



LOCAL RULES OF PRACTICE JUVENILE COURT OF RUTHERFORD COUNTY, TENNESSEE

PREFACE

Pursuant to the authority vested in the Judge of the Juvenile Court of Rutherford County, Tennessee, by T.C.A. § 37-1-101 *et seq.*, and the *Tennessee Rules of Juvenile Procedure*, these rules shall govern the practice and procedure in the Juvenile Court of Rutherford County, Tennessee. Any of the rules herein enacted may be waived or modified by special Order of the Court when in the Court's opinion such waiver or modification is necessary in order to protect the child(ren)'s best interests, to do justice, or to arrive at the equities of the case between or among the parties involved. These Rules supersede all local rules adopted prior to _____, 2018.

SECTION I: GENERAL RULES APPLICABLE TO ALL CASES

Rule 1. Conduct of Counsel and Litigants, Appearance of Counsel

- (a) Every person appearing in this Court is charged with knowledge of these rules. Failure of an attorney or *pro se* litigant to have knowledge of these rules will not constitute grounds for waiver of these rules.
- (b) There will be no smoking, eating, drinking, or chewing gum in the courtroom. Lawyers, Court attendants, and all persons will be appropriately dressed while in Court attendance. The Court's Dress Code is attached hereto as Appendix A. There will be no cell phones or smart phones allowed in the courtroom unless such devices are silenced. Any such devices that disrupt Court proceedings are subject to seizure and confiscation, and any person who is in possession of such a device that disrupts Court proceedings may be held in contempt of Court and sanctioned accordingly.
- (c) Counsel who has entered an appearance in a case will be counsel of record until relieved by the Court. Entry of appearance shall be made by the filing of pleadings, formal entry of a notice of appearance, or by appointment Order from the Court. Counsel of record shall maintain in the court file information as to where they are to be served notice of all filings from the other attorneys on the case and copies of filings from the Juvenile Court Clerk. Counsel wishing to receive notice of filings and/or copies of filings via e-mail or in their designated box in the Clerk's office must clearly indicate the same in the court file on a form prescribed by the Court available in the Clerk's office.
- (d) No counsel of record will be allowed to withdraw except for good cause and by order of the Court upon motion after notice to the party. Motions to withdraw shall state the reason the motion is made except where such is excused under the Rules governing responsibility of counsel to their client. Notice of the filing of the motion shall be given to the party who is represented by the attorney seeking to withdraw and to opposing counsel or *pro se* litigant.

Rule 2. General Operations of the Court

(a) There shall be a session of Court daily, except non-judicial days, which are Saturdays, Sundays, and holidays. Court hours are **8:00 a.m. to 4:15 p.m.** Exceptions to this schedule may be authorized by the Judge or Magistrate.

(b) The Juvenile Court Clerk shall record all hearings which must, by law, be recorded. Audio recordings will be maintained by the Juvenile Court Clerk for a period designated by the Clerk. In the discretion of the Court, copies of audio recordings may be released to attorneys of record or court reporters. Any such party who desires to obtain a copy of a recording shall submit a written request to the Juvenile Court Clerk, setting forth the reasons supporting the party's need to review the recording.

Rule 3. Court Filings and Process

(a) Costs for filing a pleading, service of process, and other Court costs are to be established and assessed by the Juvenile Court Clerk. The schedule of fees is available for inspection and copying upon request in the office of the Juvenile Court Clerk. Filing fees or costs may be waived by the Court for good cause.

(b) All pleadings filed or presented to the Court shall be on letter-sized (8½" x 11") paper. An original pleading shall be filed in all causes and shall be accompanied by sufficient copies necessary for service upon the parties and sibling files.

(c) All process shall be delivered to the office of the Juvenile Court Clerk for service of process to be completed by any means reasonable sufficient to insure that the parties have notice pursuant to statute.

(d) Unless the Court orders otherwise, every pleading or other document filed with the Court subsequent to the original Petition shall be served on all parties and shall contain a Certificate of Service. The Certificate of Service shall contain the date and manner of service and the names and locations of each person served.

(e) After service of process has been effectuated by personal service for an initial scheduling and the party has presented him/herself to the Court, subsequent notice may be made by mail or in open Court. All parties shall appear at all proceedings unless excused by the Court.

(f) Facsimile filing is allowed to the extent allowed by the *Tennessee Rules of Civil Procedure and Tennessee Rules of Juvenile Procedure*. New cases and requests for emergency *ex parte* relief may not be filed by facsimile. Once a case is filed, however, answers, motions, briefs, and other documents may be filed by facsimile. Once submitted by facsimile, copies of signatures submitted by facsimile shall be deemed by the Court to be original signatures and documents submitted by facsimile shall be deemed to be original documents. It is not required that original documents which are duplicative of documents submitted by facsimile be filed.

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Rule 4. Magistrates

(a) Unless the Judge directs otherwise, a Magistrate may hear any case over which the Court has jurisdiction. Any ruling by a Magistrate on a preliminary matter is final and not reviewable by the Judge, except on the Court's own motion. T.C.A. Sec. 37-1-107(f). Any ruling by a Magistrate on a non-preliminary matter may be appealed to the Judge by filing a request for rehearing with the Juvenile Court Clerk within ten (10) judicial days of the date on which the Magistrate's Order is stamped "FILED" by the Juvenile Court Clerk. T.C.A. Sec. 37-1-107(d). A prematurely filed request for rehearing shall be treated as if it were timely filed immediately after the entry of the Magistrate's Order. Unless the Judge orders otherwise, the ruling of the Magistrate shall be the decree of the Court pending a rehearing. T.C.A. Sec. 37-1-107(d).

(b) At any time during the pendency of the proceedings and with the permission of the Court, the parties may collectively waive their right to a rehearing by the Judge, thereby stipulating that the final ruling of the Magistrate will be the final Order of the Juvenile Court. If all parties to a pending action wish to waive their right to a rehearing, they shall execute and file a "Notice, Consent, and Waiver of Right to Hearing Before Judge" form, as set forth in Appendix B. The waiver may be required by the Court before a matter is placed for a final hearing on a Magistrate's docket.

Rule 5. Guardians *ad litem* and CASA

(a) The Court may appoint a Guardian *ad litem* to represent a child's best interests either on the Court's own motion or at the request of any party when the Court deems such an appointment to be appropriate.

(b) The Court may appoint CASA (Court Appointed Special Advocates) to act on behalf of a child in determining the best interest of the child in any action pending before the Court. Any party to a proceeding may request that CASA be appointed to the case. For purpose of notice, CASA shall be deemed a party that must be notified of all hearings and staffings.

Rule 6. Protective Custody Orders and Temporary Restraining Orders

Persons seeking a Protective Custody Order or Temporary Restraining Order shall first file a Petition with the Juvenile Court Clerk. The Court will then determine whether the matter is an emergency and should be considered immediately *ex parte* or whether all parties can be given notice and the opportunity to be heard. When the opposing party has counsel of record, the party seeking the *ex parte* Order shall endeavor to give counsel notice that he or she will be seeking an *ex parte* Order. Exceptions to this rule include situations where time is of the essence and the best interest or welfare of the child(ren) will be compromised if notice is given. Such notice as the circumstances permit shall be given. Where no notice is given and counsel for the opposing party is known, parties seeking an *ex parte* Order should present an affidavit showing why it was not possible to give notice.

Rule 7. Scheduling of Hearings and Continuances

(a) In cases where a potential hearing date is provided to the parties by the Juvenile Court Clerk, whether in open Court, at the Clerk's office, or via telephone, an Order must be filed setting the case for hearing. If no Order to Set is filed, the case will not be heard on the date in question.

(b) Cases may be continued only by leave of the Court. Cases will not be continued unless good cause is shown. All cases continued by leave of the Court will be by written Order stating the reason for the continuance, at whose instance, and the date of the reassignment. Agreed continuances shall be by Order signed by counsel for all parties and shall specify a new hearing date. It is the responsibility of the party

requesting the continuance to notify all other parties and witnesses under subpoena of the continuance and the reset date.

(c) No case shall be "continued indefinitely."

(d) Absence of a witness will not be grounds for a continuance unless the witness has been properly served with a subpoena in accordance with these Rules and the *Tennessee Rules of Civil Procedure*.

(e) When a case is set without objection to having it set, failure to have completed discovery, unavailability of counsel on the hearing date, inability to take depositions, or failure to have completed any other trial preparation will not be grounds for a continuance, except for good cause shown prior to the hearing date. In any case which is continued, the Court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as Court costs.

(f) If a party or witness requires an interpreter, counsel for the party or calling the witness shall notify the Judge's office as soon as possible but in no event later than ten (10) judicial days prior to the hearing with notice of the language to be interpreted so that arrangements may be made to ensure the interpreter's availability and to avoid a continuance.

(g) If counsel has a client who is incarcerated and their attendance is required at a hearing, counsel must submit a lodged transport Order with the Clerk's office at least five (5) judicial days prior to the hearing designating the individual's name, date of birth, facility and/or agency whom has custody of the individual, the type of hearing to be conducted including approximate length of hearing and date and time of hearing.

Rule 8. Motion Practice

(a) Unless otherwise docketed, motions will be set by the Juvenile Court Clerk on a designated motion day. Legal argument may be heard and agreements announced on the motion docket. Each side is allowed a maximum of fifteen (15) minutes to present all motions. Motions which cannot be heard within thirty (30) minutes shall not be set on a motion day without leave of the Court. Briefs and responses may be required at the discretion of the Judge or Magistrate. Contested hearings requiring witness(es) testimony shall be set on a temporary hearing docket dates for which may be obtained from the Juvenile Court Clerk. Designating the matter as a "Motion" will not qualify the matter to be heard on a Motion docket if it does not fall within the parameters outlined herein.

(b) Motions shall be filed at least five judicial days prior to the hearing thereon, unless all parties waive the five-day requirement or special approval from the Court is obtained prior to the filing.

Rule 10. Orders

(a) Unless otherwise directed, the prevailing party shall draw the Order and file the same within fifteen (15) judicial days of the hearing. All Orders must include a certificate of service to all parties.

(b) Any Agreed Order that is announced in Court on the record does not have to be signed by the parties prior to being lodged with the Juvenile Court Clerk. However, such Orders must state in the body of the Order that the agreement was announced in open Court, the date it was announced and Judge or Magistrate before whom the parties appeared.

(c) All Orders setting a matter for a hearing shall contain the date and time of hearing, the length of time the matter is expected to take on the court's docket, the Judge or Magistrate before whom the matter is to be set, whether or not the parties have attempted mediation or the court has required/waived mediation prior to a final hearing and have attached a waiver of de novo appeal to the Judge, on the form provided by the court signed by all necessary parties and counsel pursuant to Rule 4(b) if the final hearing is before a Magistrate and the waiver is required by the Court or agreed to by all parties and counsel. A matter set for a final hearing requires an Order and may not be done by notice. If counsel is not in receipt of a signed Order by the Court setting the matter for final hearing, the matter will not proceed despite the clerk's calendar having the matter noted as set.

(d) The following language shall be inserted in all Final Magistrate Orders where a waiver has not been executed: "This Order may be appealed to the Juvenile Court Judge by filing a Request for Rehearing with the Juvenile Court Clerk within ten (10) judicial days of the date on which this Order was filed with the Juvenile Court Clerk. If no Request for Rehearing is timely filed, this Order will be confirmed as the final Order of the Juvenile Court. This Order must be obeyed until the Judge rules otherwise. ANY FAILURE TO COMPLY WITH THIS MAGISTRATE'S ORDER IS PUNISHABLE BY CONTEMPT, FOR WHICH THE PENALTIES MAY INCLUDE A FINE AND/OR IMPRISONMENT."

Rule 11. Dormant Cases

To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant for an extended time.

SECTION II: RULES APPLICABLE TO DEPENDENCY, NEGLECT, AND ABUSE CASES

Rule 12. Preliminary Hearings

(a) Preliminary Hearings shall be limited to two (2) hours. Each side will be allowed a maximum of sixty (60) minutes for opening, presentation of witnesses, cross-examination of adverse witnesses, and closing arguments.

(b) It is unnecessary for the Court to hear more of the Petitioner's proof than is necessary to establish probable cause, and the Court may terminate the hearing at any time that probable cause has been established and each Respondent has been afforded the opportunity to cross-examine the witnesses called by the Petitioner and to present defense proof reasonable tending to rebut probable cause.

Rule 13. Discovery in Dependency, Neglect, and Abuse Cases

Parties shall act in good faith to share information without a formal request for discovery. The Court will, however, allow discovery upon motion by either party, being timely filed, and upon good cause shown. Discovery may then be allowed under such terms and conditions as the Court may prescribe.

Rule 14. Dispositional Hearings

All dispositional hearings shall occur immediately after the adjudication of a Petition unless the Court holds otherwise. The Court may, upon proper motion or on its own motion, set a later dispositional date.

Rule 15. Ratification of Permanency Plans

Department of Children's Services shall lodge a proposed Permanency Plan with the Juvenile Court Clerk, along with a Notice of Filing containing a Certificate of Service to all parties at least ten (10) days prior to the date set for the ratification hearing. If no party files a written objection, with notice to all parties, with the Juvenile Court Clerk within three (3) days of the date of the hearing, the Court will deem there to be no opposition to ratification of the proposed Permanency Plan. In either event, the Court will hold the required hearing to determine if approval of the Permanency Plan is appropriate and in the Child or Children's best interest.

Rule 16. Motions to Depose Victims or Children in Neglect and Abuse Cases

Attorneys filing motions to depose victims in neglect, abuse, or sexual abuse cases, or children in custody cases where neglect, abuse, or sexual abuse is alleged, shall provide notice to the District Attorney and criminal defense counsel when the attorneys are aware that a criminal case is pending regarding the same matters.

SECTION III: RULES APPLICABLE TO DELINQUENT AND UNRULY CASES

Rule 17. Detention of Juveniles

In cases alleging juvenile delinquency, a juvenile may be taken in to custody by law enforcement pursuant to the laws of arrest, an Order of the Court or as otherwise authorized by law. A Petitioner seeking an Order of Attachment from the Court must appear before the Court along with presenting the verified Petition issued by a Judicial Commissioner. After inquiry, the Court will determine if the Order of Attachment is appropriate and if so issue the same. If a juvenile is represented by counsel, Petitioner and/or the District Attorney's office shall notify counsel of their intent to appear before the court to make the request.

Once a juvenile is brought to the Detention Center, the detention staff will contact the on-call Magistrate to make a determination about the juvenile's detention status pursuant to the provisions of T.C.A. §37-1-114.

Rule 18. Detention Hearings

(a) The Petition(s) at issue must be filed with the Juvenile Court Clerk at least one and a half (1.5) hours prior to the time set for the detention hearing. For non-detention hearings, the Petition(s) must be filed at least five (5) judicial days before the hearing.

(b) When conducting detention hearings pursuant to Tenn. R. Juv. P. Rule 203, it is unnecessary for the Court to hear more of the State's proof than is necessary to establish probable cause, and the Court may terminate the hearing at any time that probable cause has been established and each Defendant has been afforded the opportunity to cross-examine the witnesses called by the State and to present defense proof reasonable tending to rebut probable cause.

Rule 19. Discovery in Delinquent Cases

In all delinquent proceedings, discovery shall be governed pursuant to Rule 16 of the *Tennessee Rules of Criminal Procedure*. To the extent possible, discovery shall be done informally.

Rule 20. Motions in Delinquent Cases

(a) In delinquency proceedings, the following issues must be raised via written motion prior to the trial or transfer hearing: motions to suppress evidence; request for discovery and inspections; and requests for severance or consolidation of charges or defendants. Failure of a party to raise defenses or objections or to file motions required prior to trial shall constitute waiver thereof, but the Court for good cause may grant relief from the waiver.

(b) All motions for early release from detention shall be heard by the Judge or Magistrate who presided over the original detention hearing in each particular case.

Rule 21. Transfer Hearings

All cases in which the State has announced its intention to transfer the case to Circuit Criminal Court shall be set for a transfer hearing within ninety (90) days of the date on which the child is taken into custody or the Petition is filed, whichever is earlier. Counsel may petition and the Court, for good cause shown, may grant extensions in the time limit for the hearing. In reviewing such a request, the Court will consider the reason for the request, circumstances of the case, the best interests of the child, and whether delaying a hearing on the case will affect related cases in other Courts. If a child is detained beyond the statutory ninety (90) day time period, upon appropriate application to the Court by the attorney for the child, the Court will entertain a Motion to Set Bond.

Rule 22. Restitution

(a) The Court may order restitution in Delinquency cases. Restitution is limited to a maximum of one thousand dollars (\$1,000.00) per juvenile for each delinquent act. The Court may limit discovery pertaining to restitution if it determines that the information sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or expensive, or the discovery sought is unduly burdensome or expensive, taking into account the needs of the child and the case.

(b) The amount of restitution may be "reserved" at disposition for future action when, in the opinion of the Court, it is in the child's best interest to begin treatment and rehabilitation despite the fact that the amount of restitution is unresolved.

SECTION IV: RULES APPLICABLE TO PRIVATE CIVIL CASES
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Rule 23. Applicability of Parenting Plan Process

(a) Pursuant to T.C.A. § 36-6-411, the Juvenile Court may incorporate "any part" of the Parenting Plan process in any matter that the Court deems appropriate.

(b) The use of Parenting Plans and Temporary Parenting Plans in parentage cases are generally required, unless waived by the Court. The Court has modified, where appropriate, the statewide Parenting Plan and Temporary Parenting Plan forms that are used in divorce cases, and urges counsel and *pro se* litigants to use the revised forms, which are available on the Court's website and in the Juvenile Court Clerk's office.

(c) The Court may order the parties to participate in mediation in any matter that the Court deems appropriate. See T.C.A. §§ 36-6-403(2) & 36-6-404(c)(2).

(d) The Court may order the parties to participate in parenting classes in any matter that the Court deems appropriate. See T.C.A. § 36-6-408.

Rule 24. Temporary Custody/Visitation Hearings

(a) Temporary Custody/Visitation Hearings shall be limited to two (2) hours. Each side will be allowed a maximum of sixty (60) minutes for opening, presentation of witnesses, cross-examination of adverse witnesses, and closing arguments.

(b) The Court will hear the parties to the action before hearing other witnesses unless, for good cause shown, the Court finds it desirable to proceed otherwise.

(c) If the one or both parties desire entry of a temporary parenting plan or if the Court so requires, parties shall submit proposed temporary parenting plans to the Juvenile Court Clerk to be Lodged no later than three (3) judicial days prior to the hearing.

Rule 25. Pre-Trial Exchanges and Briefs

(a) In all cases set for trial, lists of all witnesses and exhibits (other than impeachment and rebuttal witnesses and exhibits) shall be filed with the Juvenile Court Clerk and exchanged between counsel at least three (3) full judicial days prior to the hearing. Witnesses and exhibits not listed may not be called/used except for impeachment or rebuttal purposes.

(b) If a party desires to file a pre-trial Brief, such shall be filed no less than three (3) full judicial days prior to the hearing. Responsive Briefs are not required, but may be filed no later than 24 hours prior to the hearing with a courtesy copy sent directly to the Judge or Magistrate.

Rule 26. Statistical Data Forms in Parentage Actions

In parentage cases, no case will be set for hearing until the party seeking the hearing files a completed "Exhibit A" [Statistical Data] form with the Juvenile Court Clerk. A copy of said form is attached hereto as Appendix C, and will also be made available to parties by the Juvenile Court Clerk.

SECTION V: RULES APPLICABLE TO TITLE IV-D CHILD SUPPORT CASES

Rule 27. Initial Appearance of Respondent Upon Arrest

Any person who is arrested upon an Attachment or Capias issued by the Court and fails to post bond shall be brought before the Court within ten (10) days of being served with the Attachment/Capias.

Rule 28. Motions in Title IV-D Child Support Cases

All motions regarding child support issues in Title IV-D child support cases shall be set on a Title IV-D child support docket, and not on a regular motion day.

Rule 29. Bi-Furcation of IV-D child support cases from Parentage / Parenting time litigation

Unless the file contains a waiver of the State of Tennessee's interest in the case or other notice relieving the State of Tennessee through the IV-D office as a party to the action, all cases involving determination of Parentage or Parenting time shall be bi-furcated from the issue of child support where the IV-D office is or has been involved in the matter involving the same parties and the same child or children.

SECTION VI: MISCELLANEOUS SPECIAL RULES
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Rule 30. Criminal Injuries Compensation Awards for Minors

(a) Where an attorney has been directed by the Tennessee Claims Commission or the Division of Claims Administration to turn over criminal injury compensation awards to the Juvenile Court Clerk's office, said money shall be accompanied by a Petition and Order directing the Clerk to establish an account for the minor child. The Petition shall state the child's name, social security number, and that the funds are a result of criminal injury compensation award, and the amount that is to be tendered into the Court. The Petition will also request that the funds be placed in an interest-bearing account for the benefit of the minor child. The Order shall contain the following provisions: the child's name; when the money came into the Court; the amount being tendered into the Court; that the same shall be placed in an interest-bearing account; that to encroach upon the funds, a motion must be filed setting forth the need for the funds; the location of the account; and a certificate of service to the custodian of the minor child and any other appropriate individuals. Form Petitions meeting the requirements of this rule may be obtained from the Juvenile Court Clerk's office.

(b) Encroachment upon the funds shall be allowed for any injury-related expenses specifically contemplated by the claims commission in granting the compensation award. Encroachment upon the funds may also be allowed for unusual medical expenses (e.g., eyeglasses or braces) or unusual educational opportunities (e.g., school field trips), or for good cause shown, other needs. In order to obtain encroachment upon the funds, the custodian or other appropriate individuals must file a motion with the Juvenile Court Clerk. The motion shall state the child's name, the amount of money currently being held in the Juvenile Court Clerk's office for the benefit of the minor child, the particular need or expense for which disbursement is sought, and the amount sought. A written estimate or other appropriate documentation of the specific amount requested should be attached to the motion.

(c) The Juvenile Court Clerk shall ensure that the attorney who represented the child in obtaining the compensation award is served with a copy of any motion to encroach. The attorney shall either appear at the motion hearing, or the custodian or individual petitioning the Court to encroach shall be placed under oath and shall testify as to the child's need. If the Court grants the motion, an Order shall be entered reflecting the date, the amount of the disbursement, and to whom the check is to be made payable. In the event that the check is to be made payable to a health care provider, school, or other third party payee, the Juvenile Court Clerk shall be charged with the responsibility of obtaining the address of the payee and forwarding the check directly to the payee. In the event the sum is made payable to the custodian/movant, that person will be responsible for making an accounting to the Court within thirty (30) days of the date of the hearing as to how the money was spent. In these situations, the Court shall direct a deputy clerk to monitor the file and issue a Show Cause Order in the event the custodian/movant does not make the required accounting.

Rule 31. Removal of Age Requirement for Marriage License

The Court may determine whether to grant judicial consent to the removal of the time and/or age requirement for the marriage license.

Rule 32. Judicial Consent for Abortions

The Judge may determine whether to grant judicial consent to abortion upon proper application consistent with the procedure of Rule 24, *Rules of the Supreme Court of the State of Tennessee*.

Rule 33. Use of Child in Law Enforcement Operation

The Court may determine whether to grant permission to use a child in a law enforcement operation.

These Local Rules of the Juvenile Court of Rutherford County, Tennessee, are hereby adopted and entered upon the minutes of the Court on this the _____ day of _____, 2011.

Donna Scott Davenport, Juvenile Court Judge



LOCAL RULES OF PRACTICE JUVENILE COURT OF RUTHERFORD COUNTY, TENNESSEE

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Rule 5. Guardians *ad litem* and CASA

(a) The Court may appoint a Guardian *ad litem* to represent a child's best interests either on the Court's own motion or at the request of any party when the Court deems such an appointment to be appropriate or required by law.

(b) The Court may appoint CASA (Court Appointed Special Advocates) to act on behalf of a child in determining the best interest of the child in any action pending before the Court. Any party to a proceeding may request that CASA be appointed to the case. For purpose of notice, CASA shall be deemed a party that must be notified of all hearings and staffings.

Rule 6. Protective Custody Orders and Temporary Restraining Orders

Persons seeking a Protective Custody Order or Temporary Restraining Order shall first file a Petition or Motion if there are pending matters before the Court, with the Juvenile Court Clerk. The Court will then determine whether the matter is an emergency and should be considered immediately *ex parte* or whether all parties can be given notice and the opportunity to be heard. When the opposing party has counsel of record, the party seeking the *ex parte* Order shall endeavor to give counsel notice that he or she will be seeking an *ex parte* Order and shall certify those efforts in writing to the Court. Exceptions to this rule include situations where time is of the essence and the best interest or welfare of the child(ren) will be compromised if notice is given. Such notice as the circumstances permit shall be given. Where no notice is given, parties seeking an *ex parte* Order shall present an affidavit showing why it was not possible to give notice or why notice should be waived by the Court.

Rule 7. Scheduling of Hearings and Continuances

(a) In cases where a potential hearing date is provided to the parties by the Juvenile Court Clerk, whether in open Court, at the Clerk's office, or via telephone, an Order must be filed setting the case for hearing. If no Order to Set is filed, the case will not be heard on the date in question.

(b) Cases may be continued only by leave of the Court. Cases will not be continued unless good cause is shown. All cases continued by leave of the Court will be by written Order stating the reason for the continuance, at whose instance the case was continued, and the continued hearing date. Agreed

continuances shall be by Order signed by counsel for all parties and shall specify a new hearing date. It is the responsibility of the party requesting the continuance to notify all other parties and witnesses under subpoena of the continuance and the reset date.

(c) No case shall be "continued indefinitely."

(d) Absence of a witness will not be grounds for a continuance unless the witness has been properly served with a subpoena in accordance with these Rules and the *Tennessee Rules of Civil Procedure*.

(e) When a case is set without objection to having it set, failure to have completed discovery, unavailability of counsel on the hearing date, inability to take depositions, or failure to have completed any other trial preparation will not be grounds for a continuance, except for good cause shown prior to the hearing date. In any case which is continued, the Court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as Court costs.

(f) If a party or witness requires an interpreter, counsel for the party calling the witness shall notify the Judge's office as soon as possible but in no event later than ten (10) judicial days prior to the hearing with notice of the language to be interpreted so that arrangements may be made to ensure the interpreter's availability and to avoid a continuance.

(g) If counsel has a client who is incarcerated and their attendance is required at a hearing, counsel must submit a lodged transport Order with the Clerk's office at least five (5) judicial days prior to the hearing designating the individual's name, date of birth, facility and/or agency whom has custody of the individual, the type of hearing to be conducted including approximate length of hearing and date and time of hearing.

Rule 8. Motion Practice

(a) Unless otherwise docketed, motions will be set by the Juvenile Court Clerk on a designated motion day. Legal argument may be heard and agreements announced on the motion docket. Each side is allowed a maximum of fifteen (15) minutes to present all motions. Motions which cannot be heard within thirty (30) minutes shall not be set on a motion day without leave of the Court. Briefs and responses may be required at the discretion of the Judge or Magistrate. Contested hearings requiring witness(es) testimony shall be set on a temporary hearing docket dates for which may be obtained from the Juvenile Court Clerk. Designating the matter as a "Motion" will not qualify the matter to be heard on a Motion docket if it does not fall within the parameters outlined herein.

(b) Motions shall be filed at least five judicial days prior to the hearing thereon, unless all parties waive the five-day requirement and special approval from the Court is obtained prior to the filing.

Rule 10. Orders

(a) Unless otherwise directed, the prevailing party shall draw the Order and file the same within fifteen (15) judicial days of the hearing. All Orders must include a certificate of service to all parties.

(b) Any Agreed Order that is announced in Court on the record does not have to be signed by the parties prior to being lodged with the Juvenile Court Clerk. However, such Orders must state in the body of the

Order that the agreement was announced in open Court, all parties and counsel who were in attendance, the date it was announced and the Judge or Magistrate before whom the parties appeared.

(c) All Orders setting a matter for a hearing shall contain the date and time of hearing, the length of time the matter is expected to take on the court's docket, the Judge or Magistrate before whom the matter is to be set, whether or not the parties have attempted mediation or the court has required/waived mediation prior to a final hearing and have attached a waiver of de novo appeal to the Judge, on the form provided by the court signed by all necessary parties and counsel pursuant to Rule 4(b) if the final hearing is before a Magistrate and the waiver is required by the Court or agreed to by all parties and counsel. A matter set for a final hearing requires an Order and may not be done by notice. If counsel is not in receipt of a signed Order by the Court setting the matter for final hearing, the matter will not proceed despite the clerk's calendar having the matter noted as set.

(d) The following language shall be inserted in all Final Magistrate Orders where a waiver has not been executed: "This Order may be appealed to the Juvenile Court Judge by filing a Request for Rehearing with the Juvenile Court Clerk within ten (10) judicial days of the date on which this Order was filed with the Juvenile Court Clerk. If no Request for Rehearing is timely filed, this Order will become the final Order of the Juvenile Court. This Order must be obeyed until the Judge rules otherwise. ANY FAILURE TO COMPLY WITH THIS MAGISTRATE'S ORDER IS PUNISHABLE BY CONTEMPT, FOR WHICH THE PENALTIES MAY INCLUDE A FINE AND/OR IMPRISONMENT."

Rule 11. Dormant Cases

To expedite cases, the Court may take reasonable measures to purge the docket of old cases where the cases have been dormant for an extended time to include summarily dismissing a case for failure to prosecute the case in a timely manner.

SECTION II: RULES APPLICABLE TO DEPENDENCY, NEGLECT, AND ABUSE CASES

Rule 12. Preliminary Hearings

(a) Preliminary Hearings shall be limited to two (2) hours. Each side will be allowed a maximum of sixty (60) minutes for opening, presentation of witnesses, cross-examination of adverse witnesses, and closing arguments.

(b) It is unnecessary for the Court to hear more of the Petitioner's proof than is necessary to establish probable cause, and the Court may terminate the hearing at any time that probable cause has been established and each Respondent has been afforded the opportunity to cross-examine the witnesses called by the Petitioner and to present defense proof reasonable tending to rebut probable cause.

Rule 13. Discovery in Dependency, Neglect, and Abuse Cases

Parties shall act in good faith to share information without a formal request for discovery. The Court will, however, allow discovery upon motion by either party, being timely filed, and upon good cause shown. Discovery may then be allowed under such terms and conditions as the Court may prescribe.

Rule 14. Dispositional Hearings

All dispositional hearings shall occur immediately after the adjudication of a Petition unless the Court holds otherwise. The Court may, upon proper motion or on its own motion, set a later dispositional date in compliance with time limits imposed by law.

Rule 15. Ratification of Permanency Plans

Department of Children's Services shall lodge a proposed Permanency Plan with the Juvenile Court Clerk, along with a Notice of Filing containing a Certificate of Service to all parties at least ten (10) days prior to the date set for the ratification hearing. If no party files a written objection, with notice to all parties, with the Juvenile Court Clerk within three (3) days of the date of the hearing, the Court will deem there to be no opposition to ratification of the proposed Permanency Plan. In either event, the Court will hold the required hearing to determine if approval of the Permanency Plan is appropriate and in the Child or Children's best interest.

Rule 16. Motions to Depose Victims or Children in Neglect and Abuse Cases

Attorneys filing motions to depose victims in neglect, abuse, or sexual abuse cases, or children in custody cases where neglect, abuse, or sexual abuse is alleged, shall provide notice to the District Attorney and criminal defense counsel when the attorneys are aware that a criminal case is pending regarding the same matters.

SECTION III: RULES APPLICABLE TO DELINQUENT AND UNRULY CASES

Rule 17. Detention of Juveniles

In cases alleging juvenile delinquency, a juvenile may be taken in to custody by law enforcement pursuant to the laws of arrest, an Order of the Court or as otherwise authorized by law. A Petitioner seeking an Order of Attachment from the Court must appear before the Court along with presenting the verified Petition issued by a Judicial Commissioner. After inquiry, the Court will determine if the Order of Attachment is appropriate and if so issue the same. If a juvenile is represented by counsel, Petitioner and/or the District Attorney's office shall notify counsel of their intent to appear before the court to make the request.

Once a juvenile is brought to the Detention Center, the detention staff will contact the on-call Magistrate to make a determination about the juvenile's detention status pursuant to the provisions of T.C.A. §37-1-114.

Rule 18. Detention Hearings

(a) The Petition(s) at issue must be filed with the Juvenile Court Clerk at least one and a half (1.5) hours prior to the time set for the detention hearing. For non-detention hearings, the Petition(s) must be filed at least five (5) judicial days before the hearing.

(b) When conducting detention hearings pursuant to Tenn. R. Juv. P. Rule 203, it is unnecessary for the Court to hear more of the State's proof than is necessary to establish probable cause, and the Court may terminate the hearing at any time that probable cause has been established and each Defendant has been

afforded the opportunity to cross-examine the witnesses called by the State and to present defense proof reasonably tending to rebut probable cause.

Rule 19. Discovery in Delinquent Cases

In all delinquent proceedings, discovery shall be governed pursuant to Rule 16 of the *Tennessee Rules of Criminal Procedure*. To the extent possible, discovery shall be done informally.

Rule 20. Motions in Delinquent Cases

(a) In delinquency proceedings, the following issues must be raised via written motion prior to the trial or transfer hearing to include but not limited to: motions to suppress evidence; request for discovery and inspections; and requests for severance or consolidation of charges or defendants. Failure of a party to raise defenses or objections or to file motions required prior to trial shall constitute waiver thereof, but the Court for good cause may grant relief from the waiver.

(b) All motions for early release from detention shall be heard by the Judge or Magistrate who presided over the original detention hearing in each particular case.

Rule 21. Transfer Hearings

All cases in which the State has announced its intention to transfer the case to Circuit Criminal Court shall be set for a transfer hearing within ninety (90) days of the date on which the child is taken into custody or the Petition is filed, whichever is earlier. Counsel may petition and the Court, for good cause shown, may grant extensions in the time limit for the hearing. In reviewing such a request, the Court will consider the reason for the request, circumstances of the case, the best interests of the child, and whether delaying a hearing on the case will affect related cases in other Courts. If a child is detained beyond the statutory ninety (90) day time period, upon appropriate application to the Court by the attorney for the child, the Court will entertain a Motion to Set Bond.

Rule 22. Restitution

(a) The Court may order restitution in Delinquency cases. Restitution is limited to a maximum of one thousand dollars (\$1,000.00) per juvenile for each delinquent act or as otherwise prescribed by law. The Court may limit discovery pertaining to restitution if it determines that the information sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or expensive, or the discovery sought is unduly burdensome or expensive, taking into account the needs of the child and the case.

(b) The amount of restitution may be "reserved" at disposition for future action when, in the opinion of the Court, it is in the child's best interest to begin treatment and rehabilitation despite the fact that the amount of restitution is unresolved.

Rule 23. Applicability of Parenting Plan Process

- (a) Pursuant to T.C.A. § 36-6-411, the Juvenile Court may incorporate “any part” of the Parenting Plan process in any matter that the Court deems appropriate.
- (b) The use of Parenting Plans and Temporary Parenting Plans in parentage cases are generally required, unless waived by the Court. The Court has modified, where appropriate, the statewide Parenting Plan and Temporary Parenting Plan forms that are used in divorce cases, and urges counsel and *pro se* litigants to use the revised forms, which are available on the Court’s website and in the Juvenile Court Clerk’s office.
- (c) The Court may order the parties to participate in mediation in any matter that the Court deems appropriate. *See* T.C.A. §§ 36-6-403(2) & 36-6-404(c)(2).
- (d) The Court may order the parties to participate in parenting classes in any matter that the Court deems appropriate. *See* T.C.A. § 36-6-408.

Rule 24. Temporary Custody/Visitation Hearings

- (a) Temporary Custody/Visitation Hearings shall be limited to two (2) hours. Each side will be allowed a maximum of sixty (60) minutes for opening, presentation of witnesses, cross-examination of adverse witnesses, and closing arguments.
- (b) The Court will hear the parties to the action before hearing other witnesses unless, for good cause shown, the Court finds it necessary to proceed otherwise.
- (c) If the one or both parties desire entry of a temporary parenting plan or if the Court so requires, parties shall submit proposed temporary parenting plans to the Juvenile Court Clerk to be Lodged no later than three (3) judicial days prior to the hearing.

Rule 25. Pre-Trial Exchanges and Briefs

- (a) In all cases set for trial, lists of all witnesses and exhibits (other than impeachment and rebuttal witnesses and exhibits) shall be filed with the Juvenile Court Clerk and exchanged between counsel at least three (3) full judicial days prior to the hearing. Witnesses and exhibits not listed may not be called/used except for impeachment or rebuttal purposes.
- (b) If a party desires to file a pre-trial Brief, such shall be filed no less than three (3) full judicial days prior to the hearing. Responsive Briefs are not required, but may be filed no later than 24 hours prior to the hearing with a courtesy copy sent directly to the Judge or Magistrate.

Rule 26. Statistical Data Forms in Parentage Actions

In parentage cases, no case will be set for hearing until the party seeking the hearing files a completed "Exhibit A" [Statistical Data] form with the Juvenile Court Clerk. A copy of said form is attached hereto as Appendix C, and will also be made available to parties by the Juvenile Court Clerk.

SECTION V: RULES APPLICABLE TO TITLE IV-D CHILD SUPPORT CASES
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Rule 27. Initial Appearance of Respondent Upon Arrest

Any person who is arrested upon an Attachment or Capias issued by the Court and fails to post bond shall be brought before the Court within ten (10) days of being served with the Attachment/Capias. The date for the ten (10) day bond hearing shall be set by the Juvenile Court Clerk.

Rule 28. Motions in Title IV-D Child Support Cases

All motions regarding child support issues in Title IV-D child support cases shall be set on a Title IV-D child support docket, and not on a regular motion day.

Rule 29. Bi-Furcation of IV-D child support cases from Parentage / Parenting time litigation

Unless the file contains a waiver of the State of Tennessee's interest in the case or other notice relieving the State of Tennessee through the IV-D office as a party to the action, all cases involving determination of Parentage or Parenting time shall be bi-furcated from the issue of child support where the IV-D office is or has been involved in the matter involving the same parties and the same child or children.

SECTION VI: MISCELLANEOUS SPECIAL RULES
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Rule 30. Criminal Injuries Compensation Awards for Minors

(a) Where an attorney has been directed by the Tennessee Claims Commission or the Division of Claims Administration to turn over criminal injury compensation awards to the Juvenile Court Clerk's office, said money shall be accompanied by a Petition and Order directing the Clerk to establish an account for the minor child. The Petition shall state the child's name, social security number, and that the funds are a result of criminal injury compensation award, and the amount that is to be tendered into the Court. The Petition will also request that the funds be placed in an interest-bearing account for the benefit of the minor child. The Order shall contain the following provisions: the child's name; when the money came into the Court; the amount being tendered into the Court; that the same shall be placed in an interest-bearing account; that to encroach upon the funds, a motion must be filed setting forth the need for the funds; the location of the account; and a certificate of service to the custodian of the minor child and any other appropriate individuals. Form Petitions meeting the requirements of this rule may be obtained from the Juvenile Court Clerk's office.

(b) Encroachment upon the funds shall be allowed for any injury-related expenses specifically contemplated by the claims commission in granting the compensation award. Encroachment upon the funds may also be allowed for unusual medical expenses (e.g., eyeglasses or braces) or unusual educational opportunities (e.g., school field trips), or for good cause shown, other needs. In order to obtain encroachment upon the funds, the custodian or other appropriate individuals must file a motion with the Juvenile Court Clerk. The motion shall state the child's name, the amount of money currently being held in the Juvenile Court Clerk's office for the benefit of the minor child, the particular need or expense for which disbursement is sought, and the amount sought. A written estimate or other appropriate documentation of the specific amount requested should be attached to the motion.

(c) The Juvenile Court Clerk shall ensure that the attorney who represented the child in obtaining the compensation award is served with a copy of any motion to encroach. The attorney shall either appear at the motion hearing, or the custodian or individual petitioning the Court to encroach shall be placed under oath and shall testify as to the child's need. If the Court grants the motion, an Order shall be entered reflecting the date, the amount of the disbursement, and to whom the check is to be made payable. In the event that the check is to be made payable to a health care provider, school, or other third party payee, the

Juvenile Court Clerk shall be charged with the responsibility of obtaining the address of the payee and forwarding the check directly to the payee. In the event the sum is made payable to the custodian/movant, that person will be responsible for making an accounting to the Court within thirty (30) days of the date of the hearing as to how the money was spent. In these situations, the Court shall direct a deputy clerk to monitor the file and issue a Show Cause Order in the event the custodian/movant does not make the required accounting.

Rule 31. Removal of Age Requirement for Marriage License

The Court may determine whether to grant judicial consent to the removal of the time and/or age requirement for the marriage license.


Rule 32. Judicial Consent for Abortions

The Judge may determine whether to grant judicial consent to abortion upon proper application consistent with the procedure of Rule 24, *Rules of the Supreme Court of the State of Tennessee*.

Rule 33. Use of Child in Law Enforcement Operation

The Court may determine whether to grant permission to use a child in a law enforcement operation.

These Local Rules of the Juvenile Court of Rutherford County, Tennessee, are hereby adopted and entered upon the minutes of the Court on this the 17th day of July, 2018.


Donna Scott Davenport, Rutherford County Juvenile Court Judge

“APPENDIX A”

JUVENILE COURT OF RUTHERFORD COUNTY

1710 South Church Street, Suite 1
Murfreesboro, Tennessee 37130
(615) 217-0061 office
(615) 217-7130 fax

Dress Code Notice

All persons appearing before the Juvenile Court shall be appropriately dressed and are required to show deference to the Court in both appearance and demeanor.

Appropriate dress includes but is not limited to the following:

- All shirts shall be tucked in and worn with long pants and a belt
- No shorts
- Pants shall be pulled up to the waist, with the belt clearly visible
- No sagging
- No underwear shall be visible
- No see-through clothing; no mesh shirts
- No bare midriffs; no skin shall be visible between the shirt and the pants or skirt
- No low-cut tops; no tube tops; no tank tops; no halter tops; no open backs
- No sundresses; no spaghetti straps
- No Spandex
- No slogans on the seat of the pants
- No flip-flops
- No head coverings
- No offensive clothing
- No piercings except in ears
- No tattoos shall be visible
- No gang-related or gang-inspired clothing, coloring, accessories, or hairstyles

“APPENDIX B”

**IN THE JUVENILE COURT OF RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO**

Petitioner(s),

v.

NO. _____

Respondent(s).

NOTICE, CONSENT, AND WAIVER OF RIGHT TO HEARING BEFORE JUDGE

Notice of a Magistrate's availability. A Magistrate of this Court is available to conduct all proceedings in this cause. Pursuant to T.C.A. § 37-1-107(f), the parties in this cause may waive their right to a hearing before the Juvenile Court Judge, and thereby consent that the final findings and decision of the Magistrate will be the final Order of the Court. The final decision of the Magistrate may then be appealed directly to the Court of Appeals or Circuit Court, pursuant to T.C.A. § 37-1-159. A Magistrate may exercise this authority only if all parties voluntarily consent.

You may consent to waive your right to a hearing before the Judge of the Juvenile Court, or you may withhold your consent without adverse substantive consequences. If you decide to waive your right to a hearing before the Judge, this waiver shall be made orally in open Court, and shall also be confirmed in writing below.

Waiver of right to hearing before the Juvenile Court Judge. The following parties hereby waive their right to a hearing before the Juvenile Court Judge, and consent that the final findings and decision of the Juvenile Court Magistrate will be the final Order of the Court in this cause.

Parties' printed names

Signatures of parties

Dates

Attorneys' printed names

Signatures of attorneys

Dates

CONFIRMED this the _____ day of _____, 20____.

JUDGE/MAGISTRATE

APPENDIX C

FAILURE TO APPROPRIATELY UPDATE THIS INFORMATION OR GIVING FALSE INFORMATION COULD LEAD TO BEING CITED FOR CONTEMPT OF COURT OR HAVING A DEFAULT JUDGMENT ENTERED AGAINST YOU. BOTH PARTIES MUST UPDATE THE FOLLOWING INFORMATION WITH ANY CHANGES WITHIN 10 DAYS OF THE CHANGE TO THE CLERK OF THE JUVENILE COURT, RUTHERFORD COUNTY, TENNESSEE.

Father's Information

Full Name: _____	S.S. # _____
Residential Address: _____	Phone _____
_____	Birthday _____
Mailing Address (if different) _____	D.L. # _____

Employer (and address) _____	

Mother's Information

Full Name: _____	S.S. # _____
Residential Address: _____	Phone _____
_____	Birthday _____
Mailing Address (if different) _____	D.L. # _____

Employer (and address) _____	

Guardian's Information

Full Name: _____	S.S. # _____
Residential Address: _____	Phone _____
_____	Birthday _____
Mailing Address (if different) _____	D.L. # _____

Child(ren)'s Information

(1) Child's Full Name _____	S.S. # _____
Residential Address _____	Birthday _____

(2) Child's Full Name _____	S.S. # _____
Residential Address _____	Birthday _____

(3) Child's Full Name _____	S.S. # _____
Residential Address _____	Birthday _____

(if more children, please continue on additional sheet of paper)