

**RULES OF PRACTICE AND PROCEDURE
OF THE
MUSKINGUM COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION**

Eric D. Martin, Judge

Effective Date

March 1, 2016

Introduction

The following rules are hereby adopted for the governance of the practice and procedures in the Court of Common Pleas, Juvenile Division, Muskingum County, Ohio, until otherwise provided pursuant to Article IV, Section (5) of the Ohio Constitution, to Section 2123.15 of the Ohio Revised Code, and to the Rules of Superintendence promulgated by the Supreme Court of Ohio.

Adoption, Scope and Construction of Rules

- A. The Juvenile Division of the Common Pleas Court for Muskingum County, Ohio, adopts the following Rules for the management of proceedings and other functions of the Court. The Court may amend the Rules from time to time as needed or required by law.
- B. These Rules are intended to supplement and complement the Ohio and U.S. Constitutions, the Ohio Rules of Juvenile Procedure, the Ohio Rules of Civil Procedure, the Superintendence Rules of the Supreme Court of Ohio, and controlling statutes.
- C. These Rules shall be applied, construed, and enforced so as to avoid inconsistency with other rules of Court and statutes governing proceedings of this Court. In their application, they shall be construed so as to provide fairness and to secure just and expeditious determination of all proceedings.

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OF THE
MUSKINGUM COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION**

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RULE 1 GENERAL

RULE 1.1 Sessions of Court

(A) The Court shall be open for ordinary business from 8:30 a.m. to 4:30 p.m. Monday through Friday, except for legal holidays and such other occasions as may be specifically ordered by the Court. Additionally, the Court shall be closed on such other days as established by the Muskingum County Commissioners.

RULE 1.2 Conduct in Court

(A) All parties, witnesses, and observers shall be treated with professional courtesy and respect. Conduct which interferes, or tends to interfere with the proper administration of justice and/or the business of the Court is strictly prohibited and may, at the discretion of the Court, subject the offending counsel, parties or other participants to sanctions, including, but not limited to, contempt. A finding of contempt may subject the contemnor to a fine, incarceration or both.

(B) Appearance in Court while under the influence of alcohol or drug abuse by any person is strictly prohibited. Any party or other person present before this Court who appears to be under the influence of alcohol and/or any drug of abuse will be removed from the Court facility and may, at the discretion of the Court, be ordered to submit to alcohol testing and drug screening. Any person who is found to have provided a positive alcohol test and/or drug test or otherwise exhibits indices of drug or alcohol intoxication may be held in direct contempt of the Court. A finding of contempt may subject the contemnor to a fine, incarceration or both.

(C) All persons who enter the court facility must dress in proper attire. No attorney, party, observer, or witness will be permitted to enter the court facility while dressed inappropriately for the occasion. Inappropriate dress includes, but is not limited to shorts, tank tops, revealing attire, exposed underclothing, bare feet, sandals, or any attire or tattoos with language, signs, or symbols deemed to be inappropriate, discriminatory, or otherwise offensive. Counsel shall be responsible for monitoring the appearance and attire of the respective parties and witnesses.

(D) No person shall be permitted to enter the court facility while exhibiting inappropriate hygiene or appearing to create a public health concern.

(E) If a proceeding must be cancelled and rescheduled as the result of the violation of Local Rule 1.2 (B), (C), or (D) by a party, witness, or counsel, the offending party may, in the discretion of the Court, be assessed all costs associated with the cancellation and rescheduling of the proceeding.

(F) All electronic devices, including, but not limited to cellular telephones, pagers, and other devices capable of emitting sound shall be turned off or turned to vibrate position prior to entering the courtroom. Persons in violation of this rule may be ordered to leave the courtroom and may have such devices confiscated.

(G) All persons ordered to appear shall check-in with the Clerk or designated official, and may be denied entrance or have their case dismissed if valid notice is not provided to the Court regarding their absence in a timely manner. The Court may also deny entrance into any proceeding once a case has officially commenced.

RULE 1.3 Court Records

(A) Official Court records for traffic, delinquency, and unruly cases involving juveniles shall be open for review and inspection as required by public records law. Psychological reports, medical records, social histories, and home studies are considered confidential and shall not be available to any person except by order of the Judge or Magistrate, or by the written consent of the juvenile herein. The written consent of the juvenile shall be executed before the Court in the presence of an officer of the Court or Deputy Clerk.

(B) Official Court records for criminal cases involving adult defendants shall be open for review and inspection as required by public records law.

(C) Reports and records generated by the Probation Department and Court staff shall be considered confidential information and shall not be made public. The inspection of Probation records by attorneys and interested parties shall be governed by Rule 32(C) of the Rules of Juvenile Procedure.

(D) In civil cases regarding abuse, neglect, dependency, custody, parenting time, and support, court records shall be open for review and inspection by parties and counsel of record. All psychological reports, medical records, social histories, and home studies are considered confidential and shall not be available to any person except by order of the Judge or Magistrate.

(E) Written requests for information by military, government, or employment agencies will be processed within a reasonable period of time based upon the nature of the request. Such requests must include a written consent of Juvenile which must be executed before the Court in the presence of an officer of the Court or Deputy Clerk.

(F) Copies of public records shall be provided at a cost of 25¢ per page. Where redaction, sorting, or other customization is required, there will be an additional charge of \$12.00 per hour. Only Court employees may make photocopies of Court records or otherwise use Court photocopying equipment and supplies. If a request is received to send copies by U.S. mail or commercial delivery service, the cost of the copies, postage and any other mailing expenses shall pre-paid by the party making such request. (R.C. Sec. 149.43)

RULE 1.4 Official Record of Proceedings

(A) All proceedings will be digitally recorded and serve as the record of the Court unless a stenographic record is requested. Parties who desire to have a stenographic record of the proceedings must notify the Court in writing at least three (3) business days prior to the hearing. Upon receipt of a timely request, the Court will retain a certified stenographer. The requesting party shall pay the costs associated with the attendance of the stenographer unless otherwise ordered by the Court. Unless authorized by the Court, no audio, video, or stenographic record shall be made of any court proceeding.

(B) No public use shall be made by any person, including a party, of any Juvenile Court record, including the recording or transcript thereof of any Juvenile Court hearing, except in the course of an appeal or as authorized by the order of the Court.

(C) All requests for typing of transcripts for the purpose of an appeal or objection to the Magistrate's Decisions shall be filed with the Clerk of the Juvenile Court. All original transcripts produced shall be filed with the Clerk and shall become part of the official record of the case. The compensation for making transcripts and copies shall be paid forthwith by the party for whose benefit the same is made at an amount and upon such terms as the Court shall determine. No transcript will be prepared by the Court for any party until satisfactory arrangements for payment have been made.

RULE 1.5 Photographing, Recording or Broadcasting of Proceedings

(A) No radio or television transmission, voice recording device, other than a device used in making an official record of the proceeding for the Court, or the making or taking of photographs, shall be permitted without the prior approval of the Judge. Media organizations who desire to photograph or capture video of court proceedings must apply for permission by submitting a “Media Request Form” two (2) business day prior to the hearing.

(B) If more than one media agency files a “Media Request Form,” those agencies may be required to utilize one system as a condition of admission in order to minimize disruption of court proceedings.

(C) There shall be no audio capture of conferences conducted anywhere I the court facility between attorneys and clients; between attorneys; or between attorneys and the Court at the bench.

(D) Jurors shall not be photographed, videoed, or otherwise identified while on court property.

(E) Witnesses and victims shall not be photographed, or videoed while on court property unless they have given prior written consent to being photographed or videoed after having been advised of their right not to be photographed or videoed. It shall be the responsibility of counsel calling the witness to advise said witness of the right not to be photographed or videoed and to place his or her written response upon the record of the Court prior to the witness being called to testify. Only those witnesses who have expressly granted such permission shall be photographed or videoed.

(F) Media reporters and technicians shall be dressed, at a minimum, in business casual attire.

(G) The failure of any media representative to comply with the conditions prescribed by these rules, the Rules of Superintendence of the Supreme Court, or an order of this Court may result in the revocation of permission to broadcast, televise, record, or photograph on court property.

RULE 1.6 Filings and Judgment Entries

(A) When required on a Court document, an address must be a street address and, if applicable, any post office box numbers used as a mailing address. Also, a telephone number of the attorney must be included on a Court document.

(B) The Court will accept for filing only pleadings that are complete. All filings, including attachments, must have the case number on each page.

(C) All filings must be legible, on 8-1/2" x 11" paper and the type size for the body of the document shall not be less than ten (10) point or greater than twelve (12) point. Filings that are not legible for any reason including poor handwriting or photocopying may be refused, or if filed, may be stricken unless there is a legibly typed copy attached thereto.

(D) Any proposed entry submitted to the Court which is subject to Civ. R. 58(B) as modified by Civ. R. 73(I) must contain a certificate of service including the names and addresses of all parties and other interested persons required to be served.

(E) Social security numbers are confidential and shall not be set forth in any document that is available for inspection by the general public.

(F) All financial account numbers shall be treated as confidential and will not be part of the public record. A separate confidential file will be maintained by the Court which contains such numbers.

(G) Pursuant to the authority extended the Court by Civil Rule 5(E) and Juvenile Rule 8, the Court adopts the following procedures for the acceptance of facsimile copies, subsequent to the original complaint, of pleadings and other papers not longer than five (5) pages in length may be filed in this manner:

(1) The Court shall maintain an independent private telephone line, publish the number of the same, and maintain a facsimile machine for utilization by members of the bar authorized to practice law in Ohio and/or *pro se* parties in filing documents with the Court and its Clerk as provided herein. The facsimile telephone number is (740) 453-1066.

(2) The filing of pleadings or other papers, subsequent to the original complaint and not requiring a security deposit pursuant to Local Rule, may be filed with the Clerk by facsimile copy. A document filed by fax shall be accepted as the effective original filing. The person making the fax filing need not file any source document with the Court, but must, however,

maintain in their records and have available for production on request by the Court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for subject filing. In the event any facsimile copy is received by the Clerk after 3:30 p.m. on a regular business day or anytime on a weekend or holiday the facsimile copy shall be considered filed on the next ensuing regular business day for the Clerk. To insure timely filing of pleadings or other papers, contact the Juvenile Clerk prior to transmission at (740) 453-0351.

(3) Any facsimile copy filed pursuant to this rule shall conform to the requirements of applicable Civil Rules, Juvenile Rules and Local Rules, in both form and substance, and shall be preceded in transmission by a cover page which includes the following information:

- (a) Name of forwarding attorney,
- (b) Address of forwarding attorney,
- (c) Ohio Supreme Court registration number of attorney,
- (d) Telephone number of attorney,
- (e) Facsimile telephone number of attorney,
- (f) Date and time of facsimile initiation, and
- (g) Number of pages in document being forwarded.

(4) Any signature on electronically transmitted documents shall be considered that of the attorney or party it purports to be for all purposes. If it is established that the documents were transmitted without authority, the court shall order the filing stricken.

(H) A request for Issuance of Summons shall be filed with all original and amended complaints or petitions in civil actions.

(I) All filings must contain original signatures. Persons who are not an attorney may not sign on behalf of an attorney.

RULE 1.7 Assisting Illiterate Clients

(A) Court Clerks may assist illiterate persons with completing forms. Such assistance shall be limited to writing verbatim information provided to the Clerk without making changes, corrections or editing. The Clerk shall then read back to the party what has been written on the form to confirm accuracy. A disclaimer shall be added as follows: “Dictated by court user, written verbatim by court staff”. The Clerk shall then sign the document and provide the reason assistance was necessary.

RULE 2 COURT SECURITY

RULE 2.1 Weapons prohibited

(A) No person, with the exception of those persons listed in section (B) of this rule, may convey or attempt to convey, possess or have under his or her control a deadly weapon or dangerous ordnance in the Muskingum County Juvenile Court. This prohibition includes those persons licensed to carry a concealed weapon pursuant to R.C. Sec. 2923.125 or 2923.1213.

(B) The following persons are permitted to convey, possess, or have under their control a deadly weapon or dangerous ordnance in the Muskingum County Juvenile Court:

- (1) A judge or magistrate of a court of record of Ohio.
- (2) A peace officer who is authorized to carry a deadly weapon or dangerous ordnance, who possesses that weapon or ordnance as a requirement of that peace officer's individual duties, and who is acting within the scope of his or her duties at the time of possession or control.
- (3) A person who conveys, possesses, or has under his or her control a deadly weapon or dangerous ordnance that is to be used as evidence in a pending criminal or civil action or proceeding.
- (4) A prosecutor appointed by a county prosecuting attorney, who is authorized to carry a deadly weapon or dangerous ordnance in the performance of his or her duties, who possesses or has under his or her control a deadly weapon or dangerous ordnance as a requirement of his or her duties, and who is acting within the scope of his or her duties at the time of possession or control.
- (5) A bailiff, constable, or probation officer of this Court.

Any person who intends to carry a deadly weapon or dangerous ordnance into the Muskingum County Juvenile Court pursuant to the authority granted in Local Rule 2.1 (B) shall first notify the Bailiff or security officer on duty at the time that he or she is in possession of a deadly weapon or dangerous weapon and permit the bailiff or security officer to examine it, if requested.

(C) This Court does not provide the service of securing handguns, except to authorized law enforcement personnel.

RULE 2.2 Searches

(A) Persons entering the Court facility are subject to search, except as determined by the Judge. Except Court personnel, all persons entering court facilities shall pass through the metal detector.

(B) All packages and parcels, including, but not limited to briefcases, bags, purses, wallets or any other container are subject to search.

RULE 2.3 Disruptive Behavior

Any person who fails to or refuses to submit to a scan by a metal detector or a search of his or her person or property when requested to do so, will not be permitted to enter the Juvenile Court facility. In addition any person who is disruptive or who exhibits threatening behaviors will be directed to leave the building and may be subject to arrest.

RULE 2.4 Personal Restraints on Juveniles in Custody

(A) Restraints shall be removed prior to the commencement of all court proceedings unless the Court determines on the record, after providing all parties the opportunity to be heard on the issue of physical restraint for the child at the hearing, that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because either of the following:

- (1) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom;
- (2) There is a significant risk the child will flee the courtroom.

(B) If the Court finds physical restraint to be necessary, the restraint shall be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.

(C) The Court shall rule on the nature and extent of restraints to be utilized, if any, upon a child coming before the Court who are being held in a secure facility upon the initial appearance of the child before the Court. The Court's ruling with regard to the nature and extent of restraints

to be utilized shall apply to all subsequent court appearances for said child unless the Court, upon its own motion, or upon the motion of any party, reconsiders the matter at a hearing on the record.

RULE 3 COUNSEL

RULE 3.1 Ohio Attorney

(A) No action in the Court of Common Pleas, Juvenile Division, shall be filed or tried by an attorney who is not admitted to practice in the State of Ohio unless accompanied by co-counsel admitted to practice in this state. The right of individuals to represent themselves (*pro se* appearances) is preserved.

(B) At the request of the Court, an attorney may be required to present identification that demonstrates that he or she is registered and in good standing with the Ohio Supreme Court to practice law in this state.

RULE 3.2 Attorney Registration

(A) Any filing made by an attorney licensed to practice law in this state shall, in addition to the requirements of Rule 11 of the Rules of Civil Procedure, include the attorney's address, telephone number and attorney registration number.

RULE 3.3 Court Appointed Counsel

(A) In any traffic, delinquency, unruly, abuse, neglect and dependency case where a party believed to be indigent seeks counsel, the party must submit a Financial Disclosure/Affidavit of Indigency Form, and will be assessed a non-refundable \$25.00 application fee, unless the fee is waived or reduced by the Court.

(B) The Court shall maintain a list of qualified and approved attorneys to serve as counsel in each type of the aforementioned proceedings.

(1) In order to be placed on the Court's assigned counsel list, an attorney must be licensed to practice in the State of Ohio, and in good standing, qualified and competent in the areas of practice for which appointment is requested. The Deputy Clerk of this Court

shall maintain the list, and an attorney wishing to be placed on a list shall submit a letter of interest to the Court for review. The Court may require submission of additional written materials or references and may require an interview with applicant prior to approval. No competent, qualified, attorney in good standing shall be unreasonably refused inclusion on the Court Appointment list.

(2) Where practical, attorneys on the assigned counsel list will be considered for appointment on a rotating basis. Once the Deputy Clerk has found an available attorney willing to accept the appointment, where practical, the next attorney will then be considered first for the next appointment. Cases that require specialized skill or knowledge or involve parties previously represented by court appointed counsel may require that the Court make an appropriate alternative appointment.

(C) Compensation for all Court appointed counsel for delinquency, unruly, truancy, traffic, abuse, neglect and dependency cases shall be at a rate of Forty Dollars per hour (\$40.00/hr.) subject to a maximum fee of \$1,000.00 per appointment, as established by the Muskingum County Commissioner's Office. Additional fees may be approved at the Court's discretion for cases involving extraordinary fees.

(D) Appointed counsel shall submit an application for fees in a timely manner, as established by the Muskingum County Commissioner's Office.

RULE 3.4 Extraordinary Fees

(A) Requests for extraordinary fees must be made by written motion submitted with supporting information, including all regular billing documents, within 30 days of the date of the journal entry disposing of the complaint or motion, or date of the journal entry approving the case plan, whichever is later. Requests for extraordinary fees will not be considered prior to disposition. If the Court receives requests for extraordinary fees late, payment to the attorney will be reduced by the reimbursement rate currently being used by the Ohio Public Defender. All requests for extraordinary fees shall be submitted within sixty (60) days of the date of the journal entry disposing of the complaint or motion, or date of the journal entry approving the case plan, whichever is later. Applications submitted beyond sixty (60) days will not be paid.

(B) An award for extraordinary fees will be made only with the approval of the Judge. Extraordinary fees will be granted only in complex cases involving multiple counts dealing with multiple separate incidents which require an extraordinary amount of trial preparation time, cases

that involve unique legal issues, cases that require multiple types of hearings (e.g., motion to relinquish jurisdiction denied and SYO subsequently filed), or cases requiring extended days of trial. Motions for extraordinary fees must be accompanied by an itemized time log clearly reflecting the date of service, nature of services rendered and hours worked.

RULE 3.5 Withdrawal of Counsel

(A) Attorneys seeking to withdraw as counsel in a pending case shall submit a motion, memorandum and order to the Judge or Magistrate assigned to hear the case. Said motion and order must contain a certificate of service to opposing counsel and to the withdrawing attorney's client.

(B) Leave to withdraw shall not be granted within thirty (30) days of scheduled trial or hearing, except for good cause shown. Nonpayment of attorney's fees by the client is not a basis for withdrawal except by permission of the Court.

(C) Attorneys who have been permitted by the Court to withdraw from a case shall cooperate with successor counsel by providing copies of the case file (less work product) in a timely manner upon request to do so. Successor counsel shall request copies of the case file from withdrawing counsel before requesting the same from the Court.

RULE 3.6 Attorney Scheduling

(A) Each attorney is responsible for requesting adequate Court time for all motion hearings and final hearings. In the event no Court time is requested, each motion hearing will be scheduled for one (1) hour. Each attorney will have one-half (1/2) hour to proceed and complete his or her case.

(B) In the event adequate time has not been requested, continuances will be granted at the discretion of the Court.

(C) Each attorney shall have a copy of his or her calendar available at all scheduling conferences, status conferences, pretrial conferences and hearings.

(D) Each attorney shall cooperate fully with the Court in the scheduling of all appearances before the Court with consideration for prior scheduled appearances in other Courts. Client appointments or conferences are not a basis for non-availability for scheduling.

RULE 3.7 Attorney Decorum

(A) Counsel for all parties shall be present and before the Court at the assigned hearing time. If counsel is not present in Court at the assigned hearing time, the case may commence without counsel, may be continued, or may be dismissed. If counsel is going to be late for a hearing, counsel must make a reasonable effort to notify the Judge or Magistrate as soon as is practical in order to explain the reason for his or her lateness. Repeated lateness or absences may result in contempt of Court and/or the removal of counsel from the appointment of cases in the Muskingum County Juvenile Court.

(B) Counsel for all parties shall advise the court, opposing counsel, and all unrepresented parties in writing of any potential conflict or appearance of conflict of interest at the earliest possible time.

RULE 4 GUARDIAN AD LITEM

RULE 4.1 Appointment

(A) All appointments of a Guardian Ad Litem will be in compliance with Rule 48 of the Rules of Superintendence for Ohio Courts and Local Rule 3.3.

(B) The Court will appoint a Guardian Ad Litem when necessary and appropriate to protect the interests of a juvenile or whenever the Court is required to do so by statute.

(C) Appointment may also be made for a person who is older than eighteen (18) years of age who is deemed a juvenile until the person attains twenty-one (21) years of age under R. C. Sec. 2151.011(B)(5) or 2152.02(C).

(D) If the Guardian Ad Litem finds that a conflict of interest exists with his/her appointment, he/she must file an appropriate motion.

(E) As practical, the Court will attempt to appoint local (in-county) qualified individuals that have completed training requirements set forth in Rule 48 (D), (E), and (F) of the Rules of Superintendence for the Courts of Ohio.

(1) Special needs of a particular case may be considered in the appointment of a Guardian Ad Litem with specialized qualifications or skills.

(2) In cases returning to the Court which require a Guardian Ad Litem, every effort will be made to ensure the reappointment of the previous Guardian Ad Litem to the case, unless otherwise specified by the Court.

(F) An attorney, who wishes to serve as Guardian Ad Litem and attorney for the ward may be appointed as an explicit dual appointment by the Court, provided no conflict between these roles exists.

(G) Non-attorney Guardian Ad Litem shall sign a Memorandum of Understanding (M.O.U.) which outlines duties of such position and also outlines hourly compensation rates at an agreed upon amount between the Court and interested party.

(H) Compensation for all Court appointed Guardian Ad Litem shall be at a rate and cap as established by the Muskingum County Commissioner's Office. In cases where Children Services is not involved, the cap shall be One Thousand Dollars (\$1,000.00).

(I) The Court will maintain a list of Guardian Ad Litem and may offer appointment on cases in the discretion of the Court.

RULE 4.2 Duties

(A) Comply fully with Rule 48 of the Rules of Superintendence for Ohio Courts.

(B) The duties of a Guardian Ad Litem, including Attorney/Guardian Ad Litem appointments, conclude 30 days after the case is closed unless otherwise ordered by the Court.

(C) The Guardian Ad Litem shall have full access to all Court records, school records, medical records and Muskingum County Job & Family Services records as ordered by the Court regarding that juvenile(s), including closed prior cases. The Guardian Ad Litem will perform whatever functions are necessary to protect the best interests of the juvenile or incompetent adult pursuant to Ohio Revised Code, including the issuance of subpoenas and the examination of witnesses. All costs will be waived for any filings made by a Guardian Ad Litem.

(D) If a Guardian Ad Litem finds that one or more of the listed duties are impractical or unreasonable to complete, they shall file a preliminary report to the Court regarding the “Exception to Duty” which sets forth the circumstance that prevents them from completing all aspects of the report and the reasons therefore. The Court will make reasonable efforts to provide service to the parties involved with the case.

RULE 4.3 Qualifications

(A) A Guardian Ad Litem shall successfully complete the pre-service training course and annually complete a minimum of three (3) hours of in-service continuing education training as set forth in Rule 48 (E) of the Rules of Superintendence for Courts in Ohio. All Guardians Ad Litem shall also sign a Memorandum of Understanding (M.O.U.) with the Court that outlines duties as required by the Court.

(B) An attorney who wishes to serve as Guardian Ad Litem shall meet all the requirements to be a Guardian Ad Litem as outlined above and shall be duly licensed to practice law in the State of Ohio.

(C) In order to be considered on the Court’s Guardian Ad Litem appointment list, the applicant or attorney shall do the following:

- (1) Complete and submit a resume, outlining education, training and expertise demonstrating the person's ability to successfully perform the responsibility of Guardian Ad Litem.
 - (2) Complete a BCI criminal background check.
 - (3) Provide copies of training certificates that will be maintained by the Court to document certification standards that said Guardian Ad Litem has completed educational requirements as set forth by Rule 48 in the Rules of Superintendence for Ohio Courts.
 - (4) At the Court's own discretion, applicants and attorneys may be required to participate in an interview and/or provide additional qualifying information.
- (D) In order to be included and maintained on the Court's Guardian Ad Litem appointment list, the applicant or attorney shall do the following:
- (1) Based upon review of criteria listed in above Local Rule 4.3 (C) 1-4, the Court may add the applicant or attorney to the Court's appointment list.
 - (2) Certify annually in writing after the initial appointment that they are unaware of any circumstances that would disqualify them from serving as Guardian Ad Litem and to provide updated training certificates for ongoing appointment consideration.
 - (3) Guardian Ad Litem appointments shall be reviewed on an annual basis by the Court to determine whether he or she qualifies to remain on the appointment list. Criteria for removal may include but is not limited to the following: not performing the duties as outlined in this Court's Rules or Rule 48 of the Rules of Superintendence for Ohio Courts; not meeting continuing educational requirements; committing a criminal offense; or for any other factor which the Court believes may hinder the effectiveness or ability to complete the assignment as Guardian Ad Litem.
 - (4) Any Guardian Ad Litem may be removed from the Court's appointment list at their own request. The Court may, in its own discretion, remove any Guardian Ad Litem from the Court's appointment list at any time.

RULE 4.4 Grievance Procedure

- (A) It is the goal of the Muskingum County Juvenile Court to resolve problems and grievances regarding a Guardian Ad Litem fairly and promptly and as soon as is reasonable. When a parent, family member, attorney, professional, or any other person has a complaint, grievance or

concern about a Guardian Ad Litem, that person shall try first to resolve the issue with the Guardian Ad Litem directly.

(B) If such an effort is unsuccessful or impractical, the person shall utilize a formal process by outlining concerns in writing and presenting these to the Court for review by the Judge. A copy of the complaint or grievance shall be provided to the Guardian Ad Litem who is the subject thereof. The Court may choose to have the parties mediate their differences with formal mediation or in the discretion of the Court, the Court may unilaterally resolve the grievance in any manner that it deems appropriate. Any formal resolution from mediation must be signed and presented to the Court for verification of the settlement of the dispute. If no resolution is reached regarding the dispute, the Judge shall resolve the dispute and the finding shall be final. Dispositions by the Court shall be made promptly in order to minimize delay associated with the case. The Court shall maintain a written record in the Guardian Ad Litem's file regarding the nature and disposition of any comment, complaint, or grievance and shall notify the person making the comment or complaint and the subject Guardian Ad Litem of the disposition.

RULE 4.5 Annual Review

(A) The Court shall conduct, at least annually, a review of its list to determine that all individuals are in compliance with the training and education requirements of this rule and local rules, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.

(B) The Court shall require all individuals on its list to certify annually they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended to comply with this rule.

RULE 5 MAGISTRATES

RULE 5.1 Magistrate Responsibilities

(A) Magistrates may be appointed to hear all matters permitted by law. A magistrate, acting in these matters, shall have all powers set forth in Rule 40 of the Ohio Rules of Juvenile Procedure.

RULE 5.2 Objections

(A) Objections to Magistrate’s Decisions and motions to set aside magistrate’s orders shall be as set forth in Juvenile Rule 40.

RULE 6 SECURITY FOR COSTS

(A) No civil action or proceeding, initiated by a person or non-governmental agency, shall be accepted for filing unless the party offering the same for filing shall have first deposited a sum to secure the payment of the costs that may accrue in such action or proceeding, except as otherwise provided by law.

RULE 6.1 Deposit for Costs and Fees

These Court costs and fees may be changed by the Court without amendments of these Local Rules or as required by statute.

Affidavit of Indigence	\$25.00
Complaint/Motion to Establish Paternity/Support	\$70.00
Complaint/Petition for Custody	\$70.00
Initial Deposit-	
Service by Summons	\$50.00
Precipe for Subpoena	\$50.00
Consent Entry/Waiver of Juvenile Support	\$45.00
Motion to Reopen or New Action on Existing Case	\$70.00
Transcript (as required by Court transcriber)	
Felony Offenses	\$98.00
Unruly and Misdemeanor Offenses	\$67.00
Traffic Moving	\$77.00
Traffic Non-Moving	\$48.00
Driving Privileges	
Initial Fee	\$50.00
Modification Fee	\$10.00
Drug Testing Fee	\$21.00
Diversion (discretionary group participation fee)	\$75.00

RULE 6.2 Inability to Secure Costs

(A) If a litigant claims inability to either prepay or give security for costs, the litigant shall complete an Affidavit of Indigence required by R.C. Sec. 2323.30 and 2323.31, substantiating such inability, all of which shall be filed with the pleadings and treated as other papers in such case. The final determination of indigence will be held in “abeyance” until the Evidentiary Hearing, but is subject to review by the Court at any stage of the proceedings.

(B) Litigants shall pay the required fee of \$25.00 along with the filing of “Affidavit of Indigence” in order for the Court to make a determination regarding indigence. No civil action or proceeding shall be accepted for filing with an affidavit of indigence unless the party filing shall first deposit the \$25.00 fee.

RULE 6.3 Payment of Fines and Costs

(A) In any case, regardless of its nature, where fine and/or court costs are assessed against a party, said fine and/or court costs are due and payable immediately unless otherwise ordered by the Court. Failure to pay can result in a citation for contempt or other collection efforts.

RULE 6.4 Deposit for Fees of Guardian ad Litem

(A) Any party requesting appointment of a Guardian ad Litem in a proceeding involving allocation of parental rights and/or parenting time shall, at the time of appointment of a Guardian ad Litem, deposit with the Court the sum of \$500.00 to be applied toward the satisfaction of the fees for the Guardian ad Litem. After initial deposit for fees has been exhausted, additional deposits may be ordered by the Court. No deposit for fees of Guardian ad Litem shall be required in cases alleging a juvenile to be dependent, neglected, abused, unruly or delinquent. The assessment of the costs for the fees of Guardian ad Litem shall be made by the Court at the completion of the proceedings. In any case, the Court reserves the right to reallocate the fees of the Guardian ad Litem at the completion of the proceedings

RULE 6.5 Special Project Fees

(A) Pursuant to the authority of R.C. Sec. 2151.541 it is determined that, for the efficient operation of this Court, additional funds are required to obtain computerized legal research services.

(1) The Clerk of this Court is directed and hereby authorized to charge and collect an additional fee of three dollars (\$3.00) upon the filing of each cause or appeal under R.C. Sec. 2303.20(A), (Q) and (U).

(2) All funds collected pursuant to this rule shall be paid to the County Treasurer to be maintained by the County Auditor in a separate account for utilization of this Court in procuring and maintaining computerized legal research services.

(B) Pursuant to the authority of R.C. Sec. 2151.541 it is determined that, for the efficient operation of this Court, additional funds are required to computerize the office of the Clerk of the Court of Common Pleas, Juvenile Division.

(1) The Clerk of this Court is directed and hereby authorized to charge an additional fee of ten dollars (\$10.00) upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing of each aid in execution or petition to vacate, revive or modify a judgment under R.C. Sec. 2303.20(A), (P), (Q), (T) and (U).

(2) All funds collected pursuant to this rule shall be paid to the County Treasurer and maintained by the County Auditor in a separate account, to be disbursed, upon an order of the Court of Common Pleas, Juvenile Division and subject to appropriation by the Board of Commissioners, in an amount no greater than the actual cost to the Court of procuring and maintaining computer systems for the office of the Clerk of the Court of Common Pleas, Juvenile Division.

(C) Pursuant to R.C. Sec. 2303.201(E)(1), the Court determines that for its efficient operation, additional fees are necessary to acquire and pay for Special Projects of the Court that are permitted by the statute.

(1) Therefore, effective January 12, 2010, it is Ordered that the Clerk of the Court is authorized and directed to charge as Court costs a fee of \$21.00 for the purpose of purchasing equipment, supplies and laboratory testing necessary to administer drug and alcohol screens and other associated evaluations. Said assessment shall be made on the filing of each delinquency and unruly actions.

(2) Therefore, effective April 1, 2010 it is Ordered that the Clerk of the Court is authorized and directed to charge as Court costs a fee of \$10.00 per case or filing for the purpose of purchasing and upgrading the equipment and security system for the Court of Common Pleas, Juvenile Division. Said fee shall be assessed for all cases and post-judgment motions including, but not limited to delinquency, unruly, juvenile traffic offense, juvenile tobacco offender, domestic relations case or motion, contributing, paternity and other civil causes of action.

RULE 7 SERVICE

RULE 7.1 Service on Pending Matters

(A) Service of pleadings in any matter filed or pending before the Court shall be in accordance with the Rules of Practice and Procedure in Ohio Courts. The Court shall maintain a limited number of mailboxes in the lobby for the convenience of attorneys practicing before this Court. The boxes are available on a first-come-first-serve basis. The Court shall utilize such boxes to serve counsel with notice of hearings and may utilize counsel of time sensitive material. Service shall be deemed complete when notices are placed in the box by the Court. It shall be the responsibility of counsel to monitor the contents of these boxes. Material placed in the boxes will not be forwarded by mail by the Court Staff. Opposing counsel may utilize the mailboxes for service of courtesy copies only.

RULE 7.2 Service by Posting

(A) Consistent with the provisions of Rule 16(A) of the Ohio Rules of Juvenile Procedure provision is hereby made by local rule to permit service by publication to be made by posting and mail in lieu of publication by newspaper whenever it does not appear that newspaper publication is any more likely to provide actual notice to the person upon whom service is to be made.

(B) Upon the filing of an affidavit attesting that the residence of a party is unknown and cannot be ascertained with reasonable diligence and the filing of a request or instructions to the Clerk of this Court for service by posting and mail as well as a copy of the notice to be posted, the Clerk shall cause service of notice to be made by posting the notice so filed as set forth in Paragraph (C).

(C) Notices posted pursuant to this rule shall be posted on the first business day of each week and shall remain posted for no fewer than seven (7) full days and shall be posted in a conspicuous public location in:

- (1) Muskingum County Juvenile Court at 1860 East Pike, Zanesville, Ohio
- (2) Muskingum County Court House at 401 Main St., Zanesville, Ohio
- (3) Muskingum County Job and Family Services at 445 Woodlawn Ave., Zanesville, Ohio

(D) After the seven (7) days of posting, the Clerk shall note on the docket where and when notice was posted. Service shall be complete upon the entry of posting.

RULE 8 CASE MANAGEMENT

(A) These case flow management rules shall apply to all matters filed in the Muskingum County Juvenile Court that involve custody, and juvenile abuse, neglect and dependency, unless:

- (1) The case by its very nature requires a more rapid adjudication such as in equity matters.
- (2) The case, because of court-imposed stays, interlocutory appeals, removal to federal court, and remand, etc., requires a different schedule.
- (3) The Judge or Magistrate, by written order, places the case on a different schedule for resolution based on good cause shown. Wherever possible, cases will be resolved in the shortest amount of time. The deadlines set by the Ohio Rules of Superintendence for the Courts of Common Pleas shall be construed as maximums and shall not preclude the more rapid resolution of cases under these rules.

RULE 8.1 Continuances

(A) All requests for continuances or advancements shall be in writing and shall be submitted to the Judge or Magistrate to whom the case is assigned at the earliest possible time, at least fourteen (14) working days prior to the date of a jury trial, seven (7) days prior to other hearings.

(B) All requests for continuances shall contain the following information:

- (1) The date on which the need for continuance arose,
- (2) The reasons(s) for requesting the continuance,
- (3) The date on which all other attorneys of record and guardians ad litem were contacted, and whether these attorneys and guardians agree on the need for a continuance, and
- (4) The earliest date that all parties will be ready to proceed.

(C) No case will be continued on the day of the trial or hearing except for good cause shown, which cause was not known to the party or counsel prior to the date of trial or hearing, and provided that the party and/or counsel have used due diligence to be ready for trial and have notified or made diligent efforts to notify the opposing counsel or party as soon as they became aware of the necessity to request a continuance. This rule may not be waived by consent of counsel.

(D) In the event that the Court grants a continuance upon request of a party, it shall be the responsibility of the party to whom the continuance was granted to obtain potential new dates and times from the Clerk, to contact all other parties to establish a mutually agreeable new date, and to provide that information to the Clerk in order that a new notice of hearing may be served upon all parties.

RULE 8.2 Preliminary Conferences (Pre-Trials)

The purpose of preliminary conferences is to determine if there is potential for a mutually acceptable agreement. The preliminary conference also assists the parties, through information sharing, to understand the options before the Court and to keep parties on track to meet statutory requirements for hearing dates.

(A) The Court may, on its own motion, set any matter for preliminary conferences pursuant to Juvenile Rule 21. Any party may move, in writing, for a preliminary conference. If the Judge or Magistrate determines that a case warrants a preliminary conference, a date and time shall be set. All parties named in the action, except minor juveniles, attorneys of record, and Guardians Ad Litem shall be present at the preliminary conference unless their presence is excused, in advance, by the Judge or Magistrate. In that event, the parties shall be available by telephone.

(B) It shall be the duty of counsel to come to the preliminary conference fully prepared and authorized to negotiate toward settlement of the case. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or other sanctions as the Judge or Magistrate deems appropriate.

(C) If requested by the Court, each party shall file pre-trial memorandums or briefs with the Court stating their respective case, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Said briefs or memorandums shall be filed at least one (1) week prior to pre-trial and copies shall be furnished to opposing council.

(D) When parties reach agreement or consent on any or all contested issues before the Court, the parties shall comply with Local Rule 1.6(D).

RULE 8.3 Status Conferences

The purpose of a status conference is to verify service and legal representation of all necessary parties, to review the proposed Children Services case plan, to review any possible stipulations or agreements, and to verify that all parties will be prepared to proceed to hearing (trial) as scheduled and avoid unnecessary continuances. The status conference assists the parties, through information sharing, to understand the options before the Court and to keep parties on task to meet statutory requirements for hearing dates.

(A) The Court may, on its own motion, set any matter, but especially custody, abuse, neglect or dependency filings for status conferences at a date and time set by the Court. All parties named in the action, except minor juvenile, attorneys of record, and Guardians Ad Litem shall be present at the status conference unless their presence is excused, in advance, by the Judge or Magistrate. In that event, the parties shall be available by telephone.

(B) Each attorney must make reasonable attempts to communicate with their client prior to the status conference.

RULE 8.4 Trial or Hearing

(A) All Motions shall be filed not less than seven (7) days prior to trial, except for good cause shown.

(B) If requested by the Court, the parties shall file trial briefs with the Court stating their respective cases, both factual and legal, and bring to the Court's attention any anticipated legal

issues which counsel expects to arise during the trial. Copies shall be furnished to opposing counsel prior to trial. Trial briefs shall be filed at least two (2) weeks prior to trial.

RULE 8.5 Failure to Appear

(A) In addition to or in lieu of holding a party in contempt when that party fails to appear within fifteen (15) minutes of a scheduled conference or hearing, the Court may:

(1) When the moving party fails to prosecute or comply with these rules or any Court order, the Court may, after notice to counsel, dismiss the case or grant any other appropriate relief to the responding party.

(2) When the responding party fails to appear at a pre-trial conference or the trial/hearing, the Court may order that the case will proceed *ex parte*.

(3) Issue an arrest warrant.

RULE 8.6 Jury Management

(A) The Muskingum County Common Pleas Court General Division Rule 23 as it relates to juries, shall apply to proceedings in the Juvenile Division except to the extent that by its nature it would be clearly inapplicable.

RULE 9 ALLOCATION OF PARENTAL RIGHTS & RESPONSIBILITIES

RULE 9.1 Actions Involving Minors

(A) Actions for parentage, juvenile support, and contempt for failure to pay juvenile support in which a parent or an alleged parent is a minor require the attendance of the minor parent's parent or legal guardian or custodian at all hearings.

RULE 9.2 Provisional Guardian Ad Litem Appointment

(A) In all cases involving Allocation of Parental Rights, a provisional Guardian Ad Litem may be appointed through the pretrial.

(B) Assignment of costs for Provisional Guardian Ad Litem Services may be assessed to the parties by the Court.

RULE 9.3 Ex parte/Temporary “Emergency” Orders

(A) *Ex parte* / Temporary “Emergency” Orders will not be granted for residential parenting except upon filing of an affidavit from an independent and unbiased third party.

(B) The Court may issue temporary orders which restrict the removal of a juvenile from the jurisdiction of the Court upon the filing of an *Ex parte* Motion.

(C) If a party wishes to contest an *Ex parte*/temporary order granting temporary residential parent status, the party shall file a motion for relief or motion to set aside, as appropriate. Copies of the motion shall be served in accordance with the Rules of Civil Procedure. Upon filing, the Court shall schedule the matter for hearing.

RULE 9.4 Filings Requesting Hearings

(A) An initial filing in a case is a Complaint and any additional filings thereafter are Motions. Certain filings must be accompanied by an Affidavit of Juvenile Custody in accordance with R.C. Sec 3109.27.

(B) All Complaints/Motions filed by the parties shall have attached a Memorandum In Support as well as affidavits.

(C) All filings must be accompanied by a certificate of service and a precipe for service.

(D) If a party’s address is unknown then the filing party shall file an affidavit stating they cannot obtain an address with due diligence and describe in detail the efforts made to locate the other party. The Court will publish a notice upon filing of the affidavit.

(E) If temporary orders are requested, the Court will schedule a temporary orders hearing within fourteen (14) days, at which time each party will be granted twenty (20) minutes to present their case for consideration of temporary orders.

(F) The Court will schedule a pretrial hearing and a possible order to attend mediation immediately following the pre-trial hearing. In addition, a provisional Guardian Ad Litem may be involved as part of the pre-trial hearing.

(G) If no agreement is reached between the parties at the pre-trial hearing, an evidentiary hearing will be set. Recommendations of the Guardian Ad Litem (if appointed) will be considered at the evidentiary hearing.

RULE 9.5 Filing of Agreements

(A) Filings of agreements shall be by a Complaint or a Motion with notarized signatures of the parties and counsel of record.

(B) A shared parenting plan or agreed custody agreement shall include the following:

- (1) Physical living arrangements of the juveniles;
- (2) At least one of the following:
 - (a) Juvenile Support Worksheet, including Findings of Fact with a schedule for deviation; or
 - (b) An agreement to contact CSEA to establish Child Support;
- (3) Health insurance coverage and division of uninsured costs;
- (4) School placement;
- (5) Parenting time schedule;
- (6) A designation of legal custodian if necessary for public assistance or school or upon agreement.
- (7) Child Custody Affidavit.
- (8) Allocation of Income Tax Dependency Exemption

(C) The Court may refuse to approve orders which are not, in the Court's opinion, in the best interest of the juvenile.

(D) Settlement Agreements shall be filed with the Court within twenty-one (21) days of the hearing, or as otherwise ordered or allowed by the Court. Failure to file in a timely manner may result in a review hearing to determine the cause for delay and possible sanctions.

RULE 9.6 Contempt

(A) The party filing any contempt action shall file therewith an affidavit which shall set forth the claimed reason for the contempt and shall identify the specific Court order the contemnor has allegedly violated by identifying the filing date of the order and the specific paragraph, article or section where the order may be found. A copy of the Court order the contemnor has violated shall be attached to the affidavit. If the claim is a failure of payment of support the affidavit shall include the amount of delinquency claimed. In the event the claim is for failure to pay medical

expenses, the affidavit shall include the amount of such medical expenses, date(s) of service, recipient(s) of service, and healthcare provider information. The party against whom the contempt action has been filed shall be served with a copy of the affidavit along with the motion for an order in contempt.

RULE 10 UNRULY

RULE 10.1 School Truancy

(A) Muskingum County Juvenile Court and the county school officials have established a uniform truancy process by which charges may be filed at Muskingum County Juvenile Court. A series of notices and informal meetings and agreements will be utilized to document intervention strategies. Referrals and links to other community agencies will be used to address school truancy issues.

(B) A complaint may be issued pursuant to R. C. Sec. 2151.022(B) if the intervention strategies have not successfully resolved the truancy matters. In the event a juvenile has been the subject of a truancy proceeding in Juvenile Court during the prior academic year(s), one (1) unexcused absence shall be deemed sufficient for the school to file a new complaint with the Juvenile Court for truancy, or request a further dispositional hearing in the event a case is still pending in the Court.

(C) Additional orders or charges may be filed with the Court if the preceding intervention strategies have not been successful.

(D) No formal filings for truancy should be made after April 15 of each school year, as the case will not appear on the Court's docket until after the conclusion of the current school year. The Court's Diversion Officer will attempt to resolve any truancy issues after that date.

RULE 10.2 Post Adjudication Truancy Process

(A) Muskingum County Juvenile Court and the county school officials have also established a post-adjudication truancy process for juveniles who have not previously been adjudicated as unruly by reason of truancy. Candidates for this program may be recommended by the Court's Diversion Coordinator, the Probation Department, school officials, or the parents of the juvenile. Upon acceptance into the program, disposition will be deferred to permit the Court

and school officials to monitor school attendance. During the period of deferral, the juvenile and parents will be required to return to Court for regular periodic reviews.

(B) Juveniles shall be terminated from diversion for continued absences from school without excuse. Upon termination, the case will be reactivated and the matter will be scheduled for disposition.

(C) The Judge or Magistrate has final discretion to determine when the participant has successfully completed Truancy Court obligations. Upon successful completion from the program, the unruly case will be dismissed by the Court.

RULE 10.3 Other Unruly Behavior

(A) All other unruly behavior complaints must be processed by the Muskingum County Prosecuting Attorney's office.

RULE 10.4 Out of County Transfer

(A) Unruly complaints transferred to Muskingum County from other counties due to residency may be considered for referral to other service providers or accepted into this Court's Diversion Program as outlined in Rule 15.1.

RULE 11 TRAFFIC

RULE 11.1 Traffic Violations Bureau

Pursuant to Ohio Traffic Rule 13.1, there is hereby established a traffic violations bureau for juvenile traffic offenders to be operated in the manner prescribed by Ohio Traffic Rules 13, 13.1, and as prescribed herein. The Judge of the Juvenile Division of the Muskingum County Court of Common Pleas shall serve as Violations Clerk, and shall appoint Deputy Clerks to conduct the business of said bureau as necessary.

The violations bureau shall accept waiver of appearance, adjudicatory hearing, plea of admit, and payment of fine and costs for offenses within its authority. An attorney or parent may

enter a denial on behalf of a youth who has been cited. The matter will then be set for further proceeding before the Court.

(A) Juvenile traffic offenses that may be disposed of by said Traffic Violations Bureau may include non-moving violations such as expired tags, seat belt violations, and other minor moving and non-moving violations at the discretion of the Court except:

- (1) An offense listed in Traffic Rule 13(B) (1) to (5) and (7) to (9);
- (2) A second or subsequent moving offense;
- (3) An offense that involves an accident.

(B) A juvenile traffic offender charged with an offense that the Court has decided to include in the Traffic Violations Bureau shall not be required to appear at the Court if a signed plea of guilty, waiver of trial, and full payment of fines and costs assessed are received at the Court at least 24 hours prior to said appearance date. Payment shall be in the form of check or money order, unless payment of cash is made in person at the Court.

(C) All cases processed in the Traffic Violations Bureau shall be numbered and recorded for identification and statistical purposes. In any statistical reports required by law, the number of cases disposed of by the Traffic Violations Bureau shall be listed separately from those disposed of in open court.

RULE 11.2 Car teens

(A) First time juvenile traffic offenders and a parent may be given the option to attend the CarTeens program. CarTeens is a collaborative program of The Ohio State University Extension Office, the Ohio State Highway Patrol, and the Court. This requirement is to promote the education of traffic laws and discussion among families concerning safer driving practices.

RULE 11.3 Driving Privileges

(A) In any case where the Court suspends the juvenile's permit or license, the Court may, in its discretion, award driving privileges during the period of suspension upon such terms as the Court deems appropriate. Information regarding limited driving privileges, instructions for

completing a driving privileges request form, and application forms shall be provided to the juvenile with the arraignment hearing notice.

- (B) Privileges awarded normally extend to:
- (1) To and from school, and designated school-related activities;
 - (2) To and from a place of employment;
 - (3) To such other privileges as the Court deems appropriate.

All driving while under privileges must be by the most direct route, with no passengers other than members of the juvenile's immediate family.

(C) The Deputy Clerk shall, within five (5) business days of the date of issuance of driving privileges, notify the appropriate law enforcement agencies of the suspension and scope of privileges extended.

RULE 11.4 Traffic Fines and Costs

(A) In cases processed by the Juvenile Traffic Court of Muskingum County, Ohio, Court of Common Pleas, the Court may impose a fine not to exceed \$50.00 and costs in the amount of \$20.00 for non-moving violations and \$64.00 for moving violations. Modifications to driving privileges may be subject to a \$10 revision fee.

RULE 11.5 Use of Electronically Produced Ticket

(A) The use and filing of a ticket that is produced by computer or other electronic means is hereby authorized in the Muskingum County Juvenile Court. The electronically produced ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the juvenile traffic offender with a paper copy of the ticket.

RULE 12 DELINQUENCY

RULE 12.1 Filing of Complaints

- (A) Delinquency Complaints shall be prepared by the office of the Muskingum County Prosecuting Attorney and shall comply with Ohio Rules of Juvenile Procedure, Rule 10.
- (B) Muskingum County Juvenile Court and the Prosecutor's Office have established a screening process by which first time misdemeanor delinquent youth may be eligible for the Court's Diversion Program. Upon acceptance in the Program, a Diversion Contract is created with individualized treatment goals. After successful completion of the Diversion Program, the charges against the juvenile are dismissed or the charges prepared against the juvenile are not officially filed with the Court.
- (C) First time misdemeanor delinquent cases that transfer in from other counties will be considered for acceptance into the Muskingum County Diversion Program. If acceptance is granted for the Program enrollment, upon successful completion of the Program this Court will dismiss the initial Complaint pursuant to Rule 29 of the Ohio Rules of Juvenile Procedure.
- (D) If the youth fails to abide by the Diversion Contract or additional charges are filed while the youth is in the Diversion Program, termination may be considered resulting in official Court proceedings.
- (E) If the parent and/or juvenile elects not to enroll in the Diversion process, formal Court proceedings shall occur.
- (F) The Court shall maintain a confidential record of youth successfully completing the Diversion Program, which will be used to ensure that any subsequent filings on those youth exclude enrollment into the Diversion Program.

RULE 12.2 Arrestment

(A) **Admission**

- (1) Once a plea of admission has been entered, the case may be disposed of (sentenced) immediately or continued to a later date.
- (2) Any case continued for final disposition hearing may include an order for any of the following: pre-sentence investigation, Ohio Youth Assessment, mental health evaluation,

community service, curfew, detention, no contact orders, random drug testing and any other order that the Court finds to be fair and reasonable.

(B) **Denial**

(1) Upon a plea of denial, the case shall be continued at the discretion of the Court for pre-trial proceedings. The Juvenile may obtain counsel, or if found to be indigent, receive Court appointed counsel. All felony cases are to be scheduled for a combined arraignment/preliminary conference with defense counsel and the prosecutor.

(2) The Court may issue interim orders pursuant to Rule 13 of the Ohio Rules of Juvenile Procedure. These orders may include, but are not limited to, presentence investigation, Ohio Youth Assessment, mental health evaluation, community service, detention, no contact orders, and periodic random drug testing.

RULE 13 DETENTION HEARINGS

(A) All juveniles received into the Muskingum County Juvenile Detention Center shall have a hearing within 72 hours or the next Court day if detainment occurred after normal Court hours or on a weekend or holiday.

(B) Parents and youth will be advised of their rights and will have opportunity to discuss those rights as they apply to the detention hearing including the right to counsel. The Court may proceed to hearing if counsel is requested but not available within the time set forth in Rule 13(A) above. Upon request of the juvenile's attorney, the Court may grant a second detention hearing.

(C) If a parent is unable to attend a detention hearing or has not received notice of a detention hearing, a rehearing may be held pursuant to Rule 7(G) of the Ohio Rules of Juvenile Procedure.

(D) A motion to set aside the Magistrate's detention order may be filed in writing requesting a review by the Judge, who may or may not, at his discretion, hold a rehearing.

(E) If the juvenile remains in detention, an arraignment hearing will be held pursuant to Juvenile Rule 29 within 15 days of the date admitted to detention.

RULE 14 COMPETENCY PROCEEDINGS

(A) Competency is defined as a juvenile's ability to understand the nature and objectives of a proceeding against the juvenile and to assist in his or her defense as set forth in O.R. Sec. 2152.51(A)(1). A juvenile is "incompetent" if due to mental illness, intellectual disability, developmental disability, or lack of mental capacity, he or she is incapable of understanding the nature and objective of the proceedings or assist in his or her defense.

(B) The purpose of the rule is to expedite proceedings under R.C. Secs, 2152.51 to 2152.59 to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under these sections.

RULE 14.1 Expedited Hearings

(A) Competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute.

RULE 14.2 Notice

(A) Upon the conclusion of each hearing, the Court shall provide written notice to the prosecuting attorney, the juvenile's attorney, and the juvenile's parent, guardian, or custodian of the date, time, and place of the next scheduled hearing. Mailed notice shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.

RULE 14.3 Stay of Proceedings

(A) Upon the filing of a motion for a determination regarding a juvenile's competency or upon the court's own motion the Court shall stay all delinquency proceedings pending a determination of competency. If, upon a determination of competency, the Court determines that

the juvenile is not competent but could likely attain competency, the Court order staying the delinquency proceedings shall remain in effect until such time as the juvenile attains competency or the proceedings is dismissed.

RULE 15 BEHAVIOR AND DRUG AFFECTED DOCKET

RULE 15.1 Establishment of the “Muskingum County Family Dependency Court” Docket.

Commencing May 1 2016, Muskingum County Juvenile Court shall create a specialized docket pursuant to Sup. R. 36.20 – 36.29 for the purpose of improving the safety and welfare of children whose criminal and/or anti-social behavior is affected by substance abuse issues and/or mental health issues. This docket shall be known as the “Muskingum County Jr. Hope Court.”

RULE 15.2 Placement in the “Muskingum County Family Dependency Court” Docket

The Muskingum County Jr. Hope Court will accept referrals from Muskingum County Children Services Agency caseworkers, mental health and substance abuse treatment providers, prosecutor, probation officers, attorneys, and from potential clients. Participation in Jr. Hope Court is strictly voluntary and will occur post-adjudication with disposition differed to a later date based on the participant’s level of compliance. The youth has an adjudicatory hearing or enters an admission, agrees to a referral for Jr. Hope Court and if suitable, may have the terms of the disposition suspended while in the program. The program coordinator will interview potential clients to determine whether they meet the eligibility requirements.

RULE 15.3 Muskingum County Family Dependency Court” Docket Case Management

There are two components to eligibility for the Muskingum County Jr. Hope Court: legal and clinical. In order to be legally eligible, the youth must meet the following requirements:

- Youth and custodian(s) must reside in Muskingum County, Ohio.
- Youth must be between the ages of 12-17 years of age at the time of disposition. If it is in the best interest of the youth, exceptions will be made at the discretion of the Jr. Hope Court Judge.
- Youth must adjudicated delinquent of a misdemeanor including OVI, felony which is not a sex offense as that term is defined in Revised Code Chapter 2907, or unruly offense.

- Youth must not have a prior adjudication of delinquent of a felony sex offense as that term is defined in revised Code Chapter 2907.

Violent offenders whose behavior is substance abuse or mental health related will be given consideration by the Judge or Magistrate after review to ensure that they do not jeopardize the safety of the other participants or staff.

In order to be clinically eligible, the youth must meet the following requirements:

- Youth has been referred for a substance abuse and/or mental health evaluation and is diagnosed as having a significant problem;
- Youth/family admit that the child has a drug/alcohol and/or mental health problem;
- Youth and family are willing to participate in an intensive treatment program;
- Youth must have no mental health issue that interferes in reality perception or overall cognitive function;
- Youth must not be violent or threatening to the degree that would endanger other participants in the Jr. Hope Court program.

RULE 15.4 Termination from the Muskingum County Family Dependency Court Docket

In order to successfully complete Jr. Hope Court, the youth must demonstrate the following accomplishments and compliant behavior:

Accomplishments may include:

- Demonstrated a period of abstinence from alcohol and drugs (evidenced by negative drug screens for a minimum of 90 days prior to completion of Jr. Hope Court);
- Relapse prevention plan established;
- Regular sober activities;
- Demonstrated appropriate clean and sober behavior;
- Appropriately taking medication and stabilized mental health issues if applicable;
- Completed any other Jr. Hope Court requirements;
- Completed treatment plan goals.
- Displayed responsibility for his or her behavior; and
- Demonstrated stability in the community; lack of criminal charges;
- Obtained a high school diploma, or other educational certificate

Compliant behavior may include:

- Demonstrated a period of abstinence from alcohol and drugs (evidenced by negative drug screens for a minimum of 90 days prior to completion of Jr. Hope Court);
- Completed community service hours;

- Attended sober activities;
- Followed home and community rules;
- Attend school and acceptable grades;
- Displayed a change in thinking, attitude, and beliefs;
- Successfully completed treatment and programming;
- Obtained/maintained consistent employment;
- Demonstrated ability to identify and eliminate addictive thinking patterns.

Upon review of the compliant behavior, and review of the youth's accomplishments, the treatment team will recommend successful completion. The Judge/Magistrate has final discretion to determine when the youth will successfully complete Jr. Hope Court. Upon successful completion, the youth shall participate in a graduation ceremony hosted by the Court and shall receive a certificate of completion. The youth is then placed into Aftercare and monitored by the Court for a period to be determined by the Judge/Magistrate. The youth may or may not be in treatment and will comply with drug screening at the discretion of the probation officer.

Youth may be terminated for the program as unsuccessful. Criteria for unsuccessful termination from Jr. Hope Court include:

- On-going noncompliance with treatment;
- Continued use of illegal substances;
- Delinquent charges that result in long term detention;
- On-going noncompliance with Jr. Hope Court rules; and
- New delinquency adjudications.

A youth may be neutrally discharged from Jr. Hope Court if the youth is no longer capable of completing the program as a result of any of the following:

- A serious medical condition;
- Death;
- Other factors that may keep the participant from meeting the requirements for successful completion such as mental health issues; and
- Discretion by the Jr. Hope Court Judge/Magistrate to determine if the youth is no longer appropriate for Jr. Hope Court.

RULE 16 JUVENILE SEX OFFENDERS

- (A) The Juvenile may be subject to detention and/or a specific supervision plan to protect the victim, community and individual.
- (B) Upon adjudication the Juvenile may be referred for assessment and case specific counseling services at a state certified provider that specializes in sex offender programming. The Court will be involved in the development of a case specific treatment plan, and upon disposition of the case may adopt conditions of specialized probation.
- (C) The Court will conduct regularly scheduled review hearings in which probation, treatment, parents and interested parties provide updates.
- (D) Qualifying offense classification shall occur at disposition or upon discharge of a treatment facility pursuant to Ohio Revised Code.

RULE 17 SEALING AND EXPUNGEMENT OF RECORDS

- (A) In most cases, application may be made to the Muskingum County Juvenile Court for an order to seal a juvenile record, or to expunge the record under R. C. Sec. 2151.358.

RULE 17.1 Sealing

- (A) The Court shall consider sealing of Juvenile records upon application or upon the Court's own motion at any time after six (6) months after one of the following:
1. The termination of any court order made in relation to the adjudication;
 2. The unconditional discharge of the person from the Department of Youth Services or other institution or facility;
 3. The Court enters an order determining that the juvenile is no longer a juvenile offender registrant.
- (B) To seal a juvenile record means to have the record removed from the main file of similar records and to have it secured by the Court in a separate file that contains only sealed records accessible only to the Juvenile Court, as defined in R. C. Sec. 2151.355(B).
- (C) Cases adjudicated delinquent for committing Aggravated Murder, Murder, and Rape, shall not be sealed as outlined in R. C. Sec. 2151.356(A). Cases adjudicated delinquent for committing Sexual Battery or Gross Sexual Imposition may be considered for sealing pursuant to R. C. Sec. 2151.356.

(D) No fee shall be charged for any person applying to have their records sealed, pursuant to R. C. Sec. 2151.356.

RULE 17.2 Expungement

(A) The Court must expunge all sealed records either five years from sealing or from the juvenile reaching age 23, whichever comes first. After the record has been sealed, application may be made for earlier expungement. If the prosecuting attorney files a response that objects to the expungement of the records, the Court must conduct a hearing before the records may be expunged, as defined in R. C. Sec. 2151.358.

(B) To expunge the record means to destroy, delete and erase the record, as appropriate for the record's physical or electronic form or characteristic, so that the record is permanently irretrievable as defined in R. C. Sec. 2151.355(A).

RULE 18 ABUSE, NEGLECT, AND DEPENDENCY CASES

(A) Pursuant to Ohio Rules of Superintendence 45 (E) that the Court can restrict public access to case documents if it finds by clear and convincing evidence that the presumption of public access is outweighed by a higher interest after considering the following:

- a) Whether public policy is served by restricting public access;
- b) Whether any state, federal, or common law exempts the document or information from public access;
- c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

(B) Abuse, neglect, dependency cases have historically been considered nonpublic due to the sensitive nature of the proceedings. The damage to families and children due to the prejudicial nature of the proceeding outweighs the value of public access to such cases. Therefore all abuse, neglect, and dependency cases should be restricted from access by the public. The Court may order a specific case to be public record upon a Motion and good cause shown.

RULE 19 SHELTER CARE HEARINGS

(A) When a juvenile is taken into custody pursuant to an *ex parte* emergency order pursuant to Juvenile Rule 6, a probable cause hearing shall be held before the end of the next business day after the day on which the order is issued but not later than seventy-two (72) hours after the issuance of the emergency order.

RULE 20 HOME STUDIES

(A) The Court may order a home study to be performed in any case of allocation of parental rights and responsibilities, parenting time and companionship or placement of a juvenile outside the home.

RULE 21 FAMILY DEPENDENCY COURT

RULE 21.1 Establishment of the “Muskingum County Family Dependency Court” Docket.

Commencing September 1 2015, Muskingum County Juvenile Court shall create a specialized docket pursuant to Sup. R. 36.20 – 36.29 for the purpose of improving the safety and welfare of juvenile while supporting the recovery of their parents from alcohol and drug abuse, dependency, or addiction through comprehensive treatment services and judicial supervision. This docket shall be known as the “Muskingum County Family Dependency Court” (Family Court)

RULE 21.2 Placement in the “Muskingum County Family Dependency Court” Docket

The Family Dependency Court will accept referrals from Muskingum County Children Services Agency caseworkers, mental health and substance abuse treatment providers, prosecutor, probation officers, attorneys, and from potential clients. The coordinator will interview potential clients to determine whether they meet the eligibility requirements.

RULE 21.3 Muskingum County Family Dependency Court” Docket Case Management

To be eligible for Family Dependency Court, parents must be Muskingum County residents who currently are involved in a Muskingum County Children Services Agency initiated abuse, neglect, or dependency case in Muskingum County Juvenile Court, in danger of losing permanent custody of their Child(ren), be willing to work with Muskingum County Children Services Agency and comply with Muskingum County Children Services prepared case plans. From a clinical perspective, all participants must have a diagnosis which includes substance abuse, dependency, or addiction with treatment as part of their case plan. In addition, parents cannot have been convicted of, or currently charged with any sex offense as that term is defined in Revised Code Chapter 2907.

RULE 21.4 Termination from the Muskingum County Family Dependency Court Docket

Clients shall be terminated for continued noncompliance with the Muskingum County Children Services case plan, mental health treatment and/or chemical dependency treatment, or other program requirements. Upon termination from Family Dependency Court, the abuse, neglect and dependency case will be reactivated and the matter continue in the traditional Juvenile Court docket, with further dispositional hearing and possible motion for permanency by Muskingum County Children Services Agency.

The Judge or Magistrate has final discretion to determine when the participant will successfully complete Family Dependency Court. Upon successful completion from the program, participants will receive a certificate of completion. The participant is then placed into Aftercare and monitored by the court and Muskingum County Children Services Agency for a period to be determined by the Judge or Magistrate.

RULE 22 JUVENILE SUPPORT

The Court may order child support be paid when the Court makes a determination to remove a child from their current legal custodian and place the child into the legal custody of another person or juvenile care agency. In cases where the initial child support order arises out of a juvenile court hearing all subsequent matters of child support in the case will be under the jurisdiction of the Juvenile Court.

RULE 23 RECORD RETENTION

RULE 23.1 Medium

The Court adopts the combined indexes, dockets and journals as defined in Superintendence Rule 26 through 26.05. The indexes, dockets and journals may be maintained in an electronic medium. The records shall be permanently retained. Microfilm, digital imaging or electronic data shall be considered the permanent record. Traditional paper or bound book records may be destroyed after having been transferred to such medium. Case files shall be maintained in traditional paper medium until converted to digital imaging.

RULE 23.2 Administrative Records

(A) Administrative journals that consist of court entries or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

(B) Bank Transaction Records, whether paper or electronic, shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.

(C) Cash Books, including receipt and disbursement records, shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.

(D) Communication Records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.

(E) Correspondence and General Office Records, including all sent and received correspondence, in any medium may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.

(F) Drafts and Informal Notes, consisting of transitory information used to prepare the official record in any form may be destroyed in the normal course of business as soon as they are considered of no value by the person holding the record.

- (G) Employment Applications shall be retained for two (2) years.
- (H) Employee Benefit and Leave Records, including copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.
- (I) Employee History and Discipline Records shall be retained for ten (10) years after termination of employment.
- (J) Fiscal Records, including but not limited to copies of the transactional budgeting, unclaimed funds, records, payment of jurors and witnesses, shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.
- (K) Grant Records shall be retained for three (3) years after expiration of the grant.
- (L) Payroll Records shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.
- (M) Receipt and Balance Records shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.
- (N) Publications received by a court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.
- (O) Request for Proposals, Bids and Resulting Contracts received in response to requests for proposals, bids and resulting contracts shall be retained for three (3) years or until the issuance of an audit report by the Auditor of State, whichever is later.
- (P) Two copies of each annual report shall be retained permanently.

RULE 23.3 Court Records

Index, Docket and Journal shall be retained permanently. Judge, Magistrate and Clerk Notes, Drafts and Research may be destroyed at the discretion of the preparer or as soon as they are considered of no value by the person holding the record.

RULE 23.4 Juvenile Court Files

(A) Delinquency and Adult Records shall be retained for two (2) years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Documents admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty (50) years after the final order of the juvenile division.

(B) Juvenile By-Pass Records shall be maintained in two separate and secure files. The first file shall contain the first page of the form complaint and other relevant documents and the second file shall contain the second page of the form complaint bearing the signature of the complainant. Each file shall be retained for two (2) years after the final order of the juvenile division or, if an appeal is sought, for two (2) years after the filing of the appeal.

(C) Permanent Custody, Custody, Parentage, Visitation, Support Enforcement, Abuse, Neglect, Dependency and URESA records shall be retained for two (2) years after the juvenile who is the subject of the case obtains the age of majority. If post-decree motions have been filed, records shall be retained for one (1) year after the adjudication of the post-decree motion or the date specified for said case file as set forth herein, whichever is later.

(D) Search Warrant records shall be indexed and the warrants and returns retained in their original form for five (5) years after the date of service or last service attempt.

(E) Traffic records (minor misdemeanors) shall be retained for five (5) years after the final order of the juvenile division. All other traffic records shall be retained for fifty (50) years after the final order of the juvenile division.

(F) Unruly and Marriage Consent records shall be retained for two (2) years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later.

(1) Upon reaching age 18, a youth who only had unruly offenses and no pending juvenile court action, will automatically have his or her record sealed.

(G) Juvenile Diversion Records shall be maintained in a secure file. The file shall contain the complaint and other relevant documents. The file shall be retained until the juvenile has successfully completed all requirements of the Diversion Program. Upon completion of the Diversion Program, the Diversion Officer shall shred the paper file and electronic records shall be

deleted or have the juvenile's name and other identifiers removed. Additionally, a written request will be sent to other agencies, which the Court could reasonably expect to have a record of the incident, and have the juvenile's name redacted from their record or have their entire record of the incident destroyed.

RULE 23.5 Destruction of Records

(A) Paper Records. Traditional paper or bound book records may be destroyed after having been transferred to electronic medium.

(B) Notification. The Deputy Clerk shall notify, in writing, the Ohio Historical Society of all case files that were created prior to 1960 or have a retention period greater than 10 years which are scheduled for destruction sixty (60) days prior to the destruction of the records and offer the original records for safekeeping to them. These records may be transferred to the possession of said entity as long as they maintain the records as public records. The records may not be destroyed or otherwise disposed of by said organizations without prior written consent of the Court. Exhibits, depositions and transcripts may be destroyed after the conclusion of the litigation and the exhaustion of the times for direct appeal upon the following conditions:

- (1) The Clerk of Courts notifies, in writing, the party who tendered the exhibits, depositions or transcripts that the party may retrieve the exhibits, depositions or transcripts within sixty (60) days of the written notification.
- (2) The written notification apprises the party who tendered the exhibits, depositions or transcripts that the exhibits, depositions or transcripts that the exhibits, depositions or transcripts will be destroyed within sixty (60) days if not retrieved.
- (3) The written notification informs the party who tendered the exhibits, depositions or transcripts of the location for retrieval of the exhibits, depositions or transcripts.
- (4) The party who tendered the exhibits, deposition or transcripts does not retrieve the exhibits, depositions or transcripts within sixty (60) days from the date of notification.

RULE 24 MEDIATION **(Reserved)**

RULE 25 CIVIL PROTECTION ORDERS INVOLVING A MINOR

(A) The Court shall follow all provisions of R. C. Sec. 2151.34 and has adopted forms as prescribed by the Supreme Court of Ohio for filing Civil Protection Orders involving juveniles. These forms are available in the Supreme Court of Ohio website or in person at the Muskingum County Juvenile Court, 1860 East Pike, Zanesville, Ohio during normal business hours.

(B) Any party seeking to file for a civil protection order against a minor may obtain voluntary services through another community agency. This is not to deter a party from filing for this action with the Court, but to educate the filing parties on the Court process and assist with the filing of such action.

RULE 25.1 Filing of Petitions

(A) All petitions filed with the Court shall be filed by an adult seeking relief on behalf of a minor as outlined in R. C. Sec. 2151.34(C) and such petitions will be provided by the Court if requested.

(B) Information contained in the petition must include the nature of the allegation, the type of relief sought, the extent to which the respondent presents a continuing danger, and any other information which may be helpful to the Court in making a determination whether to grant a temporary or full protection order.

RULE 25.2 Court Hearings / Notices

(A) The Court shall decide within 24 hours or no later than the next Court day whether to grant a temporary protection order if requested at an ex-parte hearing. The Court will set further hearings if necessary to make a determination whether to grant the full protection order. All hearing date timelines shall adhere to the guidelines as established in R. C. Sec. 2151.34.

(B) All notices of hearings, data input into NCIC, and enforcement of the valid protection orders shall be made by local law enforcement.

RULE 25.3 Records

(A) The Court shall maintain a registry of certified copies of protection orders of other counties that have been registered with this Court and of this county.