

RULES FOR JUVENILE COURT

Purpose. These rules establish procedures for Juvenile Court in the 7th Judicial District and apply to all cases in which a juvenile is alleged to be delinquent, undisciplined, abused, neglected, or dependent. Additionally, they apply to termination of parental rights cases. It is the purpose of the rules to:

1. ensure a coordinated and efficient decision-making process;
2. eliminate unnecessary delays in Court proceedings;
3. help the parties present issues and evidence to the Court in an efficient and appropriate manner;
4. provide for judicial oversight of case planning;
5. justify the trust of the participants and the community.

Structure of Rules: The rules for Juvenile court are divided into two sections “A” for abuse, neglect and dependency and termination of parental rights cases and “B” for delinquency and undisciplined cases.

Rules IA - 15A: Abuse, Neglect, Dependency and Termination of Parental Rights

Rules IB - IIB: Delinquency and Undisciplined

IA. Appointment of Counsel.

(a) **Lists.** The clerk shall maintain a separate, viable list of attorneys willing and eligible to be appointed to represent parents of juveniles alleged to be abused, neglected or dependent as well as parents in termination of parental rights cases.

(b) **Attorney.** An attorney shall not accept appointment in a case if there is a known reason why the attorney may not be available for the hearing of the case within 45 days. The attorney shall also determine as soon as possible whether there is any potential conflict of interest and then so notify the court.

(c) **Abuse/Neglect/Dependency.** At the earliest reasonable opportunity the court, including the clerk, shall determine whether the parents request court appointed counselor waive.

If the parents request court appointed counsel and both are eligible, separate counsel to represent each parent shall be appointed unless for good cause the court determines otherwise. If there is an earlier waiver in front of the clerk, the presiding judge at the first court setting shall re-examine the parents as to waiver or appointment of counsel.

(d) **Termination of Parental Rights.** In any case in which a petition for termination of parental rights is filed, at the earliest reasonable opportunity the court, including the clerk, shall determine whether the parents request court appointed counselor waive. If the parents request court appointed counsel and both are eligible, separate counsel to represent each parent shall be appointed unless for good cause the court determines otherwise. If there is an earlier waiver in

front of the clerk, the presiding judge at the first court setting shall re-examine the parents as to waiver or appointment of counsel. If the parent whose rights are sought to be terminated has been represented by an appointed attorney in a prior abuse, neglect, or dependency proceeding the same attorney should be appointed.

2A. Responsibilities of Attorneys.

(a) An attorney who represents a party in a case scheduled for hearing shall appear at calendar call unless excused by the court. An attorney who has a conflict with 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 over the other district courts.

(b) After an attorney enters an appearance or accepts an appointment in a case, that attorney shall represent the client through disposition. Leave of court to withdraw from a case shall only be granted for compelling reasons.

(c) Where the court determines it is appropriate to appoint counsel for the review hearings, the same attorney should be appointed.

3A. Continuances.

(a) **Policy:** The policy of the 7th Judicial District is that all juvenile cases are to receive the utmost of care, attention and priority. A juvenile's concept of time is often far different from that of an adult and the effects of delay on a juvenile

must be thoroughly analyzed before any continuance is allowed. It is our commitment that juvenile court will be efficient, fair and ever mindful of the special needs of juveniles.

(b) **Appropriate Court Official:** Once a case is on the calendar and it is the day of the first setting or thereafter, only a district court judge may continue the case. Any request for a continuance shall be made to the judge presiding over the session of court for which the case is calendared. If the trial judge is not known at the time the request is made or is unavailable, the application may be addressed to any district court judge.

(c) **Time:** All juvenile cases should be resolved or tried at the earliest reasonable opportunity, including the first setting. Any request for a continuance at the first setting shall be granted only for good cause. Thereafter, the continuance may only be allowed for either a statutorily required reason or extraordinary cause. This does not apply to the dispositional phase which may be otherwise continued for good cause.

Except for extraordinary cause, an adjudication 'in an abuse, neglect and dependency case should occur within 45 days of service of the petition and in no event beyond 60 days of the filing of the petition unless an earlier time is required by statute. A termination of parental rights (TPR) case should be disposed within 90 days of service of the petition.

(d) Notification: The party requesting a continuance shall give notice of the motion to the other party as soon as possible and if agreement is reached or continuance granted then appropriate notification shall be made to all concerned, including witnesses.

(e) Right to Hearing: All parties shall have the right to be heard by the presiding judge on any objection to a motion to continue.

(f) Procedure: The following procedure applies only to adjudicatory hearings, review hearings and Termination of Parental Rights cases:

At the first setting, a motion and order to continue for good cause may be oral. Thereafter, the motion to continue for extraordinary cause shall be oral and heard in open court as well as written unless clearly unreasonable based on the circumstances. Any motion based on a statutory excuse shall be written.

Prior to granting the continuance, the judge should confer with counsel to fully explore how to properly resolve the case.

The 7th Judicial District continuance form shall be used for the written motion and order .

(g) Evaluation of Motion: The following are factors to be considered by the judge in deciding whether a case should be continued:

- effect on juvenile;
- opportunity for effective assistance of counsel;
- age and seriousness of the case;
- custody status of the juvenile;
- impact of a continuance on the safety of the parties or any other persons;
- status of the trial calendar;
- number, moving party, and grounds for previous continuances;
- due diligence of counsel in promptly making a motion for continuance as soon as practicable
- and notifying opposing counsel and witnesses;
- period of delay caused by the continuance requested;
- presence of witnesses;
- availability of witnesses for the present session or for a future session;
- legitimate conflict with another court;
- consideration of the financial consequences to the public, the parties, the attorneys or
- witnesses if the case is continued; and
- any other factor that promotes the fair administration of justice.

(h) Court Conflicts: Any court conflict shall be resolved according to applicable statutes unless otherwise agreed. The various courts should communicate and if possible resolve any such conflict as best serves the proper and efficient administration of justice.

If there is a conflict among the district courts, juvenile cases shall take precedence.

- (i) **Case Rescheduling:** Any case which is continued should be rescheduled with the new date chosen to be one which will most likely lead to a resolution. All necessary participants should review their schedules to make sure they will be available and that the date is not one likely to lead to a further continuance.

4A. Appointment of Guardian ad Litem (GAL) and Attorney Advocate.

(a) When a petition is filed alleging abuse and/or neglect, the judge shall order that a GAL and, if the GAL is not an attorney, an attorney advocate be appointed to represent the juvenile named in the petition.

(b) Before assigning a specific guardian ad litem or attorney advocate, the district administrator or program supervisor of the GAL Program shall ensure that the GAL or attorney advocate will be available for all stages of the proceeding.

(c) If the judge determines that a GAL or attorney advocate is not necessary for a juvenile who is found only to be dependent, the judge may dismiss the GAL or attorney advocate or both.

5A. Calendaring.

(a) The clerk assigned to juvenile court shall maintain the juvenile calendar. Unresolved cases shall not be continued off the calendar. At or before the conclusion of each hearing, the next hearing date shall be set.

(b) Court calendars shall be provided to the GAL office and the Department of Social Services (DSS) no later than two working days prior to court. Appropriate notification shall be sent by the clerk to attorneys for parents.

6A. Priority of Hearings.

In all cases where a juvenile is placed in nonsecure custody, the scheduling and hearing of adjudications should have priority.

7 A. Service of Summons and Petition.

From the date the petition is filed until the adjudicatory hearing, the petitioner shall have a continuing duty to identify, locate and serve any parent who has not been served with a copy of the summons and petition.

8A. Continued Custody Hearings for Abuse, Neglect and Dependency Cases.

(a) Whenever a juvenile is, taken into nonsecure custody, hearings shall take place in accordance with the general statutes.

(b) At the hearings the judge shall:

- (1) Explain the nature of the proceeding and the purpose of the hearing.
- (2) Review the adequacy of notice and service of process.
- (3) Attempt to ascertain the identity and whereabouts of any parent, guardian, or custodian of the juvenile who is not present, whether that person has been served, and what steps need to be taken to identify, locate, or serve any such person.
- (4) Review information and allow questions and testimony to help determine:
 - (a) What condition is alleged in the petition,
 - (b) What condition or risk precipitated the nonsecure custody order, including consideration of the results of the petitioner's risk assessment,
 - (c) Whether a condition or risk justifying nonsecure custody under G.S. 7B-503 exists, and
 - (d) What efforts the petitioner has made to prevent or eliminate the need for nonsecure custody; and'
 - (e) Whether consent exists among the parties.
- (5) Set the date for subsequent hearings unless waived

(c) If the juvenile is to remain in nonsecure custody, the judge shall explore the following with the parties.

- (1) Placement options for the juvenile, including possible relative placements,
- (2) Efforts to keep siblings together,
- (3) Efforts needed to ensure that a school-aged juvenile's school placement and attendance are not disrupted,
- (4) Parental visitation,
- (5) Sibling visitation,
- (6) Service needs and referrals
- (7) Financial support for the juvenile,
- (8) Whether a court order is needed to address the juvenile's immediate needs such as immediate treatment or evaluation, and
- (9) Specific steps the parties agree to take before the adjudicatory hearing.

(d) In any case in which a parent's identity or whereabouts is unknown or the paternity of the child has not been legally established, the judge should specify in writing any steps that are to be taken to identify the parent, locate the parent, or establish paternity.

9A. Pre-Adjudication Conferences and Calendar Call.

(a) Attorneys, social workers, guardians ad litem, attorneys advocate and principal parties shall be in court no later than 9:00 a.m. The summons for the parents, guardians or custodians shall be for 9:00 a.m Pre-Adjudication conferences will be held at that time if they

have not been held earlier. The purpose includes the determination of stipulations, discussion of settlement and other pre-trial matters.

(b) The judge and clerk shall be available no later than 9: 15 a.m. to consider motions and, to the extent practical, establish a schedule in order to allow attorneys, parties and witnesses to handle other matters while waiting for their cases to be reached. Attorneys who are excused until a certain time shall keep the courtroom clerk informed of their locations and then return as scheduled.

(c) The time for the formal opening of court is in the discretion of the presiding judge but should not occur earlier than 9:15 a.m without appropriate notice.

10A. Stipulations.

If the parties agree to stipulate to certain findings and/or conclusions and/or provisions of the court's decree, the court shall determine, before accepting the stipulations in open court, that the parties understand the content and consequences of the stipulations, and that they voluntarily consent to the stipulation. The court shall make inquiry of the parties to determine whether the stipulation is voluntary and knowing. The court's findings shall be set forth on the record.

IIA. Time for Dispositional Hearing.

Whenever possible, the disposition should take place immediately after adjudication. The disposition should otherwise be set before the same judge as soon as practicable.

12A. Predisposition Reports in Abuse, Neglect and Dependency Cases.

(a) Prior to disposition, DSS shall prepare a pre-disposition report that should 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 his or her family, and how that plan is appropriate to meet the needs of the child; and
3. A statement of changes in parental behavior which are needed to correct the conditions that led to the neglect, dependency or abuse and the actions the parents must take;
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 plan for the child;
- (f) A statement of the child's special needs and how they may be met; and
- (g) The identity and location of the child's siblings, and a statement of steps required to maintain contact between the siblings and reunify the family.

(b) The GAL for the juvenile shall also prepare a pre-disposition report to assist the Court in reaching a disposition that will best serve the needs of the child.

(c) Copies of the pre-disposition reports shall be made available to all parties and their counsel two working days prior to the hearing unless there is a motion for the court to first view the report at disposition and consider withholding disclosure of parts of the report in accordance with N.C.G.S. 7B-808. Otherwise, failure to properly provide the reports shall be considered presumptively prejudicial in any request for a continuance. As with any purposeful failure to abide by the local rules, the offending party may be subject to sanctions by the court.

(d) The report shall not be presented to the court prior to completion of the adjudicatory hearing unless all parties agree it is necessary in obtaining a consent order .

13A. Stipulated Dispositions.

Before accepting a stipulated disposition, the court shall inquire of the parties in open court to determine whether they understand the contents of the stipulation and its consequences and whether they voluntarily consent to its terms. The court's findings shall be set forth in the record.

14A. Notices to Other Agencies.

Whenever it appears that the best interest of a juvenile or the community may require that the juvenile receive specialized services from a public agency, the court may schedule a hearing to determine the appropriate level of services that the specified agency should provide.

If requested by the court, the clerk or a party shall serve the director or other appropriate representative of the agency with a notice of the hearing and of the issues to be addressed. If the notice is served on a county agency, it shall also be served on the county attorney. Upon proper

notice being given, the court shall acquire jurisdiction to order the agency to provide specific services to the juvenile consistent with state law.

15A. Review of Cases.

(a) The court shall conduct an intensive review of each case, as provided by statute. The court may set a review hearing for any case at any time, on its own motion, or upon motion of any party. Notice of the review hearing may be given in open Court at the end of the prior hearing.

(b) The court may waive review hearings under N.C.G.S. 7B-906. Unless so waived, the following apply:

1. When a juvenile remains out of the home following a dispositional order, an initial review shall be conducted within ninety days of the dispositional hearing.
2. When a juvenile remains out of the home following the first review hearing, the judge shall determine and specify in the review hearing order an appropriate date for the next review hearing. The second review hearing shall be held within six months of the date of the first review hearing.
3. A permanency planning hearing shall be held within 12 months of the juvenile's placement in accordance with N.C.G.S. 78-907. This hearing may occur earlier and may be combined with a review hearing.

If these timelines differ from state law, the general statutes shall be controlling.

(c) Once a permanent plan has been approved by the court, reasonable efforts shall be made to place a juvenile in an appropriate permanent home in a timely manner .

(d) Reasonable efforts to preserve and reunify the family shall not be required to be made with respect to parents of a juvenile if the court has determined that the parents have subjected the child to aggravated circumstances as defined in state and federal law .

(e) As long as the juvenile remains out of the home, subsequent review hearings shall be held at times the court finds appropriate, but in no event more than six months from the date of the previous review hearing, unless the judge orders otherwise. A goal of each review hearing shall be to develop a permanent plan for the juvenile.

(f) At least fifteen (15) days prior to the date set for the review hearing, the Clerk of Court shall mail a notice of the hearing to such of the following persons as may be involved in the case: the parents or their attorneys, the juvenile if he or she will be twelve(12) years of age or more at the time of the review, the juvenile's GAL, the juvenile's attorney, the foster parents or other caretakers, and any other person or agency specified by court order .

Rules IB - 11B: Delinquency and Undisciplined

1B. Appointment of Counsel.

(a) **Lists.** The clerk shall maintain a separate, viable list of attorneys willing and eligible to be appointed to represent juveniles before the court on delinquency and undisciplined petitions.

(b) **Attorney.** An attorney shall not accept appointment in a case if there is a known reason why the attorney may not be available for the hearing of the case within 30 days. The attorney shall also determine as soon as possible whether there is any potential conflict of interest and then so notify the court.

(c) **Delinquency.** The court shall assign an attorney to represent the juvenile as soon as possible after a petition is filed unless a private attorney has been retained. The clerk shall include the information with the summons and this separate notice shall encourage the juvenile and parents to contact the attorney.

(d) **Undisciplined.** The court shall assign an attorney to represent the juvenile as soon as possible after issuance of a show cause order for contempt unless a private attorney has been retained. The clerk shall include the information with the order and this separate notice shall encourage the juvenile and parents to contact the attorney.

2B. Responsibilities of Attorneys.

(a) An attorney who represents a party in a case scheduled for hearing shall appear at calendar call unless excused by the court. An attorney who has a conflict with 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 over the other district courts.

(b) After an attorney enters an appearance or accepts an appointment in a case, that attorney shall represent the client through disposition. Leave of court to withdraw from a case shall only be granted for compelling reasons.

(c) The clerk should assign the same attorney to represent the juvenile at all review hearings unless that is impractical.

3B. Continuances.

(a) **Policy:** The policy of the 7th Judicial District is that all juvenile cases are to receive the utmost of care, attention and priority. A juvenile's concept of time is often far different from that of an adult and the effects of delay on a juvenile must be thoroughly analyzed before any

continuance is allowed. It is our commitment that juvenile court will be efficient, fair and ever mindful of the special needs of juveniles.

(b) Appropriate Court Official: Once a case is on the calendar and it is the day of the first setting or thereafter, only the presiding district court judge may continue the case. After the first setting, any request for a continuance made earlier than the court date shall be made to the judge presiding over the session of court for which the case is calendared. Otherwise, if the trial judge is not known at the time the request is made or is unavailable, the request may be addressed to any district court judge.

(c) Time:

1. **Adjudicatory Hearing:** All juvenile cases should be resolved or tried at the earliest reasonable opportunity, including the first setting. If a juvenile is placed in secure custody pending adjudication, the adjudicatory hearing shall be scheduled at the earliest possible date. Any request for a continuance at the first setting shall be granted only for good cause. Thereafter, the continuance may only be allowed for either a statutorily required reason or extraordinary cause. This does not apply to the dispositional phase which may be otherwise continued for good cause.
2. **First Appearance:** In accordance with N.C.G.S. 7B-1808, a first appearance shall be held in all felony cases. It must occur within 10 days of the filing of the petition or at the first continued custody hearing whichever occurs first. If the juvenile is not in secure custody the first appearance may be continued by the court for good cause.
3. **Probable Cause Hearing:** In accordance with N.C.G.S. 7B-2202, a probable cause hearing shall be held in all felony cases in which a juvenile was 13 years of age or older when the offense allegedly occurred. It must occur within 15 days of the date of first appearance unless continued by the court for good cause.
4. **Transfer Hearing:** In accordance with N.C.G.S. 7B-2202©, a transfer hearing may occur immediately after probable cause is found upon proper notice or absent objection as to notice or at a later date set by the court.

(d) Notification: The party requesting a continuance shall give notice thereof to the other party and court counselor's office as soon as possible and if the continuance is granted by the judge then appropriate notification shall be made to all concerned, including witnesses.

(e) Right to Hearing: All parties shall have the right to be heard by the presiding judge on any objection to a motion to continue.

(f) Procedure: The following procedure applies to adjudicatory and motion for review hearings: At the first setting, a motion and order to continue for good cause may be oral.

Thereafter, the motion to continue for extraordinary cause shall be oral and heard in open court unless clearly unreasonable based on the circumstances. Any motion based on a statutory excuse shall be written.

Prior to granting the continuance, the judge should confer with counsel to fully explore how to properly resolve the case.

It is in the discretion of the presiding judge whether to require a written continuance order.

(g) Evaluation of Motion: The following are factors to be considered by the judge in deciding whether a case should be continued:

- effect on juvenile;
- opportunity for effective assistance of counsel;
- age and seriousness of the case;
- custody status of the juvenile;
- impact of a continuance on the safety of the parties or any other persons;
- status of the trial calendar;
- number, moving party, and grounds for previous continuances;
- due diligence of counsel in promptly making a motion for continuance as soon as practicable and
- notifying opposing counsel and witnesses;
- period of delay caused by the continuance requested;
- presence of witnesses;
- availability of witnesses for the present session or for a future session;
- legitimate conflict with another court;
- consideration of the financial consequences to the public, the parties, the attorneys or witnesses if
- the case is continued; and
- any other factor that promotes the fair administration of justice.
- any other factor that promotes the fair administration of justice.

(h) Court Conflicts: Any court conflict shall be resolved according to applicable statutes unless otherwise agreed. The various courts should communicate and if possible, resolve any such conflict as best serves the proper and efficient administration of justice. If there is a conflict among the district courts, juveniles cases shall take precedence.

(i) Case Rescheduling: Any case which is continued should be rescheduled with the new date chosen to be one which will most likely lead to resolution. All necessary participants should review their schedules to make sure they will be available and that the date is not one likely to lead to a further continuance.

4A. Calendaring:

(a) The clerk assigned to juvenile court shall maintain the juvenile calendar. Unresolved cases where service has been completed shall not be continued off the calendar . At or before the

conclusion of each hearing, the next hearing date shall be set. This does not apply where the juvenile is considered on run. .

(b) Court calendars shall be provided to the district attorney and the juvenile court counselor's office. Appropriate notification shall be sent by the clerk to attorneys for juveniles.

(c) No delinquency case shall have a file number shown on the calendar.

5B. Placement of the Delinquent or Undisciplined Juvenile in the Custody of DSS.

(a) If a juvenile court counselor has reason to suspect that a juvenile for whom a delinquency or undisciplined petition has been filed may also be abused, neglected or dependent, that counselor shall immediately call the Child Protective Services (CPS) intake worker at the appropriate Department of Social Services to make an official report. The report to CPS should include the date of the next scheduled hearing. If not known at the time of the initial call to CPS, DSS shall be notified as soon as the hearing date is determined.

(b) Where the legal mandates for a CPS investigation exist, DSS shall investigate the allegations and report its findings to the court at the next scheduled hearing in addition to complying with other statutory requirements. If DSS substantiates the allegations, it shall inform the court whether or not it intends to file a petition.

(c) If a party or the court determines that the best interests of the juvenile or the community may require that the juvenile be placed in the custody of the DSS, that party or a person designated by the court shall notify DSS Child Protective Services of the date of the hearing and of the issue to be considered. DSS shall receive notice of and be allowed to participate in all future hearings until it is determined that placement of the juvenile with DSS is not an appropriate option. If a juvenile is placed in its custody, DSS shall receive notice of and be allowed to participate in all future dispositional or review hearings.

(d) If emergency circumstances require that a juvenile, who has been adjudicated delinquent or undisciplined, be placed in the custody of DSS without prior notice, the court shall designate a person to immediately notify appropriate DSS staff. DSS, after consulting with the juvenile court counselor, shall conduct an investigation and report its findings to the court.

6B. Continued Secure Custody Hearings for Delinquency.

(a) Whenever a juvenile is taken into secure custody, all hearings shall take place in accordance with the general statutes.

(b) At the hearings, the judge shall:

1. Explain the nature of the proceeding and the purpose of the hearing.
2. Review the adequacy of notice and service of process.

3. Receive testimony and allow the juvenile, juvenile's attorney parents or guardian to present information, be heard and to ask questions of other parties. The judge is not bound by the usual rules of evidence. In determining the need for continued secure custody, the judge is bound by statutory criteria.

(c) If the judge orders the juvenile released from secure custody, the judge shall:

1. Release into the care of a responsible person or organization.
2. Release on the written promise of the parent or guardian to produce the juvenile for subsequent proceedings.
3. Consider restrictions on activities, associations, or travel if related to securing the juvenile's presence in court.

(d) If the judge determines the need for continued secure custody, the order must be in writing, contain appropriate findings of fact, state the purpose continued custody is to achieve and set the date for subsequent hearings unless waived. In no event may that waiver be for more than 28 days without further review by the court and either hearing or waiver.

7B. Pre-Adjudication Conferences and Calendar Call.

(a) Attorneys for juveniles, the district attorney, court counselors and principal parties shall be in court no later than 9:00 a.m. The summons for the juvenile and parents shall be for 9:00 a.m. Pre-Adjudication conferences will be held at that time if they have not been held earlier.

The purpose includes the determination of stipulations, discussion of settlement and other pre-trial matters.

(b) The judge and clerk shall be available no later than 9:15 a.m. to consider motions and, to the extent practical, 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 keep the courtroom clerk informed of their location and then return as scheduled.

(c) The formal opening of court is in the discretion of the presiding judge but should not occur earlier than 9:15 a.m. without appropriate notice.

8B. Time for Dispositional Hearing.

Whenever possible, the disposition should take place immediately after adjudication. If it must be continued, the disposition should otherwise be set before the same judge.

9B. Predisposition Reports.

The juvenile court counselor shall conduct an intake assessment of the juvenile and his or her family prior to the disposition hearing unless excused by the court. If the juvenile's parents, guardians, or custodians consent, the assessment shall be conducted prior to the adjudicatory hearing. The juvenile court counselor shall prepare a written predisposition report to be presented to the court. A copy of the report shall be made available to the juvenile's attorney and the district attorney two working days prior to the hearing unless there is a motion for the court to first view the report at disposition and consider withholding disclosure of parts of the report in accordance with N.C.G.S. 7B-2413. The report should include at least the following:

1. Information concerning both parents, including their location, their contact with the juvenile, any mental health or substance abuse history, and any other relevant information;
2. A summary of the juvenile's court history;
3. A summary of services previously provided the juvenile;
4. The juvenile's educational history and present school placement;
5. Summary of evaluations completed;
6. Statement of evaluations needed;
7. An opinion whether there is reason to suspect the juvenile is abused, neglected, or dependent;
8. A risk and needs assessment unless waived by the court.

IOB. Notice to Other Agencies.

Whenever it appears that the best interest of a juvenile or the community may require that the juvenile receive specialized services from a public agency the court may schedule a hearing to determine the appropriate level of services that the specified agency should provide. If requested by the court, the clerk or a party shall serve the director or other appropriate representative of the agency with a notice of the hearing and of the issues to be addressed. If the notice is served on a county agency, it shall also be served on the county attorney. Upon proper notice being given, the court shall acquire jurisdiction to order the agency to provide specific services to the juvenile consistent with state law.

II B. Review of Cases.

(a) 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 every six months until the juvenile is removed from DSS's custody. Any party

may request an earlier review. The juvenile's parents shall receive notice. The juvenile court counselor shall notify DSS and the parents of termination of probation.

(b) In all other cases, the juvenile court counselor or the juvenile may request the court to review its disposition at any time by filing a Motion for Review with notice to the appropriate parties.

ACCESS TO JUVENILE RECORDS

In accordance with N.C.G.S. 7B-2901(a) and in consideration of the need for a proper, just and efficient judicial process,

It is hereby ordered that the parents of a juvenile who is the subject of an abuse, neglect or dependency case, the parents' attorneys, the attorney for the Department of Social Services, the assigned social worker from that Department of Social Services, the Attorney Advocate and the Guardian ad Litem shall be allowed to examine the records of that case maintained in the Clerk of Superior Court's office.

ORDER

Subchapter 5G of Chapter 5, Title 9, of the North Carolina Administrative Code entitled "Sharing of Information Regarding Abused, Neglected, Dependent, Undisciplined, or Delinquent Juveniles" as follows is adopted.

NORTH CAROLINA ADMINISTRATIVE CODE
TITLE 9. OFFICES OF THE GOVERNOR AND LIEUTENANT GOVERNOR
CHAPTER 5. JUVENILE JUSTICE
SUBCHAPTER 5G. SHARING OF INFORMATION REGARDING ABUSED,
NEGLECTED, DEPENDENT, UNDISCIPLINED, OR DELINQUENT JUVENILES

Current through April 13, 2000

SECTION .0100. GENERAL INFORMATION

.0101 PURPOSE AND SCOPE

- (a) These Rules:
- (1) designate agencies that are authorized to share with each other, upon request, information in their possession that is relevant to any case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent; and
 - (2) establish procedures for the sharing of information among designated agencies.
- (b) Nothing in these Rules precludes any other necessary sharing of information among agencies.
- (c) Nothing in these Rules requires the disclosure or release of any information in the possession of a district attorney.
- (d) Nothing in these Rules authorizes or requires a designated agency to share information with another designated agency if that sharing would violate federal law or regulations.

.0102 DEFINITIONS

Unless the context clearly requires a different meaning,

- (1) "Designated agency" means an agency designated by these Rules as an agency authorized to share information pursuant to these rules and > G.S. 7B- 3100, and includes any person or entity that is employed by a designated agency, works under contract with a designated agency, or functions in a volunteer, student, intern, or similar capacity in or for a designated agency.
- (2) "Information" means any confidential or nonconfidential information, whether or not recorded, including information stored in computer data banks or computer files, that is relevant to (a) a case in which a petition is filed alleging that a juvenile is abused, neglected, dependent, undisciplined, or delinquent, and (b) the protection, treatment of or educational opportunities of the juvenile in regard to whom the petition is filed or the protection of others.

(3) “Juvenile” means a person who has been alleged or adjudicated to be an abused, neglected, dependent, undisciplined, or delinquent juvenile, as defined in G.S. 7B-101 or 7B-1500, and who is subject to the continuing jurisdiction of the juvenile court.

.0103 AGENCIES AUTHORIZED TO SHARE INFORMATION

The following agencies are authorized and required to share information concerning juveniles pursuant to these rules and G.S. 7B-3100:

- (1) local mental health facilities, (2) area mental health authorities,
- (2) area mental health authorities.
- (3) local health departments,
- (4) county departments of social services,
- (5) local law enforcement agencies,
- (6) local school administrative units,
- (7) district attorneys’ offices,
- (8) the Office of Juvenile Justice,
- (9) the Office of Guardian ad Litem Services of the Administrative Office of the Courts, (10) a local agency that has been designated by a standing order issued by the chief district court judge of the district court district in which the agency is located as an agency authorized to share information pursuant to these rules and G.S. 7B-3100.

.0104 SHARING OF INFORMATION AMONG DESIGNATED AGENCIES

(a) Except as provided in Paragraph (c) of these Rules, a designated agency shall provide information to the designated agency making a request.

(b) Except as provided in Paragraph (c) of these Rules, a district attorney may provide information to the designated agency making a request.

(c) When the disclosure of requested information is prohibited or restricted by federal law or regulations, a designated agency shall share the information only in conformity with the applicable federal law and regulations. At the request of the initiating designated agency, the designated agency refusing the request shall inform that agency of the specific law or regulation that is the basis for the refusal.

(d) At the request of a designated agency from which information is requested, the initiating agency shall provide documentation or other support for its claim that the sharing of the requested information is authorized or required by this Subchapter.

(e) When a designated agency shares confidential information with another designated agency pursuant to this Subchapter, the designated agency sharing the confidential information shall document the date on which the information was shared and the agency to which the information was provided.

(f) Information received by a designated agency pursuant to this Subchapter may be used only to protect the juvenile or others or to improve the educational opportunities of the juvenile.

(g) Information received by a designated agency pursuant to this Subchapter, if otherwise confidential, may not be redisclosed except as authorized or required by law.

(h) A designated agency that receives otherwise confidential information pursuant to this Subchapter shall

- (1) develop written policies and procedures regarding controlled access to the information, including policies regarding the discipline or dismissal of persons who fail to comply with the requirements of this Subchapter;
- (2) update these procedures as necessary;
- (3) ensure that only authorized persons have access to the information;
- (4) ensure that the information is stored in a secure manner; and
- (5) use best management practices for computer security with respect to information included in a computer database, including but not limited to, computer security measures to block entry into the system by individuals who are not authorized to have access to the information..

HISTORY NOTE: Authority G.S. 7B-3100; Temporary Adoption Eff. July 7,1999.