

**LOCAL RULES OF PRACTICE FOR THE JUVENILE COURT FOR
DAVIDSON COUNTY, TENNESSEE**

Rule 1. Scope and Purpose

These rules shall govern the practice and procedure in the Juvenile Court of Metropolitan Davidson County, Tennessee. These Rules supersede all Rules of Practice and Procedure in the Juvenile Court of Davidson County Tennessee adopted prior to January 1, 2005.

Rule 2. Courtroom Decorum

There will be no smoking, eating or drinking or chewing of gum in the courtroom. Lawyers, Court attendants and all parties will be appropriately dressed while in Court attendance. There will be no pagers or telephones allowed in the Court unless the device is silenced.

Rule 3. Sessions and Office Hours

There shall be a session of Court daily, except on non-judicial days, which are Saturdays, Sundays, and holidays. Court hours are 8:00 a.m. to 4:30 p.m. Exceptions to this schedule may be authorized by the Referee or Judge assigned to a case. Other days and hours may be designated by the Judge. Unless the Judge directs otherwise, a Referee may hear any case in which the Court has jurisdiction.

The offices of the Court shall be open for the regular transaction of business from 8:00 a. m. until 4:30 p.m. except on non-judicial days.

Rule 4. Court Costs and Filing Fees

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

Rule 5. Form of Pleading

All pleadings filed or presented to this Court shall be on letter-sized (8 ½" 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.

Rule 6. Service of Process, Subpoenas and Other Documents

Unless the Court otherwise orders, 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 the person served.

Service of process shall be issued by the Clerk of the Juvenile Court completed by any means reasonably sufficient to insure the person has notice pursuant to statute.

After service of process is 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 Judge or Referee. No further personal service is necessary.

Subpoenas shall be governed by Rule 45 of Tennessee Rules of Civil Procedures.

Rule 7. Record of Proceedings

The Clerk shall record the proceedings in all hearings. Audiotapes shall be catalogued and maintained within the Office of the Clerk, by the Clerk, for a period of ninety (90) days. Requests to maintain tapes beyond this period must be filed by Order of the Court with the Clerk and include a specific time period said tape shall be held.

Rule 8. Scheduling of Hearings and Continuances

- (a) At any time prior to the trial date upon Motion of any party or on its own Motion, the Court may refer any appropriate case for mediation.
- (b) Cases may be continued only by leave of Court. Cases will not be continued except for good cause. All cases continued by leave of the Court will be by written order stating the reason for passing, at whose instance, and the date of reassignment. Agreed upon continuances shall be by Order signed by counsel for all parties and shall specify a new trial date. It is the party's responsibility requesting the continuance to notify all parties and witnesses subpoenaed of the continuance and the reset Court 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 subpoenaed in accordance with the requirements of these rules and the 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 trial 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 trial date. In cases continued or passed for reassignment, 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) All dispositional hearings shall occur immediately after the adjudication of a petition unless the Court deems otherwise. The Court may on its own Motion set a later dispositional date.

(g) Time Limits on Scheduling Transfer Hearings

All cases in which the state has announced intention to transfer the case to criminal court shall be set for a transfer hearing within ninety (90) days of the date that the child is taken into custody or the petition is filed, whichever is earlier.

Counsel may petition and the court for good cause may grant, extensions in the time limit for the hearing. In reviewing the request, the court will consider the reason for the request, circumstances of the case, the well being of the child, and whether delaying a hearing on the case will affect other 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 9. Guardian ad Litem and CASA

The Court may appoint a guardian ad litem either on its own motion or at the request of any party when the Court deems such an appointment to be appropriate.

The Court may also appoint CASA to act in 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 the purpose of notice CASA shall be deemed a party that is notified for hearings, staffings, adjudications and dispositions.

Rule 10. I. Motions – Generally

a. Motions shall be set for hearing on the Dockets designated by the Judicial Officers to whom the case has been assigned. Legal argument may be heard and agreements announced on the motion docket. **Testimony will not be heard at the initial motion docket.** If

testimony is required, the case will be re-docketed. Briefs and responses may be required at the discretion of the judicial officer.

- b. Motions shall be filed at least seven (7) days prior to setting for hearing, unless special approval from the Court is obtained prior to the filing. Any request for reimbursement of attorney fees requested from Metropolitan Government shall give two (2) weeks notice to the Legal Department.
- c. If attorneys are required to draw an Order, the Order must be filed within seventy-two (72) hours of the hearing (excluding non-judicial days).
- d. Motions for discovery in Dependent and Neglect cases shall be routinely granted unless a written objection is filed. If an objection is filed, the motion shall be set for a contested hearing.
- e. "Special" set motions must have prior approval of the Court and shall not be set upon the Docket unless the movant certifies as documented in the certificate of service that he/she has attempted to resolve the matter by making contact with all attorney/parties and that circumstances necessitate the Motion needs to be set outside the seven (7) day rule.

II. Motions – Delinquency Proceedings

Delinquency pre-trial motions must be set on the Motion docket of the judicial officer set to hear the trial on the general issue.

The following must be raised prior to trial or transfer hearing by written motion:

- Motions to Suppress evidence
- Request for discovery and inspections
- Requests for a 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.

III. Motions for Depositions of Victims for Juvenile Court Proceedings – Criminal Court Case Pending

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 notice the Office of the District Attorney General and criminal

defense counsel when the attorney is aware that a criminal charge is pending regarding the same matter.

Rule 11 Discovery

- a. Local Rule for Discovery – Non Delinquent Cases: Parties shall act in good faith to share information without a formal request for discovery. The Court shall, however, allow discovery upon motion by either party, being timely filed, and upon good cause shown. Any party may object to discovery by filing a response promptly after the filing of such motion. Failure to respond to a motion for discovery shall be considered consent to such motion. Discovery may then be allowed under such terms and conditions as the Court may prescribe.

- b. Local Rule for Discovery – Delinquent Proceedings: In all delinquent proceedings where the complainant is the State, the attorney for the child, upon request, shall be given access to inspect and/or copy, or be informed of all matters in the possession or control of the State which would be discoverable in Criminal Court under the Rules of Criminal Procedure. To the extent possible Discovery shall be done informally.

Rule 12. Certificate of Readiness – Witness and Exhibit Lists

In all cases set for adjudication and/or disposition, a Certificate of Readiness containing the following shall be filed with the Court and served upon all parties no later than ten (10) days prior to the scheduled hearing:

- a. A Witness List – including the names, addresses and phone (if know) of all witnesses (other than impeachment and rebuttal witnesses). Any witness not so listed shall not testify other than impeachment or rebuttal witnesses.

- b. An Exhibit List – copies of exhibits to be proffered at trial (other than impeachment or rebuttal exhibits). Exhibits, which are not easily capable of photocopy reproduction, shall be identified and made available for inspection by opposing counsel.

Failure to comply with this rule could result in sanctions to the attorneys and offending parties witnesses not being able to testify.

Rule 13. Mediation and Parenting Plans

Parties shall be made aware that Mediation services are available and may be ordered at the discretion of the court in contested cases. The Court may also

order that a Parenting Plan be submitted and incorporated by reference into any Final Order.

Parenting Plan forms shall be available through the Clerk of the Court for use by private counsel.

In the event that there is no agreement between the parents and/or guardians regarding visitation and there needs to be an interim Order, co-parenting time with the non-residential parent shall be as standard visitation until an agreement is reached or the Court makes a determinations.

Standard Visitation Schedule See Appendix

Rule 14. Extraordinary Relief:

In any case where extraordinary relief is needed or requested, a Petition must be filed. The Court will determine whether the matter is an emergency and should be heard immediately ex parte or whether all parties can be given notice prior to the hearing on the request for extraordinary relief. Any request for extraordinary relief must comply with statutory requirements.

Restraining Orders. No restraining order shall be granted unless notice is given to the opposing party or good cause for dispensing with notice is shown and supported by affidavit. Proposed restraining orders shall be prepared by counsel prior to submitting the request for relief to the court. The restraining order shall provide for the setting of a hearing for a temporary injunction and shall provide a place thereon for the court to set a date, time and location for such a hearing.

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

Request for Consent to Abortion. The Court may determine whether to grant judicial consent to abortion upon proper application consistent with the procedure of *Memphis Planned Parenthood v. Sunquist, et al*; M.D. Tenn. No. 3-89-0520.

Request for Authorization for Use of Child in Law Enforcement Operation. The Court may determine whether to grant permission to use a child in a law enforcement operation.

Handling of Criminal Injuries Compensation Awards for Minors. 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 a 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 state the child's name, when the money came in Court; the amount being tendered in the Court; that the same shall be placed in an interest-bearing account; that to encroach the fund a motion must be filed setting out 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 Court Clerk's Office. Encroachment on the funds shall be allowed for any injury related expenses specifically contemplated by the claims commission in granting the compensation award. Encroachment on 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 with good cause shown, other needs. In order to obtain encroachment on the funds, the custodian or other appropriate individuals must file a motion with the Juvenile Court. The motion shall state the child's name, the amount of money being currently held in the 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. The clerk's office 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 hearing on the motion 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 filled out stating the date, the amount of the disbursement, and to whom the check(s) are to be made payable. In the event that the check is to be made payable to a health care provider or to the school or other appropriate person, the clerk's office shall be charged with the responsibility of obtaining the address of the health care provider, the school or other appropriate person or agency and forwarding the check directly to them. In the event the sum is made payable to the custodian or other appropriate individual, that person shall be responsible for making an accounting to the Court thirty (30) days from 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 hearing in the event the custodian or other appropriate individual does not make the accounting to the Court.

Rule 15 Dormant cases

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

Rule 16 Orders and Decrees

Unless otherwise directed the prevailing party shall draw the order and file the same within 72 hours of the hearing (excluding non-judicial days). All Orders must include a certificate of service to all parties.

Any Agreed Order that is announced in open court on the record does not have to be circulated to parties for their signature(s) prior to being submitted to the Clerk but must state in the body of the Order that the agreement was announced in open court, unless otherwise specified.

Required Additional Language for Referee Orders. The following language should be inserted in all referee orders. "This order may be appealed to the Juvenile Court Judge or as provided by Statute, by filing a request for rehearing with the Juvenile Court Clerk. This order must be obeyed until the Judge rules otherwise. ANY FAILURE TO COMPLY WITH THIS REFEREE'S ORDER IS PUNISHABLE BY CONTEMPT, FOR WHICH THE PENALTIES MAY INCLUDE A FINE AND/OR IMPRISONMENT."

Rule 17 Restitution

The Court may set restitution in Delinquency cases on motion. The Court may limit discovery 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.

It is not necessary for the victim to attend the Motion for Restitution docket. If no settlement is reached, the matter will be set for hearing on the issue Of restitution and the victim notified to attend.

The amount of restitution may be "Reserved" by the State 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.

Upon motion, 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.

Rule 18 Waiver or Modification of Rules

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 do justice or to arrive at the equities of the case between or among the parties involved.

These Local Rules of the Juvenile Court for Davidson County, Tennessee are hereby adopted as revised on this the _____ day of November, 2004

Betty Adams Green, Juvenile Judge

APPENDIX

VISITATION SCHEDULE

Beginning on _____
() every other weekend Friday at 6:00 p.m. until Sunday at 6:00 p.m.

() every weekend () from Friday at 6:00 p.m. until Saturday at 6:00 p.m. () from Saturday at 6:00 p.m. until Sunday at 6:00 p.m. () alternating days, Friday at 6:00 p.m. until Saturday at 6:00 p.m. and Saturday at 6:00 p.m. until Sunday at 6:00 p.m.

The non-custodial parent shall be responsible for transportation.

SUMMER VISITATION

Two separate two consecutive week periods during the summer break from school. The non-custodial parent shall give thirty (30) days written notice to the custodial parent of the date of said summer visitation.

HOLIDAYS

The non-custodial parent shall have visitation on the following holidays. Holiday visitation (with the exception of Christmas) shall be from 6:00 p.m. on the eve of the holiday until 8:00 p.m. on the day of the holiday.

Even years: Easter, Fourth of July, Thanksgiving, December 17 at 6:00 p.m. to December 24 at 9:00 p.m.

Odd years: New Year’s Day, Memorial Day, Labor Day, December 24 at 9:00 p.m. to December 31 at 6:00 p.m.

Mother’s Day shall be with the mother and Father’s Day shall be with the father.

ADDITIONAL VISITATION

() As an introductory period for the child(ren) to become acquainted with the Respondent, shall have visitation every () Saturday () Sunday from 9:00 a.m. to 6:00 p.m. on the following days set forth below.

The Respondent shall have additional visitation as follows:

ADDITIONAL PROVISIONS
