

North Carolina
23rd Judicial District

In the General Court of Justice
District Court Division

Administrative Order Establishing Rules of Practice
In DSS Cases

To: District Court Judge David Byrd
District Court Judge Jeanie Houston
District Court Judge Mitchell McLean
Clerks of Superior Court in the 23rd Judicial District
DSS Directors and DSS attorneys in 23rd Judicial District
Geoff Farmer, GAL Director, 23rd Judicial District
GAL attorneys in the 23rd Judicial District
Private attorneys who represent parents in DSS cases filed in the
23rd Judicial District.

From: Chief District Court Judge Edgar B. Gregory
Date: August 22, 2005

Consistent with the authority granted to me in G.S. 7A-146, I hereby order that effective October 1, 2005, the attached rules, forms, and checklist shall be used in all Wilkes County DSS cases filed after said date as well as in all pending Wilkes County DSS cases. These said rules, forms, and checklist were developed through the hard work of the Wilkes County DSS focus group that has been meeting each month in conjunction with a grant request from the Court Improvement Project. I recently was notified that the 23rd Judicial District was selected to be a recipient of a Court Improvement grant which will be used to employ a juvenile court case coordinator for two years.

The Director of the Wilkes County DSS or his designee shall complete the attached form entitled "DSS Juvenile Court Stats" by the end of every quarter beginning with October 1, 2005, and send the completed form by mail to the Chief District Court Judge of the 23rd judicial District. The Directors of the Ashe, Alleghany, and Yadkin County DSS shall be send the attached statistical report form for the quarters beginning with January 1, 2006, to the Chief District Court Judge of the 23rd Judicial District.

The attached rules, forms, and checklist shall be effective as of June 1, 2006, in all pending DSS cases in Ashe, Alleghany, and Yadkin

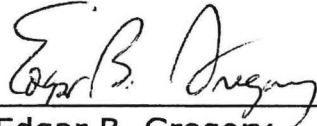
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Administrative Order relating to DSS cases

Counties as well as in all new DSS cases filed on or after June 1, 2006.

In the attached forms and rules, references may be made to Wilkes County or to phone numbers of the Wilkes County Clerk of Court or to Wilkes County DSS attorney Paul Freeman. These forms should be modified so as to reflect the correct county, correct phone numbers, and the name of the correct DSS attorney, as the case may be.

ENTERED in chambers in Wilkesboro, North Carolina, on the 22nd day of August, 2005.



Edgar B. Gregory
Chief District Court Judge
23rd Judicial District

cc: Ms. Lana Dial
NC-CIP Office
P.O. Box 2448
Raleigh, North Carolina 27602

Attachments:

- (1) DSS Court Review Notification
- (2) Rules (pages 1 through 3) regarding Scheduling, timeliness, DSS Court Summaries, Objections and Additions, Ministerial Orders, DSS responsibilities, and Clerk responsibilities.
- (3) 23rd Judicial District Juvenile Court checklist –Purpose and Instructions
- (4) 23rd District Juvenile Court Checklist
- (5) DSS Hearing Notification Form
- (6) DSS Juvenile Court Stats

DSS Court Review Notification

This form shall be attached to the DSS court Summary and given to attorneys of record (21 days prior to hearing date)

Case Name:

File #

Court Date:

Copy's given to: Mothers Attorney: List Name:
Fathers Attorney: List Name:
GAL Office

This section is to be completed by above listed attorney and returned to Paul Freeman (DSS Attorney) at least 7 days prior to scheduled court date.

I have received the DSS court summary in the above named case.

I have spoken with my client and they are in agreement with the DSS recommendations.

I have spoken with my client and they disagree with the DSS recommendations, and have the following specific objections.

List Objections:

The parent is not at liberty to travel. **List Reason:**

The parent is incarcerated/rehab/hospitalization in a facility that is greater than 50 miles from the court and this prohibits knowing my clients wishes. I have notified the Clerk of Court and requested that a writ be issued for the parent to be transported to court.

I have not been contacted by the parent and therefore will be making a motion to continue/withdraw from the above listed action.

I have not received enough information to formulate a response at this time.

Date

Signature

Scheduling/Appointment of Counsel. At the end of the adjudication/review hearing, the date for the next statutorily mandated review shall be announced in open court and reflected in the court order. The parents or other parties shall give the clerk their current address in open court and will be advised that they should inform the clerk immediately of change of that address. The DSS attorney shall file a request of reappointment of temporary counsel for the review no less than 28 days prior to the hearing date. Court appointed attorneys representing parents shall be released as attorneys of record upon completion of any hearing and reappointed upon filing of the request by the DSS attorney as set forth above. In the event of change of hearing date, the Clerk of Court shall mail a notice of new hearing date to such of the following persons as may be involved in the case: the parents and their attorneys, the child if 12 years old or older at the time of the review, the child's GAL, the child's attorney, the foster parents or other caretakers and any other person or agency specified by the court order. The Court may set a review hearing for any case at any time, on its own motion or upon motion by any party.

Timeliness. In a permanency planning hearing held pursuant to NCGS Section 7B-907, the hearing shall be timely if held at the judge's next session after the cease reunification order has been entered in open court. Nothing in this section shall prohibit the holding of joint review and permanency planning hearings, however, a PP hearing shall be designated either in the court's previous order or by notice to all counsel and/or pro se parties, unless notice is waived by the parties.

DSS Court Summaries. For any review hearing the DSS attorney shall deliver a written court summary to all counsel, parents and GAL office 21 days prior to the review hearing which summarizes the progress in the case since the last hearing and DSS' recommendations. DSS court summaries shall be placed in the attorney boxes in the County clerk's office or by facsimile. Delivery on unrepresented parents shall be by mail and delivery is deemed complete as of the date of mailing. Failure to deliver court summaries within the stated time frame will be grounds for continuance by the parent/Gal. If court summaries are not timely provided by the second scheduled hearing, the Social Worker responsible shall testify at the request of the Court or any party as to

the reasons for the delay. The Court shall have the authority to provide any sanctions it deems appropriate under the circumstances. Court summaries shall follow the forms as adopted by the 23rd Judicial District and shall contain a plan for visitation should the recommendation be for the child to remain out of the home of one or both parents. In the event that no visitation is recommended the DSS summary shall clearly state the reasons for said denial. The progress of the case since the last hearing shall be clearly delineated in the summary however, this does not prohibit the Court from reviewing previous orders in the case.

Objections and Additions. Each party shall deliver in writing to the DSS attorney and all other parties any and all objections or additions to the DSS Recommendations one week preceding the hearing date on a form designated for this purpose. The GAL court report shall also be delivered to the DSS attorney and to other parties/counsel at least one week prior to the hearing date. The party who files any additions and/or objections bears the burden of producing evidence at the subsequent review hearing. If no objections or additions are filed, the DSS attorney shall submit an order to the court incorporating the said recommendations and a hearing shall not be necessary.

In the event of a substantial change in circumstances after the exchange of DSS recommendations, no party (DSS, GAL or parents) shall be bound by the recommendations previously agreed upon. Any party requesting to be relieved of their prior agreement shall notify all parties of said change and give notice that a hearing in the matter will be necessary.

Ministerial Orders. The following orders do not require review by the parties prior to submission to the judge but do require a certificate of service after the order is signed and distributed.

Non-secure custody orders; review orders when no objections are filed by any party.

The following orders do not require review by the parties prior to submission to the judge and do not require a certificate of service after the order is signed and distributed:

Continuance orders; Discovery orders; Home study orders; Interstate Compact Home Study orders; Limited custody orders; mental health Evaluation orders; Orders appointing or denying counsel; Orders relieving counsel; Paternity testing orders; Sexual offenders evaluation orders; Substance Abuse evaluation orders.

*For all purposes herein, delivery to attorneys of notices or any other documentation shall be deemed effective by 1) placement in said attorney's box in the clerk's office AND 2) by facsimile to a number provided by all attorneys on the court appointed list for DSS court and attorneys representing parents on a retained basis.

DSS Responsibilities:

Announce next review hearing date in open court at the conclusion of adjudication/review/non-secure hearing and include the date in the court order. Request parents or other parties to state their mailing address to be noted by the clerk in the file and give them the form with their attorney's phone number and the clerk's number to call if their address is changed.

No later than 28 days prior to a scheduled review hearing, send a letter to the clerk requesting appointing temporary counsel for the parents.

In the event the date of the hearing is changed, notify the clerk in writing as soon as possible.

Clerk responsibilities:

Make a note of the parent's address when stated in court on the inside of the file. When notified by DSS attorney of change of hearing date, mail notice to parents, the child if 12 years old or older at time of hearing, the foster parents or caretakers and any other person or agency specified in the court order. Notify attorneys by putting notice in their box or by fax.

23rd Judicial District-Juvenile Court Checklist

Purpose and Instructions

The Court Improvement Committee proposes the use of a simple tracking tool to help judges, clerks, GAL staff, and attorneys for parents or children, DSS staff and attorneys monitor compliance with either their own court rules or the General Statutes in regards to mandated court time frames. This checklist follows the legal timeframes set by statute or by Local Court Rules.

Not all districts will receive funding for court improvement nor do some districts have the time needed to create methodologies to help the court keep on track of the mandated timeframes required by North Carolina Statutes for abuse and neglected juveniles. Already, some districts track their cases by using this checklist or a locally modified checklist to assist them in assuring the cases are being heard within the time frames allotted by statute or by court rules.

Suggested uses to improve communication and track court time:

1. This checklist can be inserted in the inside flap of the child's legal folder so that it can be easily read and updated. Judges can instantly scan the legal life of the case without having to review court orders and documents.
2. All parties can have a copy inside their files. It can be updated manually or electronically.
3. Family Court and Court Improvement staff can monitor progress of mandated time frames and outcomes for permanence for children.
4. GAL staff can track and advocate for timely hearings.
5. Families can monitor the court progress on their cases and plan to be available for the next court hearings.
6. A monthly compilation of these checklists could inform the judges or clerks on the status of cases or other reports could be generated to ascertain compliance of local or state time frames. This information could be helpful to review progress and plan for change/improvement within a district.

How to use the checklist:

1. The checklist is on disk and can be modified locally to suit the district. **The Juvenile Court Clerk will maintain the checklist in each juvenile file.**
2. It would be best to start with a new case. But it can be used at the next court hearing for an established or older case.
3. Each form, whether a new or old case would have to have the date of the petition to determine if the timeframes are within the time allotted by statute or court rules.
4. Staff may wish to add columns of interest to the district. For example, if the district would like to know the *ethnicity* of the children served in their counties, *this or other factors* could be added, or if the district would like to know the final placement of the child, such as return home to a parent, or placed with a relative, that could be added. This would be a great indicator to know if a permanent and hopefully safe outcome occurred for the child in our courts. *Tailor it to meet your needs.*
5. Use of such a checklist is likely to improve court timeliness in these matters, especially in districts where there is more than one judge hearing the same case. *With* a quick glance the judge is able to determine if a child is languishing in foster care and *a different plan is needed to achieve permanency.*
6. *Any suggestions to improve this checklist are encouraged*

23rd District Juvenile Court Checklist

Juvenile(s) Name: _____ (Form to be inserted in the inside flap of the child's legal

County: _____

Dates of Birth: _____ folder. To be kept and maintained by the Juvenile Clerk)

Judge: _____

File Number(s): _____

Mother: _____ Mothers Attorney: _____ Father: _____ Fathers Attorney: _____

DATE OF PETITION FILED: _____ DATE CASE CLOSED: _____

COURT EVENT	Date of court event or hearing	Within mandated time frames?		Court order signed & date filed:	Reason Process Delayed	Parents Present? M <input type="checkbox"/> F <input type="checkbox"/>	Date of next hearing or court event
		Yes	No				
Non Secure Custody Order		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Non Secure custody hearing- (1 st NSC held within 7 days of NSC order being signed)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Subsequent NSC hearings- (within 7 days)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Subsequent NSC hearing- (within 30 days)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Subsequent NSC hearing- (30 days if Adjudication postponed)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Adjudication hearing (45-60 days from filing of petition)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Dispositional hearing (right after Adj. Or 30 days thereafter)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
1 st Review-(within 90 days of Disposition)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
2 nd Review-(within 6 months after 1 st review)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
3 rd Review-(every 6 months)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Permanency Planning Review- (within 12 months of NSC)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Permanency Planning Hearing-(30 days after order ceasing reasonable efforts)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
2 nd PPR-(within 6 months)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Subsequent PPR-(every 6 months)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
TPR petition filed		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
TPR hearing		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Post TPR(-within 6 months of TPR)		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Subsequent Post TPR-(every 6 months thereafter)r		<input type="checkbox"/>	<input type="checkbox"/>			M <input type="checkbox"/> F <input type="checkbox"/>	
Adoption Petition filed						M <input type="checkbox"/> F <input type="checkbox"/>	

DSS Hearing Notification Form

(To be completed by the Juvenile Court Clerk at the conclusion of each hearing and distributed to the parents)

This form was given to you in open court to notify you of your next scheduled DSS court hearing. The attorney listed below will be reassigned to represent you for the next hearing. Please contact the attorney, 21 days prior to the scheduled court date in order to prepare for your case. *Failure to contact your attorney will result in the hearing being conducted in your absence.*

Please contact the Clerk of Court at 336-667-1201 and notify them of any address change that you may have. Failure to do so could result in the court being unable to locate you should your case need to be rescheduled.

Your Attorney: _____ **Telephone** _____

Your next scheduled DSS court hearing: _____

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