summary of evaluations completed;
  - g) A statement of evaluations needed;
  - h) A summary of appropriate community resources needed by the juvenile and their availability;
  - i) An opinion as to whether there is reason to suspect that the juvenile is abused, neglected or dependent;
  - j) The Risk and Needs Assessment;
  - k) The level of sanctions according to the dispositional grid as set forth in G.S. 7B-2507.
- 3) Should any report contain information that, in the Juvenile Court Counselor's opinion would seriously harm the juvenile's treatment or rehabilitation or would violate a promise of confidentiality, the counselor shall so inform the Court and the juvenile's attorney. The attorney shall not disclose any such information to the juvenile or the juvenile's parent(s) without the Court's permission.

## **Rule 21. Placement of Delinquent or Undisciplined Juvenile in Custody of DSS**

If the Court determine (at any stage in a proceeding) that a delinquent or undisciplined juvenile is abused, neglected or dependent and that if returned to their custodian, guardian or caretaker it will place the juvenile at risk of immediate harm, then the Court may determine that custody by DSS is appropriate. If the Court determines that the juvenile needs more adequate care or supervision, the Court may determine to place a juvenile in DSS custody. An appropriate social worker or counsel for DSS shall be notified by the presiding District Court Judge or his/her designee. Upon receipt of the notice, DSS shall acquire the right to receive notice of and to participate in all future hearings until it may be determined that custody of the juvenile with DSS is not an appropriate option. If a juvenile is placed in its custody, DSS shall receive notice of and participate in all future disposition or review hearings.

## **Rule 22. Review of Cases**

- 1) If a delinquent or undisciplined juvenile has been placed in the custody of DSS and DSS has not filed a petition alleging abuse, neglect or dependency, DSS shall schedule reviews of the placement pursuant to statute until the juvenile is removed from the custody of DSS. Any party may request an earlier review. The juvenile's parents shall receive notice of any hearing. Any such custody order may extend beyond the term of any probation or commitment. DSS shall determine whether a petition should be filed. The Juvenile Court Counselor shall notify DSS of termination of probation.
- 2) In all other cases, the Juvenile Court Counselor or the juvenile may request the Court review its disposition at any time by filing a Motion for Review with notice to parents and DSS, if appropriate. The Motion for Review shall include a statement of what community resources have been used or attempted and an explanation of why any appropriate, available resources have not been used. The Juvenile Court Counselor will make an effort to provide review reports to attorneys before review hearings.
- 3) If a juvenile alleged or found to be delinquent is in the custody of DSS, the attorney for the juvenile shall be notified of DSS hearings and provided with reports and recommendations of DSS and the Guardian Ad Litem.
- 4) If DSS is not relieved of Court-ordered responsibility, the case shall be re-docketed for further review within one year.
- 5) In any case where the County has been ordered to pay for a therapeutic placement or other services, the County Attorney will be notified of any review hearing and of the termination of the juvenile's probation.

**Court Schedule**

**Orange County**  
2<sup>nd</sup> and 4<sup>th</sup> Tuesdays  
9:00 am  
Hillsborough, NC

**Chatham County**  
3<sup>rd</sup> Thursday  
9:00am  
Pittsboro, NC

These Rules are effective on this the

\_\_\_\_\_ day of \_\_\_\_\_, 2001.

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Joseph M. Buckner  
Chief District Court Judge