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STATE OF NORTH CAROLINA
SECOND JUDICIAL DISTRICT
JUVENILE COURT

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THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

BEAUFORT CO., C.S.C.

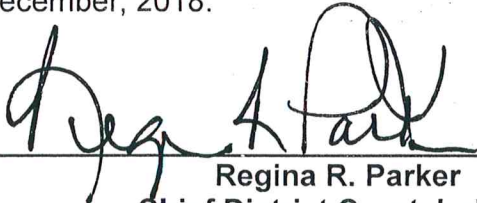
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**ORDER ADOPTING RULES
FOR JUVENILE COURT**

Pursuant to Rule 2 of the General Rules of Practice for Superior and District Courts, and NCGS§7B-100 and 7B-1500, the attached Local Rules for Juvenile Court involving delinquent and undisciplined juveniles are hereby adopted effective January 1, 2019 and shall apply to all cases filed on or after that date and, insofar as practical, to all pending cases.

It is ordered that a copy of these rules and this order be permanently maintained in the Offices of the Clerk of Superior Court in the 2nd Judicial District for public inspection. These rules supersede all previous Rules for Juvenile cases in the District Court Division of the 2nd Judicial District, Beaufort, Hyde, Martin, Tyrrell, and Washington Counties.

It is so ordered this 20th day of December, 2018.



Regina R. Parker
Chief District Court Judge

**RULES FOR JUVENILE COURT
SECOND JUDICIAL DISTRICT**

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Rule 1. Scope

These rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected and/or dependent, petitions to terminate parental rights, and petitions alleging a juvenile to be undisciplined or delinquent. These rules and all amendments hereafter shall be filed with the Juvenile Court Clerk in each county in the Second Judicial District and supersede all previous local rules concerning Juvenile proceedings.

Rule 2. Purpose

These local rules establish procedures for Juvenile Court and are designed to fulfill the purposes of the Juvenile Code, Chapter 7B of the North Carolina General Statutes. To that end, these rules serve the following purposes:

- (1) To make Juvenile Court and its proceedings accessible and understandable to families and children;
- (2) To help the parties present issues and evidence to the Court in an efficient and simple manner;
- (3) To provide for judicial oversight of case planning;
- (4) To ensure a coordinated decision-making process;
- (5) To eliminate unnecessary delays in court proceedings; and
- (6) To promote the integration of services for the parents and children involved in hearings, and to increase their access to community resources.

Rule 3. Construction and Enforcement

These rules should be liberally construed to accomplish the purposes set forth in Rule 2. No Rule shall be construed, applied or enforced in a manner that will endanger or cause possible harm to a child or prejudice the rights of any party. The court may impose sanctions against a party or attorney who fails to comply with these rules. These rules are not complete in every detail and will not cover every situation that may arise. In the event these rules do not cover a specific situation, all parties shall act in accordance with the North Carolina Juvenile Code and orders of the Chief District Court Judge or the assigned or presiding judge.

Rule 4. Definitions

- (1) **Attorney Advocate**- An attorney assigned by the Guardian Ad Litem Program to represent juveniles who are alleged to be abused/neglect or dependent and to advocate for what is in the juvenile's best interest and to protect the juvenile's legal rights.
- (2) **Child Family Team Meeting (CFT)** - a voluntary meeting with a case manager of the petitioner, the respondent, the guardian ad litem, all attorneys involved in the case and appropriate persons, such as mental health professionals, school personnel or law

enforcement, **to be held pre-petition or no later than 10 days after a petition is filed for abuse, neglect or dependency.** CFT meetings may be held at various other times throughout the pendency of the juvenile case. The North Carolina Juvenile Court: A Handbook for Parents in Abuse, Neglect and Dependency Hearings (see Appendix A) shall be provided to each parent or guardian for the juvenile at the first CFT meeting.

- (3) **Clerk**- the clerk or an assistant Clerk of Superior Court for each specific county in the Second Judicial District who is assigned to the Juvenile Courts.
- (4) **Court**- the district court or a district court judge.
- (5) **Department of Social Services (DSS)**- the county Department of Social Services in the county in which a case is being initiated.
- (6) **Guardian Ad Litem Volunteer** – means a community or (citizen) volunteer appointed by the court in abuse/neglect and dependency cases, to conduct an independent and ongoing investigation of proceedings and submit formal reports advocating for what they believe is in the best interest of the juvenile pursuant to G.S. 7B-601.
- (7) **Responsible Individual**- An individual identified by the Department of Social Services as having committed abuse or serious neglect, upon a juvenile and whom the Department of Social Services (DSS) has requested be added to a list maintained by the Department of Health and Human Services (DHHS) known as the responsible individual’s list (RIL)
- (8) **Rule 17 Guardian**-An attorney appointed by the court pursuant to G.S. 7B-602(b), (c) as a substitute guardian for minor and incompetent parents whose child(ren) is (are) the subject of an abuse, neglect and dependency proceeding.
- (9) **Rule 5 Time Standards**-These time frames represent maximum time limits. In every case, the child’s best interest is the paramount goal. These time frames are intended to be consistent with the Adoption and Safe Families Act (ASFA) and North Carolina Statutory provisions.

Rule 5. 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 - 21A: Abuse, Neglect, Dependency and Termination of Parental Rights

Rules IB - IIB: Delinquency and Undisciplined

Abuse, Neglect, Dependency and Termination of Parental Rights **Local Rules**

IA. Appointment of Counsel.

- a) **General:** The clerk shall maintain a current list of attorneys eligible to be appointed to represent parents of children alleged to be abused, neglected or dependent; to represent parents in a termination of parental rights proceedings; to act as the Guardian ad Litem for parents pursuant to Rule 17 of the Rules for Civil Procedure; and to act as the Guardian ad Litem for minor children when the Guardian ad Litem program has a conflict. To be included on any list an attorney

must have a local working telephone number at which he or she can be contacted, have an office located within District 2 and complete any initial or follow up training specified by the Chief District Court Judge.

b) Abuse/Neglect/Dependency. When a petition is filed alleging abuse, neglect or dependency, the Clerk shall assign separate provisional counsel to represent each parent named in the petition. The summons shall include the attorney's name 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;
- (2) That the court, at the first hearing, if the parent appears, will determine whether the parent qualifies for appointed counsel and, if the parent does, whether the parent waives the right to such counsel;
- (3) That the court will dismiss the appointed counsel if the parent does not qualify for appointed counsel or the parent waives the right to counsel; and
- (4) Of the date and time of the Child and Family Team meeting, the non-secure hearing, if applicable, and the pre-adjudication hearing. The pre-adjudication hearing may be combined with a hearing for non-secure custody or any pre-trial hearing.

If the parent has been served and the provisional attorney appointed to represent a parent has been unable to establish contact with the parent, the appointed attorney shall be permitted to withdraw from the case at the call of the adjudication hearing.

If an attorney appointed to represent a parent has been unable to maintain contact with the parent subsequent to the adjudication hearing, the appointed attorney shall be permitted to withdraw from the case at the initial disposition hearing for (1) good cause, (2) notice of intent to withdraw provided to the client (3) and the court's permission. Further, an attorney appointed to represent a parent may be permitted to withdraw at any time upon filing of a motion with good cause and notice to the client.

Any order to withdraw as counsel shall include the last known address of the parent for the purpose of service of future pleadings in the case.

(c) 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 counsel or waive their right to court appointed counsel. 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 the 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 until relieved by the court. Leave of the court to withdraw from a case shall only be granted for good cause and notice to the client.

3A. Continuances.

- (a) **Policy:** The policy of the 2nd 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 the Chief District Court Judge.
- (c) **Time:** All juvenile cases should be resolved or tried at the earliest reasonable opportunity including the first setting. The court may, for good cause, continue the hearing for as long as is reasonably required to receive additional evidence, reports, or assessments that the court has requested, or other information needed in the best interests of the juvenile and to allow for a reasonable time for the parties to conduct expeditious discovery. Otherwise, continuances shall be granted only in extraordinary circumstances when necessary for the proper administration of justice or in the best interests of the juvenile. Resolution of a pending criminal charge against a respondent arising out of the same transaction or occurrence as the juvenile petition shall not be the sole extraordinary circumstance for granting continuance. This does not apply to the dispositional phase which may be otherwise continued for good cause. An adjudication in an abuse, neglect and dependency case should occur within 60 days of service of the petition and in no event beyond 120 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 of 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, permanency planning hearings and Termination of Parental Rights cases:
- (1) At the first setting, a motion and order to continue may be oral. Thereafter, the motion to continue for extraordinary cause shall be written unless clearly unreasonable based on the circumstances; and
 - (2) Any motion based on a statutory excuse shall be written.
 - (3) Prior to granting the continuance, the judge should confer with counsel to fully explore how to properly resolve the case.
- (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 adjudicated 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 five working days prior to court. Appropriate notification shall be sent by the clerk to attorneys for parents no later than five working days prior to court.

6A. Priority of Hearings.

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

7A. Service of Summons and Petition.

The summons shall be served under G.S. 1A-1, Rule 4, upon the parent, guardian, custodian or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court. From the date the petition is filed until the initial disposition 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 non-secure custody, hearings shall take place in accordance with the general statutes.

- (b) At the hearings, the court 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 non-secure custody order, including consideration of the results of the petitioner's risk assessment;
 - c. Whether a condition or risk justifying non-secure custody under G.S. 7B-503 exists;
 - d. What efforts the petitioner has made to prevent or eliminate the need for non-secure custody;
 - e. Whether consent exists among the parties; and
 - (5) Set the date for subsequent hearings unless waived.

- (c) If the juvenile is to remain in non-secure custody, the court 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 Conference

Prior to the adjudicatory hearing, the court shall consider the following:

- (1) Retention or release of provisional counsel.
- (2) Identification of the parties to the proceeding.
- (3) Whether paternity has been established or efforts made to establish paternity, including the identity and location of any missing parent.
- (4) Whether relatives, parents, or other persons with legal custody of a sibling of the juvenile have been identified and notified as potential resources for placement or support.
- (5) Whether all summons, service of process, and notice requirements have been met. Whether the petition has been properly verified and invokes jurisdiction.
- (6) Any pretrial motions, including (i) appointment of a guardian ad litem, (ii) discovery motions, or (iv) any motion for a continuance of the adjudicatory hearing.
- (7) Any other issue that can be properly addressed as a preliminary matter. The pre-adjudication hearing may be combined with a hearing on the need for non-secure custody or any pretrial hearing.

10A. Calendar Call

- (a) Attorneys, social workers, GAL, attorneys advocate and principal parties shall be in court no later than 9:00 a.m. (Hyde County is exempt from the foregoing rule due to transportation issues in that county.) The summons for the parents, guardians or custodians or respondent caretakers shall state 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 9:30 a.m. without appropriate notice.

11A. Adjudications, Stipulations and Orders.

If the court finds from the evidence, including stipulations by a party, that the allegations in the petition have been proven by clear and convincing evidence, the court shall so state. If the parties agree to stipulate to certain findings, a record of specific stipulated adjudicatory facts shall be made by either reducing the facts to a writing, signed by each party stipulating to them and submitted to the court; or by reading the facts into the record, followed by an oral statement of agreement from each party stipulating to them. 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 and knowingly consent to the stipulation. The court's findings shall be set forth on the record.

- (a) If the court finds that the allegations have not been proven, the court shall dismiss the petition with prejudice, and if the juvenile is in non-secure custody, the juvenile shall be released to the parent, guardian, custodian, or caretaker.
- (b) The adjudicatory order shall be in writing and shall contain appropriate findings of fact and conclusion of law. The order shall be reduced to writing, signed and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following the completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing.

12A. Initial Dispositional Hearing, Stipulations and Orders.

The dispositional hearing shall take place immediately following the adjudicatory hearing and shall be concluded within 30 days of the conclusion of the adjudicatory hearing.

- (a) The initial disposition should otherwise be set before the same judge as soon as practicable.
- (b) If the parties agree to stipulate to certain findings, a record of specific stipulated facts shall be made by either reducing the facts to a writing, signed by each party stipulating to them and submitted to the court; or by reading the facts into the record, followed by an oral statement of agreement from each party stipulating to them. 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 and knowingly consent to the stipulation. The court's findings shall be set forth on the record.
- (c) The dispositional order shall be in writing, signed and entered no later than 30 days from the completion of the hearing, and shall contain appropriate findings of fact and conclusions of law. The court shall state with particularity, both orally and in the written order of disposition, the precise terms of the disposition including the kind, duration, and the person who is responsible for carrying out the disposition and the person or agency in whom custody

is vested. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juveniles matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing.

13A. Predisposition Reports in Abuse, Neglect and Dependency Cases.

- (a) Prior to the initial 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;
 - (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 and all discoverable material shall be made available to all parties and their counsel five 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 G.S. 7B-808. Otherwise, failure to properly provide the reports discoverable material 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.

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.

15A. Review and permanency planning hearings.

- (a) The court shall conduct a review hearing within 90 days from the date of the initial dispositional hearing held pursuant to G.S. 7B-901 and shall conduct a review hearing within six months thereafter. Within 12 months of the date of the initial order removing custody, there shall be a review hearing designated as a permanency planning hearing. Review hearings after the initial permanency planning hearing shall be designated as subsequent permanency planning hearings. Subsequent permanency planning hearings shall be held at least every six months thereafter or earlier as set by the court to review the progress made in finalizing the permanent plan for the juvenile, or if necessary, to make a new permanent plan for the juvenile.
- (b) The director of social services shall make a timely request to the clerk to calendar each hearing at a session of court scheduled for the hearing of juvenile matters. The clerk shall give 15 days' notice of the hearing and its purpose to (i) the parents, (ii) the juvenile if 12 years of age or more, (iii) the guardian, (iv) the person providing care for the juvenile, (v) the custodian or agency with custody, (vi) the guardian ad litem, and (vii) any other person or agency the court may specify.
- (c) At the conclusion of each permanency planning hearing, the judge shall make specific findings as to the best permanent plans to achieve a safe, permanent home for the juvenile within a reasonable period of time. The judge shall inform the parent, guardian or custodian that failure or refusal to cooperate with the plan may result in an order of the court in a subsequent permanency planning hearing that reunification efforts may cease.
- (d) The order shall be reduced to writing, signed and entered no later than 30 days following the completion of the hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30 day period to determine and explain

the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing.

16A. Issuance of Summons for Termination of Parental Rights

Upon the filing of the petition, the court shall cause a summons to be issued. The summons shall notify the respondents to file a written answer within 30 days after service of the summons and petition. Service of the summons shall be completed as provided in G.S. 1A-1, Rule 4.

17A. Pretrial Hearing

- (a) The court shall conduct a pretrial hearing. The court may combine the pretrial hearing with the adjudicatory hearing on termination in which case no separate pretrial hearing order is required. Written notice of the pretrial hearing shall be in accordance with G.S. 7B-1106 and G.S. 7B-1106.1.
- (b) At the pretrial hearing the court shall consider the following:
 - (1) Retention or release of provisional counsel
 - (2) Whether a guardian ad litem should be appointed for the juvenile, if not previously appointed.
 - (3) Whether all summons, service of process and notice requirements have been met.
 - (4) Any pretrial motions.
 - (5) Any issues raised by any responsive pleading, including and affirmative defenses.
 - (6) Any other issue which can be properly addressed as a preliminary matter.

18A. Adjudicatory Hearing on Termination of Parental Rights

- (a) The hearing on the termination of parental rights shall be conducted by the court sitting without a jury and shall be held in the district at such time and place as the Chief District Court Judge shall designate, but no later than 90 days from the filing of the petition or motion.
- (b) The court may for good cause shown continue the hearing for up to 90 days from the date of the initial petition. Continuances that extend beyond 90 days after the initial petition shall be granted only in extraordinary circumstances when necessary for the proper administration of justice, and the court shall issue a written order stating the grounds for granting the continuance.
- (c) The court shall take evidence, find the facts, and shall adjudicate the existence or nonexistence of any of the circumstances set forth in G.S. 7B-1111 which authorize the termination of parental rights of the respondent. The adjudicatory order shall be

reduced to writing, signed, and entered no later than 30 days following the completion of the termination of parental rights hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30 day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing.

19A. Determination of best interest of the juvenile

- (a) After an adjudication that one or more grounds for terminating a parent's rights exist, the court shall determine whether terminating the parent's rights is in the juvenile's best interest.
- (b) Once a determination is reached, an order shall be reduced to writing, signed, and entered no later than 30 days following the completion of the termination of parental rights hearing. If the order is not entered within 30 days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30 day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within 10 days of the subsequent hearing.

20A. Post termination of parental right's placement court review

- (a) The court shall conduct a placement review not later than six months from the date of the termination hearing when parental rights have been terminated by a petition or motion brought by any person or agency designated in G.S. 7B-1103(a)(2) through (6), or one parent's parental rights have been terminated by court order and the other parent's parental rights have been relinquished under Chapter 48 of the General Statutes, and a county director or licensed child-placing agency has custody of the juvenile. The court shall conduct reviews every six months thereafter until the juvenile is the subject of a decree of adoption.
- (b) No more than 30 days and no less than 15 days prior to each review, the clerk shall give notice of the review to the juvenile, the person providing care for the juvenile, the guardian ad litem, if any, and any other person or agency the court may specify.
- (c) If the juvenile is the subject of a decree of adoption prior to the date scheduled for the review, within 10 days of receiving notice that the adoption decree has been entered, the department of social services shall file with the court and serve on any guardian ad litem for the juvenile written notice of the entry. The review hearing shall be cancelled with notice of said cancellation given by the clerk to all persons previously notified.

21A. Time Requirements for Orders

- (a) Entry of Order within thirty days. Orders for all the following hearings must be in writing, include appropriate findings of fact, and be entered (signed by judge and filed with clerk) within thirty days of completion of the hearing:
- (1) Continued non-secure custody, G.S. 7B-506(d);
 - (2) Adjudication of abuse, neglect, or dependency, G.S. 7B-807(b);
 - (3) Disposition in abuse, neglect, or dependency case, G.S. 7B-905(a);
 - (4) Review, G.S. 7B-906.1(h);
 - (5) Permanency planning, G.S. 7B-906.1(h);
 - (6) Placement on the Responsible Individuals List, G.S. 7B-323(d);
 - (7) Hearing on unknown parent in a TPR action, G.S. 7B-1105(e);
 - (8) TPR adjudication and disposition, G.S. 7B-1109(e); 7B-1110(a); and
 - (9) Reinstatement of parental rights, G.S. 7B-1114(l).
- (b) Clerk's duty to reschedule when entry is late. The following orders require a clerk to schedule a special hearing when the order is not entered within the thirty day time requirement and an order must be entered within ten days after the special hearing:
- (1) Adjudication of abuse, neglect, or dependency, G.S. 7B-807(b);
 - (2) Dispositional order in abuse, neglect, or dependency case, G.S. 7B-905(a);
 - (3) Review, G.S. 7B-906.1(h);
 - (4) Permanency planning, G.S. 7B-906.1(h);
 - (5) TPR adjudication and disposition, G.S. 7B-1109(e); 7B-1110(a); and
 - (6) Reinstatement of parental rights, G.S. 7B-1114(l).
- (c) The hearings required by these statutes must be scheduled by the clerk at the first session of court scheduled for the hearing of juvenile matters after the thirty-day period expires.

Rules 1B - 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 cases. To be included on any list an attorney must have a local working telephone number at which he or she can be contacted, have an office located in District 2 and complete any initial or follow up training specified by the Chief District Court Judge.
- (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 2nd 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 the Chief 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 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 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 G.S. 7B-2202 (c), 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 written 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.

(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. A regular civil continuance form shall be used and the clerk shall submit the continuance order to the presiding judge for his signature by the close of the court session.

4B. 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 at least three working days before the hearing date. 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. The court has the discretion to hear further secured custody hearings within 28 days at the request of any party.

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. . (Hyde County is exempt from the foregoing rule due to transportation issues in that county.) 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 of the Pre-adjudication conference 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 9:30 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 hearing should be held at the earliest possible date.

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 five 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 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) A summary of evaluations completed;
- (6) A statement of evaluations needed;
- (7) An opinion as to whether there is reason to suspect the juvenile is abused, neglected, or dependent; and
- (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.

IIB. 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

Juvenile Records and Social Reports of Cases of Abuse, Neglect and Dependency

In accordance with G.S. 7B-2901(a), the clerk shall maintain a complete record of all juvenile cases filed in the clerk's office alleging abuse, neglect or dependency. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and the other papers filed in the proceeding. The recording of the hearing shall be reduced to written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the court.

It is hereby ordered that the following persons may examine the juvenile's record maintained pursuant to this section and obtain copies of written parts of the record without an order of the court:

- (1) the parents of a juvenile who is the subject of an abuse, neglect or dependency case;
- (2) the parents' attorneys in an abuse, neglect or dependency case;
- (3) the attorney for the Department of Social Services or his/her designee;
- (4) the assigned social worker from that Department of Social Services;
- (5) the Attorney Advocate or his/her designee; and
- (6) the Guardian ad Litem or his/her designee.

Juvenile Records and Social Reports of Delinquency and Undisciplined Cases.

In accordance with G.S. 7B-3000(a), the clerk shall maintain a complete record of all juvenile cases filed in the clerk's office to be known as the juvenile record. The record shall include the summons and petition, any secure or non-secure custody order, any electronic or mechanical recordings of hearings, and any written motions, orders or papers filed in the proceeding.

It is hereby ordered that the following persons may examine the juvenile's record and obtain copies of written parts of the record without an order of the court:

- (1) Juvenile;
- (2) Juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- (3) The District Attorney or his/her designee;
- (4) Court counselors.

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 the 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 non-confidential 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.
- (3) Local health departments,
- (4) County departments of social services,
- (5) Local law enforcement agencies,
- (6) Local school administrative units,
- (7) District Attorney's office,
- (8) The Juvenile Justice Section of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety,
- (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 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, the 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

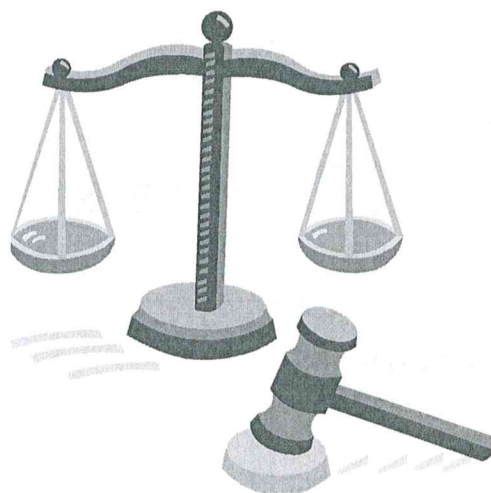
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BEAUFORT CO., C.S.C.

BY KJ

NORTH CAROLINA JUVENILE COURT: A HANDBOOK FOR PARENTS



IN ABUSE, NEGLECT AND DEPENDENCY HEARINGS

CONTACT INFORMATION FOR THESE KEY PEOPLE IN YOUR CASE:

Your Lawyer

Name:	
Address:	
Phone:	Best Time to Call:
Email:	

Your Social Worker:

Name:	
Address:	
Phone:	Best Time to Call:
Email:	

Your Child's Guardian ad Litem (GAL):

Name of GAL:	
GAL Office Address:	
Phone:	Best Time to Call:
Email:	

Others:

Juvenile Court Checklist

This chart may help you keep track of your court dates. A brief description of each court events is found on page 10, 11, 12, and 13 of this handbook.

COURT EVENT	DATE	NOTES
Child Planning Conference (CPC)		
Nonsecure Custody Hearing (NCH)		
2nd NSC Hearing:		
3rd NSC Hearing:		
Pre-Adjudication Conference (30 days from filing of petition)		
Adjudication Hearing (45-60 days from filing of petition)		
Dispositional Hearing (right after adjudication or within 30 days)		
* 1st Review Hearing (within 90 days of Disposition)		
* 2nd Review (within 6 months after 1st review)		
* 3rd Review (every 6 months)		
* Permanency Planning Review Hearing (PPH) - (within 12 months of NSC or 30 days after order ceasing reunification efforts)		
* 2nd PPH (within 6 months)		
* Subsequent PPH (every 6 months)		
TPR Petition Filed (if necessary)		
TPR Hearing (if necessary)		

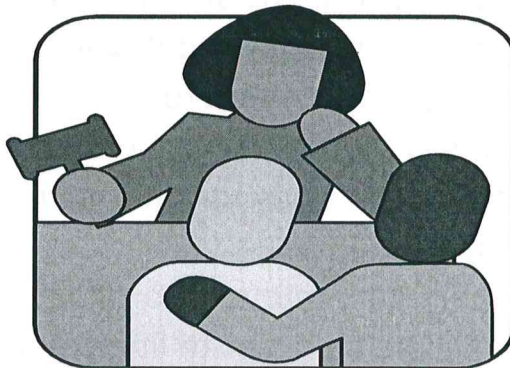
* These hearings are required only if the court removes the child from the home and has not returned the child home. However, review hearings may be held at any time.

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INTRODUCTION

Being involved in a child abuse, neglect, or dependency case can be very stressful for a family. Not knowing what to expect can make it even harder. This handbook tries to explain the court process and the people involved in your case, but it is only a general explanation. You should always discuss your case with your lawyer.



THE COURT PROCESS

BASIC INFORMATION ON ABUSE, NEGLECT AND DEPENDENCY CASES

- In North Carolina, each county has a Department of Social Services (DSS). Reports of child abuse, neglect, or dependency are received by DSS. If DSS finds evidence of abuse, neglect, or dependency, DSS must decide whether to file a petition, the paperwork that starts the court's involvement in your family.
- When DSS files a petition, it may ask the court for an order to remove your child from the home if DSS has determined that removal is needed to keep your child safe.
- When a petition is filed, you must receive a copy. The petition names you as a "respondent." This is the term used by the Court for the parent, guardian or custodian in a child abuse, neglect and dependency case.
- In the petition, DSS describes what information it used to decide that your child needs protection or assistance. These are called allegations.
- A summons is attached to the petition and tells you the date, time and place of your first court hearings. The summons tells you that you have a right to have a lawyer represent you, and it will give you the name and phone number of the lawyer appointed for you. This is a temporary appointment. This temporary appointment will end unless the judge finds that you want a lawyer but can't pay for one. You should contact your lawyer as soon as possible.
- If DSS asked that your child be removed from the home and the judge agreed to do so, there will be an order telling you who has custody of your child. Usually, this will be DSS. Having custody makes DSS legally responsible for your child and DSS can decide, with the approval of the court, where your child will live.
- This is not a criminal case. You cannot be put in jail or face any other criminal penalty if the court decides that your child was abused or neglected.
- The District Attorney may file a separate criminal case against you based on the same facts that started this case. If that happens, you may end up with two lawyers—one for the abuse, neglect, or dependency case and another for the criminal case. Make sure your lawyer in this case knows about the criminal case and make sure the lawyer in the criminal case knows about this case.

COURTROOM BASICS

- **Arrive on time.** You should plan to arrive at the courthouse at least 30 minutes before each scheduled hearing. If you are late or don't appear, the judge may decide your case without you there.
- **Dress appropriately.** Do not wear halter tops, torn jeans, short skirts, hats or t-shirts with printing and/or logos to your hearing.
- **Turn off all electronic devices.** Before you go into the courtroom, be sure to turn off cell phones and pagers.
- **Do not bring food or drink into the courtroom.**
- **Take it seriously.** Show the judge respect. Address the judge as "judge" or "Your Honor." Don't curse or show anger.
- **Listen carefully.** Don't interrupt others when they are speaking. Don't guess at an answer. Don't lie. If you don't understand a question, ask the judge or your attorney to explain it to you. Do not answer the question until you understand.
- **Children in court.** If you have children with you, arrange for someone to care for them during your hearing.
- **Don't leave without understanding what the judge has ordered.**

WHO IS INVOLVED IN YOUR CASE?

The Judge:

The judge is the person who conducts the court hearings. In some districts, you will have the same judge throughout your case. At each hearing, the judge listens to each side and makes a decision based on the law and the evidence he or she hears.

Your Lawyer:

You will get a lawyer appointed to represent you when DSS files its petition. This is a temporary appointment. To continue receiving these legal services, the judge must determine that you want a lawyer but can't pay for one. Some judges may enter a judgment against you for the cost of the lawyer.

The Guardian ad Litem and the Attorney Advocate:

The Guardian ad Litem (GAL) is a specially trained volunteer appointed by the court to investigate the facts of a case and make recommendations to the court on what he or she thinks is in the best interest of your child. The GAL will talk and visit with many people, including you and your child. Talk with your lawyer about what to discuss with the GAL. The Attorney Advocate is appointed with the GAL to ensure that your child's legal interests are protected. Both the GAL and the Attorney Advocate usually remain on the case until it is over. While you may talk to the GAL, you should not talk about your case with the Attorney Advocate without your lawyer present.

The DSS Social Worker and DSS Attorney:

Part of the social worker's job is to provide services to you and your child and to help you and your family. The social worker also attends court hearings and tells the judge what he or she thinks should happen in your case. It is important to keep in touch with your social worker and to develop a strong working relationship. The DSS attorney presents the case to the court for the social worker. While you may talk to the social worker, you should not talk about your case with the DSS attorney without your lawyer present.

Relatives:

The law in North Carolina states that if your child cannot be in your home or the home of the other parent, the judge must decide if there is a relative of the child that can provide a safe home. As early as possible, you should tell your social worker the names, phone numbers, addresses and any information you have about your child's relatives. The social worker will contact them and ask if they can help care for your child.

Court Employees:

There will be one or more bailiffs, typically a sheriff deputy, in court to make sure the courtroom is safe and business is done in an orderly way. The clerk of court makes sure that a record is kept of all the information presented to the court. You may also have the right to have an interpreter if you do not speak or understand English, or if you are deaf.

Note: The child who is the subject of the case is considered a "party," but the child may or may not be present depending on the child's age, maturity level, and whether it is in the best interest of the child to attend. Other persons who may be present include any witness that a party intends to call, foster parents, people from various agencies, and other people waiting for their cases to be heard.

WHEN DO I GO TO COURT?

After DSS files a petition that begins a case in juvenile court, several types of meetings and court hearings may take place. These include

- Child Planning Conference
- Non Secure Hearing
- Adjudication Hearing
- Disposition Hearing
- Review Hearing
- Permanency Planning Hearing
- Termination of Parental Rights
- Post Termination of Parental Rights

The descriptions on the following pages are meant to give you an overview of these hearings and do not contain all of the detailed requirements of the law. If you have questions about your case, including the people involved, talk to your lawyer.

Before you go to court you may be asked to attend a **Child Planning Conference (CPC)**. This is not a hearing, but a meeting where families and others (social workers, DSS attorney, GAL attorney advocate, parent attorney, court personnel, and service providers) identify issues, resolve problems and develop action plans. People at the meeting share information, make recommendations, and try to reach agreement about where the child should live, visitation for the parents, any services that are needed, and paternity and child support. Judges do not attend CPCs and do not hear confidential information shared in the CPC.

Nonsecure Custody Hearing

When a child is removed from home, a nonsecure custody hearing must occur within seven (7) days. As long as a child remains placed outside the home, nonsecure custody hearings must continue to be held until the disposition hearing is finished, unless you and your attorney agree to waive them.

At a nonsecure custody hearing, the judge does not decide if what DSS states in the petition, the allegations, are true. The judge decides if keeping your child out of your home is necessary. If the judge decides it is, the judge also decides if your child should stay where he or she is currently placed.

At every nonsecure custody hearing, the judge must ask certain questions:

- What is the identity and location of both parents?
- Has paternity been established?
- Are there relatives that can care for your child?
- Is it safe for the child to return home?

In addition, the judge may set a visitation schedule.

The Adjudication Hearing

This hearing must be held within 60 days of the date the petition was filed unless the judge decides there is a good reason to delay it. At this hearing, DSS must prove by clear and convincing evidence that the allegations in the petition are true. If the judge decides that the allegations have not been proven, the judge will dismiss the petition and the case will be over. If the judge decides that the allegations have been proven, the judge will decide if the child will be adjudicated abused, neglected, and/or dependent.

Instead of having an adjudication hearing, the parties and their attorneys may agree on what the court should order. If this happens, the judge will enter a "consent order."

Disposition Hearing

The disposition hearing may occur on the same day as the adjudication hearing or may be up to 30 days later. Disposition hearings are often less formal than adjudication hearings and all parties give information to the court about what they want to happen.

In the disposition hearing, the judge decides what the best plan is for your child. The judge will decide where your child will live, whether there are any relatives that can help take care of your child, what type of visits you will have with your child, and what services you and your child may need. The judge may also order each parent to receive certain services such as substance abuse treatment, parenting classes, or domestic violence counseling.

The goal for most families is to reunite the parent and child but in some cases, the judge may decide that there should be another plan for your child.

Review Hearing

The first review hearing must take place within 90 days of the disposition hearing. After that, there must be a review hearing every 6 months but often they occur more frequently. In addition, any party can ask for a review hearing at any time, if an attorney files a motion with the court.

At each review hearing, the judge is given information about what each parent has been doing, how the child is doing, and whether there are any needs that haven't been addressed. The court must decide if the plan that was made during disposition is working and if any changes are needed.

Permanency Planning Hearing

A permanency planning hearing is required within 12 months after a child is removed from home. It may be held earlier if the judge decides that efforts to reunify the family are not required or will stop. Permanency planning hearings must be held at least every 6 months.

At a permanency planning hearing, the parties present information to the judge so the judge can order a plan to achieve a safe, permanent home for the child within a reasonable period of time. The judge will decide whether the plan is to return the child home, to give a suitable person custody or guardianship of the child, to move toward termination of parental rights so the child can be adopted, or to keep more than one of these options open, sometimes referred to as concurrent planning.

Termination of Parental Rights Hearing

A termination of parental rights (TPR) hearing is divided into two stages, adjudication and disposition. At adjudication, the party requesting TPR must prove to the judge by clear and convincing evidence that grounds exist for termination. If the judge decides that grounds do not exist, the judge will dismiss the case. If the judge decides that the grounds do exist, the judge moves to the disposition stage and must decide whether TPR is in the child's best interest.

Post-Termination of Parental Rights Review Hearing

These hearings are required if the child is in the custody of DSS or another agency when the parent's rights are terminated. The first post-TPR review hearing must be held within 6 months of the TPR hearing and at least every 6 months after that until the child is adopted. The parent whose rights have been terminated does not participate in this hearing because, after termination, the parent is no longer a party to the case. The purpose of this hearing is to examine the plan for permanent placement of the child, to make sure the plan is adequate, and to make sure appropriate efforts are being made to carry out the plan.

YOUR RELATIONSHIP WITH YOUR LAWYER

Your relationship with your lawyer is very important. You should make every effort to make the relationship with your attorney work to your advantage.

1. BE HONEST WITH YOUR LAWYER. Keep your lawyer fully informed of your case and your progress. Remember that the conversations you have with your lawyer are **confidential**.

2. SHOW ALL DOCUMENTS TO YOUR LAWYER. Share any documents that are important to your case (evaluations, case plans, visitation schedule) with your lawyer.

3. REVIEW COURT DOCUMENTS WITH YOUR LAWYER. Take time to discuss and review the petition filed in your case and any orders with your lawyer.

4. MAINTAIN CONTACT WITH YOUR LAWYER. Make sure that your lawyer has your current contact information. Return calls from your lawyer as soon as possible. Make and keep appointments.

5. ASK YOUR LAWYER TO EXPLAIN. If you have any questions about your case ask your lawyer to explain.

6. DISCUSS YOUR CASE WITH YOUR LAWYER. Talk to your lawyer about how you would like your case to be resolved.

7. ALWAYS TALK TO YOUR LAWYER. Before signing any documents, make sure you have discussed the papers with your lawyer.

YOUR RIGHTS AS A PARENT

You have the right to an attorney. If the judge determines you want a lawyer, but can not pay for one, the court will appoint one for you.

You have the right to admit or deny the allegations made in the petition.

You have the right to be notified of all court hearings and to fully participate.

You have the right to a language interpreter or a sign language interpreter if you need one.

You have the right to talk to your caseworker and attorney.

You have the right to have your attorney ask questions of the witnesses in court.

You have the right to have your attorney present evidence, including having witnesses testify or testify yourself about the allegations of child abuse, neglect, or dependency.

You have the right to know what is in your court file and what is in most of the reports that are given to the court.

You have the right to see your child if he or she has been placed outside your care, unless the judge determines that visitation is not in your child's best interests.

In most cases, you have the right to services and assistance to prevent the removal of your child from your home, or to make it possible for the child to be returned to the home. Your attorney can also ask the judge to order needed services if they are not provided in a timely manner.

You have the right to be given a copy of the judge's written decisions.

You have the right to appeal certain rulings or decisions of the judge if you do not agree with what the court ordered.

YOUR RIGHTS AS THE NON-REMOVAL PARENT

If your child was not removed from your care, you are the non-removal parent. You usually will have the right to have your child come and live with you. If that is not possible, your relatives should be identified and considered as possible resources for the child.

Non-removal parents have all the same rights of parent previously listed, including the right to a court-appointed attorney.

YOUR RIGHTS AS THE PARENT OF AN INDIAN CHILD

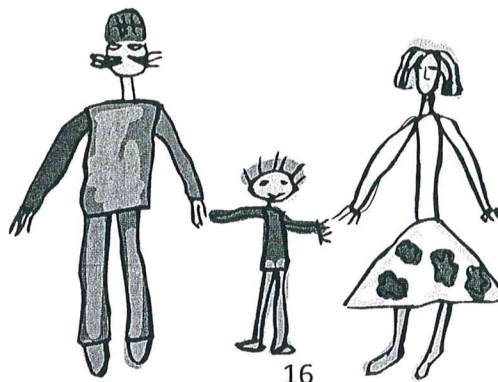
The judge has the responsibility to determine if your child is a member of or eligible for membership in a federally recognized Indian tribe.

Upon the judge's determination, the tribe must be notified. The tribe may get involved in the case or request transfer of the case to the tribal court.

The judge must make sure that the parents and custodians of an Indian child get notice of any court hearing that involves the child and know of their right to intervene. The notification must be made by certified or registered mail with return receipt requested.

The grounds for any case under the Indian Child Welfare Act (ICWA) must be proven at a higher standard than for non-ICWA cases.

The parents of an Indian child have all the previously listed rights of parents, including the right to a court-appointed attorney.



8 STEPS TO HELP YOU REUNIFY WITH YOUR CHILD

1. Get treatment or other help the court requires as soon as possible!
2. Visit your child as often as the court allows. If you have to miss a visit, tell your social worker in advance.
3. Go to every court hearing.
4. Call your lawyer every week or as often as you and your lawyer agree. If your lawyer is not available when you call, leave a detailed message about how your visits and court ordered services are going.
5. Call your social worker every week. If your social worker is not available when you call, leave a detailed message about how your visits and court ordered services are going.
6. Make sure your lawyer and your social worker always know how to reach you.
7. Follow all court orders.
8. Keep a journal of important dates and notes.



Portions of this handbook were excerpted, with permission, from the 2001 Handbook for Parents, Guardians, Custodians and Children developed by the NC Court Improvement Project's Services/Resources Sub-Committee; the Abuse, Neglect, Dependency, and Termination of Parental Rights Proceedings in North Carolina Manual developed by the University of North Carolina's School of Government and the North Carolina Court Improvement Project; the Guide for Parents supported by the Nebraska Court Improvement Project; and the Family Court Calendar developed by the Family Court of the Superior Court of the District of Columbia

For more information about the North Carolina Court Improvement Project (CIP), contact the CIP staff at the NC Administrative Office of the Courts, 919.890-1222,

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