

**LOCAL RULES OF PRACTICE FOR  
JOHNSON CITY JUVENILE COURT**

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JUVENILE COURT  
JOHNSON CITY, TN 37601

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**Rule 1. ADOPTION OF RULES.**

These local rules are adopted by the Johnson City Juvenile Court for practice before the Court.

**Rule 2. DEFINITIONS**

The following definitions shall apply to any provisions set out herein:

1. **Affidavit of Indigency** – A form provided to the Courts by the Tennessee Administrative Office of the Courts in which a party who has a statutory or constitutional right to appointed counsel, states, under oath, his/her income and resources to demonstrate his/her inability to hire an attorney. See Rules of Supreme Court, Rule 13, Section 1(d)(2). An Affidavit of Indigency also applies to a form for the request by a petitioner to proceed with the filing of a petition with the filing of a petition with the Court without filing court costs in advance.
2. **Appeal**- To seek review from a lower court's decision by a higher court. *Black's Law Dictionary* 94 (7th ed. 1999).
3. **Attorney** - A person licensed to practice law in the state of Tennessee, or a senior law student permitted to appear as an attorney pursuant to and subject to the provisions of Rule 7, Section 19 of the Rules of the Tennessee Supreme Court, and shall be construed to include the terms "legal counsel" and "lawyer." *Tenn. R. Juv. P. 2* (2014).
4. **Calendar Day** – A consecutive twenty-four (24) hour day running from midnight to midnight. *Black's Law Dictionary* 402 (7th ed. 1999).
5. **CASA** – Court Appointed Special Advocate.
6. **Clerk** - The clerk who serves the Johnson City Juvenile Court. *Tenn. R. Juv. P. 2* (2014).
7. **Custodian** – A person, other than a parent or legal guardian, who stands *in loco parentis* to the child or a person to whom temporary legal custody of the child has been given by order of a court. *Tenn. Code Ann. § 37-1-102(b)(7)* (2014).
8. **Custody** - The control of actual physical care of the child and includes the right and responsibility to provide for the physical, mental, moral and emotional well-being of the child. "Custody," as herein defined, relates to those rights and responsibilities as exercised either by the parents or by a person or organization granted custody by a court of competent jurisdiction. "Custody" shall not be construed as the termination of parental rights set forth in Tennessee Code Annotated § 37-1-147. "Custody" does not exist by virtue of mere physical possession of the child. *Tenn. Code Ann. § 37-1-102(b)(8)* (2014).

**9. Delinquent Act** - An act designated a crime under the law of the State of Tennessee or of another state if the act occurred in that state, or under federal law, and the crime is not a status offense under Tennessee Code Annotated 37-1-102(b)(23)(A)(iii) and the crime is not a traffic offense as defined in the traffic code of the state other than failing to stop when involved in an accident pursuant to § 55-10-101, driving while under the influence of an intoxicant or drug, vehicular homicide or any other traffic offense classified as a felony. *Tenn. Code Ann. § 37-1-102(b)(9)* (2014).

**10. Delinquent Child** – A child who has committed a delinquent act and is in need of treatment or rehabilitation. *Tenn. Code Ann. § 37-1-102(b)(10)* (2014).

**11. Dependent and Neglected** – Tennessee Code Annotated defines a dependent and neglected child as follows:

A child: **(A)** Who is without a parent, guardian or legal custodian; **(B)** Whose parent, guardian or person with whom the child lives, by reason of cruelty, mental incapacity, immorality or depravity is unfit to properly care for such child; **(C)** Who is under unlawful or improper care, supervision, custody or restraint by any person, corporation, agency, association, institution, society or other organization or who is unlawfully kept out of school; **(D)** Whose parent, guardian or custodian neglects or refuses to provide necessary medical, surgical, institutional or hospital care for such child; **(E)** Who, because of lack of proper supervision, is found in any place the existence of which is in violation of law; **(F)** Who is in such condition of want or suffering or is under such improper guardianship or control as to injure or endanger the morals or health of such child or others; **(G)** Who is suffering from abuse or neglect; **(H)** Who has been in the care and control of one (1) or more agency or person not related to such child by blood or marriage for a continuous period of six (6) months or longer in the absence of a power of attorney or court order, and such person or agency has not initiated judicial proceedings seeking either legal custody or adoption of the child; **(I)** Who is or has been allowed, encouraged or permitted to engage in prostitution or obscene or pornographic photographing, filming, posing, or similar activity and whose parent, guardian or other custodian neglects or refuses to protect such child from further such activity; or **(J)** **(i)** Who has willfully been left in the sole financial care and sole physical care of a related caregiver for not less than eighteen (18) consecutive months by the child's parent, parents or legal custodian to the related caregiver, and the child will suffer substantial harm if removed from the continuous care of such relative; **(ii)** For the purposes of this subdivision (b)(12)(J): **(a)** A related caregiver shall include the child's biological, step or legal grandparent, great grandparent, sibling, aunt, uncle or any other person who is legally or biologically related to the child; and **(b)** A child willfully left with a related caregiver as defined in subdivision (b)(12)(J)(ii)(a) because of the parent's military service shall not be subject to action pursuant to § 37-1-183. *Tenn. Code Ann. § 37-1-102(b)(12)* (2014).

**12. Detention** - Confinement in a secure facility that is designated by the court or as a place

of confinement for juveniles. *Tenn. Code Ann. § 37-1-102(b)(13)* (2014). The Upper East Tennessee Regional Juvenile Detention Center has been designated by the court for detention purposes of juveniles.

- 13. District Attorney General** –An attorney for the state responsible for prosecuting a child accused of delinquent acts.
- 14. Ex Parte** – Done or made at the instance and for the benefit of one party only, and without notice to, or argument by, any person adversely interested. *Black's Law Dictionary* 597 (7th ed. 1999).
- 15. Ex Parte Order** – An order made by the Court upon the application of one party to an action without notice to the other. *Black's Law Dictionary* 1123 (7th ed. 1999).
- 16. Guardian of the person** – A person appointed by the court to exercise parental powers and duties in addition to those incident to the day to day care of a child as defined and described under “legal custodian.” Every child is entitled to a guardian of the person, natural or appointive, as contemplated by Tennessee Code Annotated, title 34, chapter 2, part 1. Ordinarily a guardian of the person has the right to care, custody, and control of the child. In cases, however, where legal custody is vested in another individual or agency, those rights would be exercised by the legal custodian, and the guardian of the person would retain power to make major decisions concerning the child's welfare, such as consent to marriage, enlistment in the armed forces, and major surgery. A guardian of the person has the right and duty to represent the child in some legal actions before the court, and to reasonable visitation, subject to such limitations as the court may order, just as in the case of a parent. *Tenn. R. Juv. P. 2* (6) (2014).
- 17. Guardian ad Litem** - A lawyer appointed by the court to protect the rights and interests of a child during the pendency of a proceeding involving the child and to advocate for the best interests of the child. In a dependency, neglect or abuse case the guardian ad litem must also ensure that the child's concerns and preferences are effectively advocated, pursuant to Tennessee Supreme Court Rule 40. *Tenn. R. Juv. P. 2* (7) (2014).
- 18. Judicial Days** – Days on which legal proceedings can be held. *Black's Law Dictionary* 402 (7th ed. 1999).
- 19. Juvenile/Child** – Tennessee Code Annotated defines a “child” as follows:
  - a. A person under eighteen (18) years of age; or
  - b. A person under nineteen (19) years of age for the limited purpose of:
    - i. Remaining under the continuing jurisdiction of the juvenile court to enforce a non-custodial order of disposition entered prior to the person's eighteenth birthday;
    - ii. Remaining under the jurisdiction of the juvenile court for the purpose of being committed, or completing commitment including completion of

home placement supervision, to the department of children's services with such commitment based on an adjudication of delinquency for an offense that occurred prior to the person's eighteenth birthday; or

- iii. Remaining under the jurisdiction of the juvenile court for resolution of a delinquent offense or offenses committed prior to a person's eighteenth birthday but considered by the juvenile court after a person's eighteenth birthday with the court having the option of retaining jurisdiction for adjudication and disposition or transferring the person to criminal court under § 37-1-134. *Tenn. Code Ann. § 37-1-102(b)(4)(A) – (B)* (2014).

**20. Legal Custodian** - A person or agency to whom legal custody of a child has been given by court order. A legal custodian has the right to the physical custody of the child; the right to determine the nature of the care and treatment of the child, including ordinary medical care, and the right and duty to provide for the care, protection, training, education, and physical, mental, and moral welfare of the child. Such rights and duties are, however, subject to the conditions and limitations of the order granting legal custody and to the remaining rights and duties of the child's parent(s). *Tenn. R. Juv. P. 2 (10)* (2014).

**21. Litigant** – A party to a lawsuit. *Black's Law Dictionary* 944 (7th ed. 1999).

**22. Magistrate** - a person meeting the qualifications and serving the functions set forth in Tenn. Code Ann. § 37-1-107. *Tenn. R. Juv. P. 2 (10.1)* (2014).

**23. Mediation** – A method of nonbinding dispute resolution involving a neutral third party who tries to help the disputing parties reach a mutually agreeable solution. *Black's Law Dictionary* 996 (7th ed. 1999).

**24. Nonjudicial Days** - Saturdays, Sundays, and legal holidays. Nonjudicial days begin at 4:30 p.m. on the day preceding a weekend or holiday, and end at 8:00 a.m. on the day after a weekend or holiday. *Tenn. R. Juv. P. 2 (11)* (2014).

**25. Parent** - A natural or adoptive parent whose parental rights have not been terminated. *Tenn. R. Juv. P. 2 (12)* (2014).

**26. Parenting Plan/Permanent Parenting Plan** - A written plan for the parenting and best interests of the child, including the allocation of parenting responsibilities and the establishment of a residential schedule, as well as an award of child support. *Tenn. Code Ann. § 36-6-402(3)* (2014).

**27. Petition** - A verified/sworn written statement by which the formal process of the juvenile court is begun. *Tenn. R. Juv. P. 2 (13)* (2014).

- 28. Petitioner** – A party who presents a petition to the Court. *Black's Law Dictionary* 1166 (7th ed. 1999).
- 29. Pro Se Party**– An individual who represents himself/herself/themselves without an attorney.
- 30. Probable Cause** – Apparent facts discovered through logical inquiry that would lead a reasonably intelligent and prudent person to believe that the allegations contained in a petition or presented at hearing warrant the action being requested.
- 31. Protective Custody Order** – An order placing a child in the protective custody of another. This order may be issued by the Court when the Court finds probable cause that the subject child is a dependent and neglect child within the meaning of the law and that the child is subject to an immediate threat to his/her health or safety to the extent that to delay for a hearing would be likely to result in severe or irreparable harm and that there is no less drastic alternative to removal available which could reasonably and adequately protect the child's health and safety pending a preliminary hearing. The Order would further provide that is contrary to the child's welfare to remain in the care, custody, and control of the child's parents/caretaker/custodian and would further place the child in the protective custody of another.
- 32. Respondent** – (i) In a proceeding on a petition alleging delinquent or unruly conduct, the child who is alleged to be delinquent or unruly; (ii) In a proceeding on a petition alleging a child to be dependent and neglected, the parent, guardian, or legal custodian who allegedly neglected the child; and (iii) In any other proceeding, the person who is summoned to appear before the court as a party, with the right to respond to the allegations of the petition. *Tenn. R. Juv. P. 2* (18) (2014).
- 33. Subpoena** – A document commanding a person to appear before (the) Court subject to a penalty for failing to comply. *Black's Law Dictionary* 1440 (7th ed. 1999).
- 34. Temporary Restraining Order:** A temporary order restraining or otherwise controlling the conduct of a person. *Tenn. Code Ann. § 37-1-152(a)* (2014).
- 35. Unruly Child** - A child in need of treatment and rehabilitation who: **(A)** Habitually and without justification is truant from school while subject to compulsory school attendance under Tennessee Code Annotated § 49-6-3007; **(B)** Habitually is disobedient of the reasonable and lawful commands of the child's parent(s), guardian or other legal custodian to the degree that such child's health and safety are endangered; **(C)** Commits an offense that is applicable only to a child; or **(D)** Is away from the home, residence or any other residential placement of the child's parent(s), guardian or other legal custodian without their consent. Such child shall be known and defined as a "runaway". *Tenn. Code Ann. § 37-1-102(b)(23)* (2014).

**Rule 3. SCOPE AND PURPOSE.**

These Local Rules and the Tennessee Rules of Juvenile Procedure shall govern the practice and procedure in the Juvenile Court of Johnson City, Tennessee. They are intended to provide for the speedy and just determination of every proceeding, and in juvenile proceedings they shall be enforced and construed for the remedial purposes embraced in Titles 36 and 37 of Tennessee Code Annotated at all times. In the event of any conflict between these rules and the Tennessee Rules of Juvenile Procedure, the Tennessee Rules of Juvenile Procedure shall govern.

**Rule 4. COURTROOM DECORUM.**

There shall be no eating, use of tobacco products, gum chewing, or drinking in the courtroom, with the exception that water is permitted at counsel table.

There shall be no cellular devices, laptops, notebooks, or other technologically-based communication/social networking devices allowed in the courtroom unless such devices are silenced. Electronic devices are allowed for professional purposes only and shall not create a disruption to the activity of the courtroom. For the general public, audience, and all juveniles, the electronic devices must be turned completely off.

All persons shall be appropriately dressed while in Court attendance. Inappropriate attire is not permitted in the courtroom and any person not wearing appropriate attire will not be permitted into or allowed to remain in the courtroom. All attire shall be of a nature that is respectful for the Court. "Respectful attire" shall include, but is not limited to, the following:

1. Pants must be worn at the waist. They are not to sag.
2. Skirts and dresses must be beyond fingertip length.
3. Shirts, blouses, and dresses must completely cover the abdomen, back and shoulders.
4. Shirts and tops must cover the waistband of the pants or skirts with no midriff showing.
5. Footwear is required.
6. Clothing must not display (a) racial or ethnic slurs/symbols, (b) vulgar, subversive, or sexually suggestive language or images, or (c) products, such as tobacco, or illegal drugs, which juveniles may not legally purchase.
7. Shorts shall not be worn to Court.

**Rule 5. OFFICE HOURS.**

The Offices of the Johnson City Juvenile Court shall be open for the regular transaction of business from 8:00 a.m. until 5:00 p.m., Monday through Friday, except for holidays established by the Board of Commissioners of the City of Johnson City.

**Rule 6. COURT SESSIONS.**

Except for holidays, weekends, and such other days as the Judge may find appropriate, there will be a session of Court daily. The regularly scheduled Court dockets shall begin at 9:00 a.m. and 1:30 p.m. Attorneys are encouraged to discuss their pending matters prior to the scheduled time for the hearing. Attorneys or participants shall notify the Court as soon as possible if there is an anticipated delay in their arrival for the hearing. All efforts will be made to conduct the hearing for the parties who appear.

In the event that Court is cancelled due to weather or environmental-based emergency, notice of the cancellation will be relayed to the local television/radio stations to include as a public closure listing.

**Rule 7. COURT COSTS AND FILING FEES.**

Court costs for filing a pleading, service of process, subpoenas, costs of certified mail, and other documents are to be established and assessed by the Juvenile Court Clerk, in compliance with Tennessee Code Annotated. The schedule of fees is available for inspection and copying upon request in the office of the Juvenile Court Clerk. Filing fees or court costs may be waived by the Court, by written Order, for good cause. All court costs and filing fees are nonrefundable.

**Rule 8. FORM OF PLEADINGS.**

All pleadings filed or presented to the Court shall be on letter-sized (8 ½ by 11 inch) paper. An original pleading shall be filed in all causes and shall be accompanied by sufficient copies necessary for service upon the parties.

**Rule 9. RECORDING OF PROCEEDINGS.**

All court proceedings shall be recorded by the Court. Audio recordings will be maintained by the Court for a period of one (1) year. In the discretion of the Court, copies of audio recordings may be released to attorneys of record or court reporters. The Court is not able to provide written transcripts of any hearing.

**Rule 10. COURT ORDERS.**

The attorney for the prevailing party shall prepare an Order which reflects the Judge's ruling unless the Judge directs otherwise. The attorney drafting the Order shall serve it upon opposing counsel for approval and upon any party not represented by counsel within ten (10) judicial days of the Judge's ruling. The attorney drafting the Order shall submit it to the Court within twenty (20) judicial days of the Judge's ruling. Any agreed or approved Orders may be approved by electronic signature and/or signature by permission.



In all cases where the State of Tennessee, Department of Children's Services is not a party, if the parties are unable to agree on the language in an Order, or a party does not respond when served with a copy of the order, the attorney drafting the Order shall submit it to the Court with a letter acknowledging that it had been submitted to opposing counsel but that they did not respond and/or agree on the language in the submitted Order. The opposing counsel may submit an alternate Order to the opposing attorney and the Judge within seven (7) days of its submission to the Court, along with a separate document specifically stating the differences in the Orders. Failure to submit an alternate Order may result in the Judge signing the first Order received.

In cases involving pro se litigants, the attorney ordered by the Court to prepare the Order shall provide a copy of the same to all parties. The attorney shall serve the Order upon the pro se party or parties within ten (10) judicial days of the Judge's ruling. The attorney shall submit the Order, with a certificate of service indicating service upon non-represented parties, to the Court within twenty (20) judicial days of the Judge's ruling.

Due to the volume of orders generated by the State of Tennessee, Department of Children's Services, in all cases where DCS is a party, unless otherwise ordered by the Court, the Department shall prepare the order and shall send a copy of the order to the Court and the parties. Any party objecting to the order may submit their proposed order within ten (10) days of the receipt of the Order by the attorney. The Court will not enter the proposed order until after the expiration of this ten (10) day timeframe unless the Court determines that the circumstances dictate otherwise.

The Judge may direct a Guardian ad Litem to prepare an Order in a case involving unrepresented parties. The Guardian ad Litem shall serve the Order upon any party not represented by counsel within ten (10) judicial days of the Judge's ruling. The Guardian ad Litem shall submit the Order, with a certificate of service indicating service upon non-represented parties, to the Court within twenty (20) judicial days of the Judge's ruling.

All orders governed by this rule may be submitted to the Court by hand delivery, facsimile submission, email to the Clerk of Court, or by mailing a copy of the same through the United States Postal Service.

**Rule 11. ATTORNEYS.**

All attorneys licensed to practice law in Tennessee shall be allowed to appear in any matter coming before the Court. Every party to a proceeding who wishes to retain/employ an attorney shall be given an opportunity to do so.

It is the responsibility of the attorney representing a party to bring his/her representation to the Court's attention by written notice as soon as practical to be made a part of the Court record. In accordance with Rule 19 of the Tennessee Rules of Juvenile Procedure, an attorney of record who wishes to terminate their representation may do so only by permission of

the Court.

The Court will appoint an attorney to represent any party who has a constitutional right to counsel and who is determined by the Court, upon examination of the party's affidavit of indigency, to be indigent.

Any attorneys who wish to be on the Court's indigent appointment list should contact the Johnson City Juvenile Court Clerk.

**Rule 12. SERVICE OF PROCESS, SUBPOENAS, AND OTHER DOCUMENTS.**

Unless the Court orders otherwise, every pleading or other document filed with the Court shall be served on all parties and shall contain a Certificate of Service or Summons. If the petitioner or other party filing a pleading is represented by an attorney, then it is the attorney's responsibility to prepare any and all Certificates of Service and/or Summons and/or Subpoenas and forward the same to the Juvenile Court Clerk. If the petitioner or other party filing a pleading is *pro se*, then the Juvenile Court Clerk shall prepare and issue the summons or subpoena based upon information provided by the *pro se* party. In a proceeding involving a child, the *pro se* party must provide a name and address for both parents to the Juvenile Court Clerk.

**Child Support Matters.** If the parties are not represented by counsel, preparation of the summons in child support matters shall be the responsibility of the Child Support Enforcement Specialist at the Juvenile Court. Once the pleading is served, the original summons shall be submitted to the Juvenile Court Clerk's Office, which shall accept it for filing.

**Subpoenas.** All subpoenas shall be typed or printed legibly and served on the party, witness, or officer. Forms for subpoenas are available at the Juvenile Court Clerk's office. If the party is represented by an attorney, then it is the attorney's responsibility to prepare, print, and serve the subpoenas. Once served, the original subpoena shall be filed with the Juvenile Court Clerk. Subject to the discretion of the Court, the service shall occur as quickly as possible, but no less than five (5) days, excluding non-judicial days, before the scheduled date of trial. If the matter requires an emergency or expedited hearing, the five (5) day requirement may be waived. Parties not represented by attorneys may contact the Juvenile Court Clerk regarding necessary subpoenas in writing and shall provide the Clerk with contact information, including name, address, and phone numbers of the person to be subpoenaed. All subpoenas shall contain the name and telephone number of the individual requesting the subpoena.

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 Magistrate. No further personal service is necessary.

**Rule 13. CONFIDENTIAL RECORDS.**

All records submitted or filed with the Johnson City Juvenile Court shall be confidential records. This includes, but is not limited to, medical records or evaluations, mental health records or evaluations, substance abuse assessment/treatment records, drug screen results, reports from the Tennessee Department of Children's Services or other agencies, CASA reports, and probation reports. The confidential records shall not be disclosed or re-released to anyone for any purpose other than the proceedings currently before the Juvenile Court without further written authorization from the Judge of the Johnson City Juvenile Court.

No person except the Judge, Clerk, or other court employees shall be allowed access to the filing cabinets or rooms where court records are kept. All papers, documents, and records pertaining to any and all court records shall be kept under strict control and custody of the Clerk at all times. No file may be removed from the Juvenile Court. If it is necessary for any person other than a court employee to examine any record, the clerk will obtain that record for such person. No person except an attorney of record, the attorney for the Department of Children's Services, an attorney from the District Attorney General's Office, a Guardian ad Litem, CASA, or an agency having a professional relationship with the child may have access to any child's file without either written permission of the Court or a signed release by a child who has attained the age of majority.

After a defendant's conviction in the United States District Court and upon a referral for a presentence report, a federal probation officer is authorized under TCA §37-1-153(a) (4) to obtain juvenile records without a signed authorization.

**Rule 14. PRETRIAL MOTIONS.**

All pretrial motions filed by attorneys shall be in writing and must be filed with the Court and served on all counsel, including the guardian ad litem, all attorneys of record, and pro se litigants, at least five (5) judicial days before the hearing in the matter. When a child is in detention or an emergency hearing is necessary, this rule may be suspended to allow quick preparation for Court.

**Rule 15. DISCOVERY.**

**A. NONDELINQUENT CASES:**

A party, prior to filing a motion for discovery, shall exhaust all efforts to reach an agreement for discovery informally. If informal discovery fails, the Court shall allow discovery in all non-delinquent matters within the framework of the Tennessee Rules of Civil Procedure upon written request for discovery by any party noting that informal discovery has failed. Any

party desiring a protective order pertaining to the request shall file a motion requesting the same within five (5) judicial days of the receipt of such discovery request. Any written request for discovery shall be filed no less than twenty (20) calendar days before the next hearing. Unless objected to, discovery is due ten (10) days after the request is received.

**B. DELINQUENT CASES:**

In all delinquent proceedings where the petitioner is represented by 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.

The rules of discovery shall not pertain to confidential information as set out by statute.

**Rule 16. COURTROOM PARTICIPATION**

**A. MANDATORY PROVISIONS:**

Subject to changes in the Tennessee Rules of Juvenile Procedure providing otherwise, the general public may be excluded from any juvenile or parentage proceeding, and only those persons having a direct interest in the case may be admitted.

**B. DISCRETIONARY PROVISIONS:**

In juvenile proceedings, a parent or guardian must be present at every adjudicatory hearing on a petition alleging unruliness or delinquency, unless excused by the Court in writing or on the record.

**Rule 17. SCHEDULING OF HEARINGS AND CONTINUANCES.**

The Johnson City Juvenile Court Clerk's Office will set the initial appearance for all attorney-filed pleadings, and it will be the attorney's responsibility to issue proper notice and serve all parties and witnesses.

Cases may be continued only by leave of the Court, for good cause. In cases where all parties agree upon a continuance, leave of Court shall not be unreasonably withheld. All cases continued by leave of the Court will designate the reason for the continuance, at whose request, and the date of rescheduling. No case shall be continued indefinitely.

Agreed Orders to Continue shall be approved by counsel for all parties in accordance with these local rules and shall specify a new hearing date.

A participant not represented by counsel must contact the Clerk prior to the day of the hearing to request a continuance, which must be for a valid reason except in the case of an emergency.

It is the responsibility of the party requesting the continuance (or his/her counsel) to notify all other parties of the continuance and the reset date. It shall be the responsibility of each party to notify his/her/their witness(es) of the continuance and the reset date.

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

If parties expect a hearing will take longer than two (2) hours of the Court's schedule, a first appearance date will be scheduled and the parties shall make the Court aware of the need for a specially set date.

#### **Rule 18. GUARDIAN AD LITEM AND CASA.**

The Court, on its own motion or at the request of any party, may appoint a Guardian ad Litem and/or CASA to act on behalf of a child in determining the best interest of the child in any action pending before the Court. CASA shall be notified of hearings and continuances and shall be included on the certificate of service.

#### **Rule 19. PRELIMINARY HEARINGS**

The purpose of a preliminary hearing is to determine whether probable cause exists to establish the facts alleged in the petition and to determine if the child's removal from the custody of his/her parent, guardian, and/or legal custodian is required under T.C.A. §37-1-114. See also Tennessee Rule of Juvenile Procedure Rule 5.

#### **Rule 20. EXTRAORDINARY RELIEF**

Extraordinary relief will not be granted unless the Court finds that the child would be subject to immediate and irreparable harm unless the requested relief is ordered.

##### **A. PROTECTIVE CUSTODY ORDERS:**

Persons seeking a Protective Custody Order shall first file a sworn petition with the Juvenile Court Clerk. The Court will review the petition on its face and determine whether the allegations constitute 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 actual notice that he/she will be seeking an *ex parte* Order, except in exigent circumstances where time is of the essence and the best interest or welfare of the child will be compromised if actual notice is given.

A Protective Custody Order will not be granted unless the Court finds that the child would be subject to an immediate risk of harm unless the requested relief is ordered.

**B. TEMPORARY RESTRAINING ORDERS:**

Persons seeking a Temporary Restraining Order shall first file a sworn petition with the Juvenile Court Clerk. The Court will review the petition on its face and determine whether the allegations constitute 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 actual notice that he/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 will be compromised if actual notice is given.

**Rule 21. DETENTION HEARINGS.**

Rules for the pretrial detention of delinquent and unruly offenders are governed by T.C.A. §37-1-114, which provides that a child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless there is probable cause to believe that the child has committed the delinquent act with which the child is charged, the child is in violation of a valid court order, or the child is a runaway. When conducting detention hearings pursuant to Rule 15 of the Tennessee Rules of Juvenile Procedure and T.C.A. §37-1-114, the detention hearings, unless otherwise scheduled, will be heard on any judicial day, Monday through Friday. A parent/guardian must be present for the hearing. Notice will be provided to the Assistant District Attorney General and the Department of Children's Services of the setting of all detention hearings.

**Rule 22. DELINQUENT CASES.**

**A. DELINQUENT CASES INVOLVING THE DISTRICT ATTORNEY GENERAL:**

All delinquent petitions that allege a delinquent act which would be a felony if committed by an adult will be docketed on the District Attorney General's docket. All delinquent petitions in which the juvenile is represented by counsel will be scheduled on the District Attorney General's docket.

## **B. RESTITUTION:**

The Court may set restitution in delinquency cases as the dispositional hearing or upon notice. 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 less expensive, or the discovery sought is unduly burdensome or expensive, taking into account, the needs of the child and the case.

If no agreement about restitution is reached, the matter will be set for hearing, and the petitioner shall notify the victim to attend.

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

## **C. TRANSFER HEARINGS:**

The State shall announce its intention to transfer a delinquent case to Criminal Court within ninety (90) days of the date on which the child is taken into custody or the petition is filed, whichever is earlier. The Court, for good cause, may grant extensions in the time limit for the hearing. If a child is detained beyond the ninety (90) day time period, upon appropriate application to the Court by the child's attorney, the Court will consider a motion to set bond.

## **Rule 23. APPEALS.**

An appeal from the Juvenile Court's decision in a dependency and neglect or unruly case may be perfected by filing a notice of appeal within ten (10) judicial days of the entry of the final order. The appellant shall also file a copy of the notice of appeal in the Circuit Court Clerk's Office.

An appeal from the Juvenile Court's decision in a delinquency case may be perfected by filing a notice of appeal within ten (10) judicial days of the entry of the final order. The appellant shall also file a copy of notice of appeal in the Circuit Court Clerk's Office.

An appeal from the Juvenile Court's decision in a termination of parental rights case, parentage case, child custody case, child support case, or any other cases falling under Tennessee Code Annotated, Title 36, shall be made to the Tennessee Court of Appeals within thirty (30) calendar days of the entry of the final order.

An informational packet regarding appeals shall be made available upon request to the Juvenile Court Clerk.

An appeal shall not operate as a stay. The order of the Juvenile Court shall remain in effect until or unless the Appeals Court enters an Order to the contrary, or unless

otherwise ordered by the Court.

**Rule 24. INACTIVE CASES**

The Court may take reasonable measures to dismiss any matters that have been inactive for a period of six (6) months.

**Rule 25. MEDIATION AND PARENTING PLANS.**

Upon motion of any party or on the Court's own motion, the Court may order any matter within the jurisdiction of the Court (except delinquency and dependency and neglect matters) to be referred to mediation prior to a trial on the merits. The parties may agree on any listed Rule 31 mediator. If the parties cannot agree on a mediator, the parties shall notify the Court and the Court appoint a listed Rule 31 mediator. If the parties cannot afford the mediation fees, they shall submit an affidavit of indigency to the Court Clerk. Thereafter, mediation expenses may be supplemented by the State of Tennessee, or the Court may refer the parties to the First Judicial District Court Clinic for mediation. The Court may also order that a Parenting Plan be submitted and incorporated by reference into any final order.

**Rule 26. WAIVER OR MODIFICATION OF RULES.**

Any of these rules may be waived or modified by special Order of the Court upon a finding by the Court that such waiver or modification would be necessary to promote justice, to arrive at the equities of the case, or to protect the best interest of child.

These Local Rules of the Juvenile Court of Johnson City, Tennessee, are hereby adopted and entered on the minutes of the Court.

ENTER: 12-14-15

  
JUDGE SHARON M. GREEN