OHIO RULES OF JUVENILE PROCEDURE

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RULE 1. Scope of Rules: Applicability; Construction; Exceptions

(A) Applicability. These rules prescribe the procedure to be followed in all juvenile courts of this state in all proceedings coming within the jurisdiction of such courts, with the exceptions stated in subdivision (C).

(B) Construction. These rules shall be liberally interpreted and construed so as to effectuate the following purposes:

(1) to effect the just determination of every juvenile court proceeding by ensuring the parties a fair hearing and the recognition and enforcement of their constitutional and other legal rights;

(2) to secure simplicity and uniformity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay;

(3) to provide for the care, protection, and mental and physical development of children subject to the jurisdiction of the juvenile court, and to protect the welfare of the community; and

(4) to protect the public interest by treating children as persons in need of supervision, care and rehabilitation.

(C) Exceptions. These rules shall not apply to procedure (1) Upon appeal to review any judgment, order, or ruling; (2) Upon the trial of criminal actions; (3) Upon the trial of actions for divorce, annulment, legal separation, and related proceedings; (4) In proceedings to determine parent-child relationships, provided, however that appointment of counsel shall be in accordance with Rule 4(A) of the Rules of Juvenile Procedure; (5) In the commitment of the mentally ill and mentally retarded; (6) In proceedings under section 2151.85 of the Revised Code to the extent that there is a conflict between these rules and section 2151.85 of the Revised Code.

When any statute provides for procedure by general or specific reference to the statutes governing procedure in juvenile court actions, procedure shall be in accordance with these rules.

[Effective: July 1, 1972; amended effective July 1, 1991; July 1, 1994; July 1, 1995.]

RULE 2. Definitions

As used in these rules:

(A) "Abused child" has the same meaning as in section 2151.031 of the Revised Code.

(B) "Adjudicatory hearing" means a hearing to determine whether a child is a juvenile traffic offender, delinquent, unruly, abused, neglected, or dependent or otherwise within the jurisdiction of the court.

(C) "Agreement for temporary custody" means a voluntary agreement that is authorized by section 5103.15 of the Revised Code and transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(D) "Child" has the same meaning as in sections 2151.011 and 2152.02 of the Revised Code.

(E) “Chronic truant” has the same meaning as in section 2151.011 of the Revised Code.

(F) "Complaint" means the legal document that sets forth the allegations that form the basis for juvenile court jurisdiction.

(G) "Court proceeding" means all action taken by a court from the earlier of (1) the time a complaint is filed and (2) the time a person first appears before an officer of a juvenile court until the court relinquishes jurisdiction over such child.

(H) "Custodian" means a person who has legal custody of a child or a public children’s services agency or private child-placing agency that has permanent, temporary, or legal custody of a child.

(I) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(J) "Dependent child" has the same meaning as in section 2151.04 of the Revised Code.

(K) "Detention" means the temporary care of children in restricted facilities pending court adjudication or disposition.

(L) "Detention hearing" means a hearing to determine whether a child shall be held in detention or shelter care prior to or pending execution of a final dispositional order.

(M) "Dispositional hearing" means a hearing to determine what action shall be taken concerning a child who is within the jurisdiction of the court.

(N) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111 of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(O) "Guardian ad litem" means a person appointed to protect the interests of a party in a juvenile court proceeding.

(P) “Habitual truant” has the same meaning as in section 2151.011 of the Revised Code.

(Q) "Hearing" means any portion of a juvenile court proceeding before the court, whether summary in nature or by examination of witnesses.

(R) "Indigent person" means a person who, at the time need is determined, is unable by reason of lack of property or income to provide for full payment of legal counsel and all other necessary expenses of representation.

(S) "Juvenile court" means a division of the court of common pleas, or a juvenile court separately and independently created, that has jurisdiction under Chapters 2151 and 2152 of the Revised Code.

(T) "Juvenile judge" means a judge of a court having jurisdiction under Chapters 2151 and 2152 of the Revised Code.

(U) "Juvenile traffic offender" has the same meaning as in section 2151.021 of the Revised Code.

(V) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(W) "Mental examination" means an examination by a psychiatrist or psychologist.

(X) "Neglected child" has the same meaning as in section 2151.03 of the Revised Code.

(Y) "Party" means a child who is the subject of a juvenile court proceeding, the child's spouse, if any, the child's parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child's custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court.

(Z) "Permanent custody" means a legal status that vests in a public children's services agency or a private child-placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of any and all parental rights, privileges, and obligations, including all residual rights and obligations.

(AA) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children's services agency or a private child-placing agency.

(BB) "Person" includes an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(CC) "Physical examination" means an examination by a physician.

(DD) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(1) The court gives legal custody of a child to a public children's services agency or a private child-placing agency without the termination of parental rights;

(2) The order permits the agency to make an appropriate placement of the child and to enter into a written planned permanent living arrangement agreement with a foster care provider or with another person or agency with whom the child is placed.

(EE) "Private child-placing agency" means any association, as defined in section 5103.02 of the Revised Code that is certified pursuant to sections 5103.03 to 5103.05 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(FF) "Public children's services agency" means a children's services board or a county department of human services that has assumed the administration of the children's services function prescribed by Chapter 5153 of the Revised Code.

(GG) "Removal action" means a statutory action filed by the superintendent of a school district for the removal of a child in an out-of-county foster home placement.

(HH) "Residence or legal settlement" means a location as defined by section 2151.06 of the Revised Code.

(II) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including but not limited to the privilege of reasonable visitation, consent to

adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

(JJ) “Rule of court” means a rule promulgated by the Supreme Court or a rule concerning local practice adopted by another court that is not inconsistent with the rules promulgated by the Supreme Court and that is filed with the Supreme Court.

(KK) “Serious youthful offender” means a child eligible for sentencing as described in sections 2152.11 and 2152.13 of the Revised Code.

(LL) "Serious youthful offender proceedings" means proceedings after a probable cause determination that a child is eligible for sentencing as described in sections 2152.11 and 2152.13 of the Revised Code. Serious youthful offender proceedings cease to be serious youthful offender proceedings once a child has been determined by the trier of fact not to be a serious youthful offender or the juvenile judge has determined not to impose a serious youthful offender disposition on a child eligible for discretionary serious youthful offender sentencing.

(MM) "Shelter care" means the temporary care of children in physically unrestricted facilities, pending court adjudication or disposition.

(NN) "Social history" means the personal and family history of a child or any other party to a juvenile proceeding and may include the prior record of the person with the juvenile court or any other court.

(OO) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person or persons who executed the agreement.

(PP) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

(QQ) "Ward of court" means a child over whom the court assumes continuing jurisdiction.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1998; July 1, 2001; July 1, 2002.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 2 Definitions

Several definitions in Rule 2 were amended to correct the language: Rules 2(F), (H), (W), (AA), (BB), (EE), and (FF).

Rule 2(D) was amended to reflect that the definition of “child” in the Revised Code had been placed into two new sections, i.e., R. C. 2151.011 and 2152.02.

Rules 2(E) and (P) were added to reflect the new categories of chronic truant [defined in Revised Code section 2151.011(B)(9)] and habitual truant [defined in Revised Code section 2151.011(B)(18)], added by Sub. Sen. Bill 181, which became effective September 4, 2000. Other rules that were amended to reflect changes necessitated by the chronic and habitual truancy bill are Rule 10(A), Rule 15(B), Rule 27(A), Rule 29(F), and Rule 37.

Rules 2(I), (S) and (T) were amended to reflect the reorganization of the Revised Code made by Sub. Sen. Bill 179, effective January 1, 2002. The reorganization moved delinquency into a new chapter, Chapter 2152 of the Revised Code, thus necessitating that "juvenile court" and "juvenile judge" be redefined to include those having jurisdiction under Chapter 2152 as well as under Chapter 2151, and that "delinquent child" be amended to reflect it is now defined in section 2152.02.

Rule 2(KK) was added to reflect the new category of "serious youthful offender" created by Sub. Sen. Bill 179. Although the Revised Code does not define serious youthful offender specifically, sections 2152.11 and 2152.13 describe in detail the predicate offenses and other predicates to treatment as a serious youthful offender, as well as the types of dispositional sentencing available for each. Other rules that were amended to reflect changes necessitated by the serious youthful offender bill are Rule 7(A), Rule 22(D) and (E), Rule 27(A), and Rule 29(A), (C) and (F).

Rule 2(LL) defines "serious youthful offender proceedings." The new category of serious youthful offender created by Sub. Sen. Bill 179 contemplates imposition of an adult sentence in addition to a juvenile disposition upon conviction. Therefore, serious youthful offenders have statutory and constitutional rights commensurate with those of adults. Some proceedings in juvenile court needed to be altered to ensure adult substantive and procedural protections where appropriate. The amendment makes clear that juvenile protections and confidentiality apply both before a probable cause determination that a child may be subject to serious youthful offender disposition, and after a determination that the child shall not be given a serious youthful offender disposition.

Staff Note (July 1, 2002 Amendment)

Juvenile Rule 2 Definitions

The July 1, 2002, amendments substituted the language of "planned permanent living arrangement" for the former language of "long term foster care," to conform to the new legislative designation for these child-placing arrangements. Former division (W), "Long term foster care," was deleted, a new division (DD), "Planned permanent living arrangement," was added, and other divisions were relettered accordingly.

The amendments to Juv. R. 2 conform to section 2151.011 of the Revised Code. Juvenile Rules 10, 15, and 34 also were amended effective July 1, 2002 to reflect this change in terminology.

RULE 3. Waiver of Rights

(A) A child's right to be represented by counsel may not be waived in the following circumstances:

(1) at a hearing conducted pursuant to Juv.R. 30;

(2) when a serious youthful offender dispositional sentence has been requested; or

(3) when there is a conflict or disagreement between the child and the parent, guardian, or custodian; or if the parent, guardian, or custodian requests that the child be removed from the home.

(B) If a child is facing the potential loss of liberty, the child shall be informed on the record of the child's right to counsel and the disadvantages of self-representation.

(C) If a child is charged with a felony offense, the court shall not allow any waiver of counsel unless the child has met privately with an attorney to discuss the child's right to counsel and the disadvantages of self-representation.

(D) Any waiver of the right to counsel shall be made in open court, recorded, and in writing. In determining whether a child has knowingly, intelligently, and voluntarily waived the right to counsel, the court shall look to the totality of the circumstances including, but not limited to: the child's age; intelligence; education; background and experience generally and in the court system specifically; the child's emotional stability; and the complexity of the proceedings. The Court shall ensure that a child consults with a parent, custodian, guardian, or guardian ad litem, before any waiver of counsel. However, no parent, guardian, custodian, or other person may waive the child's right to counsel.

(E) Other rights of a child may be waived with permission of the court.

[Effective: July 1, 1972; amended effective July 1, 1994; amended effective July 1, 2012.]

Staff Note (July 1, 2012 Amendment)

Ohio Revised Code §2151.352 establishes that juveniles have a right to counsel.

The amended rule is intended to implement a process for the mandates of the United States Supreme Court's decision *In re Gault* (1967), 387 U.S. 1 and the Supreme Court of Ohio's decision *In re C.S.* (2007), 115 Ohio St.3d 267, 2007-Ohio-4919, to ensure children have meaningful access to counsel and are able to make informed decisions about their legal representation.

Under Juv.R. 3 as it existed prior to amendment, a child facing a mandatory or discretionary bindover to adult court could not waive counsel. The amended rule adds to this prohibition on waiver of counsel by including a child charged as a serious youthful offender pursuant to ORC §2152.13 as required by ORC §2152.13(C)(2).

Division (A)(3) of the amendment differentiates between a conflict between the child and parent, custodian or guardian and a disagreement. If the interests of child parent, custodian, or guardian are adverse in the proceeding, a conflict exists and the child should be appointed counsel. If the parent, custodian, or guardian and the child disagree on the question of whether counsel is necessary for the child or if the right to counsel should be waived, counsel should be appointed.

RULE 4. Assistance of Counsel; Guardian Ad Litem

(A) Assistance of counsel. Every party shall have the right to be represented by counsel and every child, parent, custodian, or other person in loco parentis the right to appointed counsel if indigent. These rights shall arise when a person becomes a party to a juvenile court proceeding. When the complaint alleges that a child is an abused child, the court must appoint an attorney to represent the interests of the child. This rule shall not be construed to provide for a right to appointed counsel in cases in which that right is not otherwise provided for by constitution or statute.

(B) Guardian *ad litem*; when appointed. The court shall appoint a guardian *ad litem* to protect the interests of a child or incompetent adult in a juvenile court proceeding when:

(1) The child has no parents, guardian, or legal custodian;

(2) The interests of the child and the interests of the parent may conflict;

(3) The parent is under eighteen years of age or appears to be mentally incompetent;

(4) The court believes that the parent of the child is not capable of representing the best interest of the child.

(5) Any proceeding involves allegations of abuse or neglect, voluntary surrender of permanent custody, or termination of parental rights as soon as possible after the commencement of such proceeding.

(6) There is an agreement for the voluntary surrender of temporary custody that is made in accordance with section 5103.15 of the Revised Code, and thereafter there is a request for extension of the voluntary agreement.

(7) The proceeding is a removal action.

(8) Appointment is otherwise necessary to meet the requirements of a fair hearing.

(C) Guardian ad litem as counsel.

(1) When the guardian ad litem is an attorney admitted to practice in this state, the guardian may also serve as counsel to the ward providing no conflict between the roles exist.

(2) If a person is serving as guardian ad litem and as attorney for a ward and either that person or the court finds a conflict between the responsibilities of the role of attorney and that of guardian ad litem, the court shall appoint another person as guardian ad litem for the ward.

(3) If a court appoints a person who is not an attorney admitted to practice in this state to be a guardian ad litem, the court may appoint an attorney admitted to practice in this state to serve as attorney for the guardian ad litem.

(D) Appearance of attorneys. An attorney shall enter appearance by filing a written notice with the court or by appearing personally at a court hearing and informing the court of said representation.

(E) Notice to guardian ad litem. The guardian ad litem shall be given notice of all proceedings in the same manner as notice is given to other parties to the action.

(F) Withdrawal of counsel or guardian ad litem. An attorney or guardian ad litem may withdraw only with the consent of the court upon good cause shown.

(G) Costs. The court may fix compensation for the services of appointed counsel and guardians ad litem, tax the same as part of the costs and assess them against the child, the child's parents, custodian, or other person in loco parentis of such child.

[Effective: July 1, 1972; amended effective July 1, 1976; July 1, 1994; July 1, 1995; July 1, 1998.]

RULE 5. Use of juvenile's initials.

(A) In a juvenile court decision submitted for publication, the names of all juveniles shall be replaced with initials in the caption and body of the published decision. In any press release or other public presentation of information from a juvenile court, the names of any juvenile shall be replaced with initials.

(B) Juvenile courts may enact local rules for the use of juveniles' initials in juvenile court documents. In the absence of a local rule, all juvenile court pleadings and other documents filed in any juvenile court shall use the full names of juveniles rather than their initials.

Staff Notes (July 1, 2012 Amendments)

"Publication" as used in this rule does not mean decisions, judgments, orders, pleadings, and other documents issued in the normal course of court proceedings. "Publication" does refer to decisions submitted for publication in journals such as the Ohio State Bar Report, press releases, or public presentations.

RULE 6. Taking Into Custody

(A) A child may be taken into custody:

(1) pursuant to an order of the court;

(2) pursuant to the law of arrest;

(3) by a law enforcement officer or duly authorized officer of the court when any of the following conditions exist:

(a) There are reasonable grounds to believe that the child is suffering from illness or injury and is not receiving proper care, and the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

(b) There are reasonable grounds to believe that the child is in immediate danger from the child's surroundings and that the child's removal is necessary to prevent immediate or threatened physical or emotional harm;

(c) There are reasonable grounds to believe that a parent, guardian, custodian, or other household member of the child has abused or neglected another child in the household, and that the child is in danger of immediate or threatened physical or emotional harm;

(d) There are reasonable grounds to believe that the child has run away from the child's parents, guardian, or other custodian;

(e) There are reasonable grounds to believe that the conduct, conditions, or surroundings of the child are endangering the health, welfare, or safety of the child;

(f) During the pendency of court proceedings, there are reasonable grounds to believe that the child may abscond or be removed from the jurisdiction of the court or will not be brought to the court;

(g) A juvenile judge or designated magistrate has found that there is probable cause to believe any of the conditions set forth in division (A)(3)(a), (b), or (c) of this rule are present, has found that reasonable efforts have been made to notify the child's parents, guardian ad litem or custodian that the child may be placed into shelter care, except where notification would jeopardize the physical or emotional safety of the child or result in the child's removal from the court's jurisdiction, and has ordered ex parte, by telephone or otherwise, the taking of the child into custody.

(4) By the judge or designated magistrate ex parte pending the outcome of the adjudicatory and dispositional hearing in an abuse, neglect, or dependency proceeding, where it appears to the court that the best interest and welfare of the child require the immediate issuance of a shelter care order.

(B) Probable cause hearing. When a child is taken into custody pursuant to an ex parte emergency order pursuant to division (A)(3)(g) or (A)(4) of this rule, 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 hours after the issuance of the emergency order.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1996.]

RULE 7. Detention and Shelter Care

(A) Detention: standards. A child taken into custody shall not be placed in detention or shelter care prior to final disposition unless any of the following apply:

(1) Detention or shelter care is required:

(a) to protect the child from immediate or threatened physical or emotional harm; or

(b) to protect the person or property of others from immediate or threatened physical or emotional harm.

(2) The child may abscond or be removed from the jurisdiction of the court;

(3) The child has no parent, guardian, custodian or other person able to provide supervision and care for the child and return the child to the court when required;

(4) An order for placement of the child in detention or shelter care has been made by the court;

(5) Confinement is authorized by statute.

(B) Priorities in placement prior to hearing. A person taking a child into custody shall, with all reasonable speed, do either of the following:

(1) Release the child to a parent, guardian, or other custodian;

(2) Where detention or shelter care appears to be required under the standards of division (A) of this rule, bring the child to the court or deliver the child to a place of detention or shelter care designated by the court.

(C) Initial procedure upon detention. Any person who delivers a child to a shelter or detention facility shall give the admissions officer at the facility a signed report stating why the child was taken into custody and why the child was not released to a parent, guardian or custodian, and shall assist the admissions officer, if necessary, in notifying the parent pursuant to division (E)(3) of this rule.

(D) Admission. The admissions officer in a shelter or detention facility, upon receipt of a child, shall review the report submitted pursuant to division (C) of this rule, make such further investigation as is feasible and do either of the following:

(1) Release the child to the care of a parent, guardian or custodian;

(2) Where detention or shelter care is required under the standards of division (A) of this rule, admit the child to the facility or place the child in some appropriate facility.

(E) Procedure after admission. When a child has been admitted to detention or shelter care the admissions officer shall do all of the following:

(1) Prepare a report stating the time the child was brought to the facility and the reasons the child was admitted;

(2) Advise the child of the right to telephone parents and counsel immediately and at reasonable times thereafter and the time, place, and purpose of the detention hearing;

(3) Use reasonable diligence to contact the child's parent, guardian, or custodian and advise that person of all of the following:

(a) The place of and reasons for detention;

(b) The time the child may be visited;

(c) The time, place, and purpose of the detention hearing;

(d) The right to counsel and appointed counsel in the case of indigency.

(F) Detention hearing.

(1) Hearing: time; notice. When a child has been admitted to detention or shelter care, a detention hearing shall be held promptly, not later than seventy-two hours after the child is placed in detention or shelter care or the next court day, whichever is earlier, to determine whether detention or shelter care is required. Reasonable oral or written notice of the time, place, and purpose of the detention hearing shall be given to the child and to the parents, guardian, or other custodian, if that person or those persons can be found.

(2) Hearing: advisement of rights. Prior to the hearing, the court shall inform the parties of the right to counsel and to appointed counsel if indigent and the child's right to remain silent with respect to any allegation of a juvenile traffic offense, delinquency, or unruliness.

(3) Hearing procedure. The court may consider any evidence, including the reports filed by the person who brought the child to the facility and the admissions officer, without regard to formal rules of evidence. Unless it appears from the hearing that the child's detention or shelter care is required under division (A) of this rule, the court shall order the child's release to a parent, guardian, or custodian. Whenever abuse, neglect, or dependency is alleged, the court shall determine whether there are any appropriate relatives of the child who are willing to be temporary custodians and, if so, appoint an appropriate relative as the temporary custodian of the child. The court shall make a reasonable efforts determination in accordance with Juv. R. 27(B)(1).

(G) Rehearing. If a parent, guardian, or custodian did not receive notice of the initial hearing and did not appear or waive appearance at the hearing, the court shall rehear the matter promptly. After a child is placed in shelter care or detention care, any party and the guardian ad litem of the child may file a motion with the court requesting that the child be released from detention or shelter care. Upon the filing of the motion, the court shall hold a hearing within seventy-two hours.

(H) Separation from adults. No child shall be placed in or committed to any prison, jail, lockup, or any other place where the child can come in contact or communication with any adult convicted of crime, under arrest, or charged with crime.

(I) Physical examination. The supervisor of a shelter or detention facility may provide for a physical examination of a child placed in the shelter or facility.

(J) Telephone and visitation rights. A child may telephone the child's parents and attorney immediately after being admitted to a shelter or detention facility and at reasonable times thereafter.

The child may be visited at reasonable visiting hours by the child's parents and adult members of the family, the child's pastor, and the child's teachers. The child may be visited by the child's attorney at any time.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 2001.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 7 **Detention and Shelter Care**
Juvenile Rule 7(A) **Detention: standards**

Rule 7(A) was amended to add two rationales for placing a child in detention or shelter care: one, that the child is endangering the person or property of others [(A)(1)(b)] and two, that a statutory provision authorizes confinement [(A)(5)]. Rule 7(A)(1)(b) conforms to Sub. Sen. Bill 179 (January 1, 2002 effective date), Revised Code section 2151.31(A)(6)(b) and (d). Rule 7(A)(5) ensures that statutory provisions, i.e., Revised Code sections 2152.04 and 2151.31 (C)(2), that contemplate placing a child in detention are recognized as valid rationales by the Juvenile Rules.

RULE 8. Filing By Facsimile Transmission

A court may provide, by local rules adopted pursuant to the Rules of Superintendence, for the filing of documents by electronic means. If the court adopts such local rules, they shall include all of the following:

(A) 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.

(B) A provision shall specify the days and hours during which electronically transmitted documents will be received by the court, and a provision shall specify when documents received electronically will be considered to have been filed.

(C) Any document filed electronically that requires a filing fee may be rejected by the clerk of court unless the filer has complied with the mechanism established by the court for the payment of filing fees.

[Effective: July 1, 1994; amended effective July 1, 1996; July 1, 2001.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 8 Filing by Electronic Means

The amendments to this rule were part of a group of amendments that were submitted by the Ohio Courts Digital Signatures Task Force to establish minimum standards for the use of information systems, electronic signatures, and electronic filing. The substantive amendment to this rule was the addition of the first sentence of the rule and of divisions (B) and (C). The title of the rule was changed from "Filing by Facsimile Transmission." Comparable amendments were made to Civil Rule 5, Civil Rule 73 (for probate courts), Criminal Rule 12, and Appellate Rule 13.

As part of this electronic filing and signature project, the following rules were amended effective July 1, 2001: Civil Rules 5, 11, and 73; Criminal Rule 12; Juvenile Rule 8; and Appellate Rules 13 and 18. In addition, Rule 26 of the Rules of Superintendence for Courts of Ohio was amended and Rule of Superintendence 27 was added to complement the rules of procedure. Superintendence Rule 27 establishes a process by which minimum standards for information technology are promulgated, and requires that courts submit any local rule involving the use of information technology to a technology standards committee designated by the Supreme Court for approval.

RULE 9. Intake

(A) Court action to be avoided. In all appropriate cases formal court action should be avoided and other community resources utilized to ameliorate situations brought to the attention of the court.

(B) Screening; referral. Information that a child is within the court's jurisdiction may be informally screened prior to the filing of a complaint to determine whether the filing of a complaint is in the best interest of the child and the public.

[Effective: July 1, 1972.]

RULE 10. Complaint

(A) Filing. Any person having knowledge of a child who appears to be a juvenile traffic offender, delinquent, unruly, neglected, dependent, or abused may file a complaint with respect to the child in the juvenile court of the county in which the child has a residence or legal settlement, or in which the traffic offense, delinquency, unruliness, neglect, dependency, or abuse occurred.

Persons filing complaints that a child appears to be an unruly or delinquent child for being an habitual or chronic truant and the parent, guardian, or other person having care of the child has failed to cause the child to attend school may also file the complaint in the county in which the child is supposed to attend public school.

Any person may file a complaint to have determined the custody of a child not a ward of another court of this state, and any person entitled to the custody of a child and unlawfully deprived of such custody may file a complaint requesting a writ of habeas corpus. Complaints concerning custody shall be filed in the county where the child is found or was last known to be.

Any person with standing may file a complaint for the determination of any other matter over which the juvenile court is given jurisdiction by the Revised Code. The complaint shall be filed in the county in which the child who is the subject of the complaint is found or was last known to be. In a removal action, the complaint shall be filed in the county where the foster home is located.

When a case concerning a child is transferred or certified from another court, the certification from the transferring court shall be considered the complaint. The juvenile court may order the certification supplemented upon its own motion or that of a party.

(B) Complaint: general form. The complaint, which may be upon information and belief, shall satisfy all of the following requirements:

(1) State in ordinary and concise language the essential facts that bring the proceeding within the jurisdiction of the court, and in juvenile traffic offense and delinquency proceedings, shall contain the numerical designation of the statute or ordinance alleged to have been violated;

(2) Contain the name and address of the parent, guardian, or custodian of the child or state that the name or address is unknown;

(3) Be made under oath.

(C) Complaint: juvenile traffic offense. A Uniform Traffic Ticket shall be used as a complaint in juvenile traffic offense proceedings.

(D) Complaint: permanent custody. A complaint seeking permanent custody of a child shall state that permanent custody is sought.

(E) Complaint: temporary custody. A complaint seeking temporary custody of a child shall state that temporary custody is sought.

(F) Complaint: planned permanent living arrangement. A complaint seeking the placement of a child into a planned permanent living arrangement shall state that placement into a planned permanent living arrangement is sought.

(G) Complaint: habeas corpus. Where a complaint for a writ of habeas corpus involving the custody of a child is based on the existence of a lawful court order, a certified copy of the order shall be attached to the complaint.

[Effective: July 1, 1972; amended effective July 1, 1975; July 1, 1976; July 1, 1994; July 1, 1998; July 1, 2001; July 1, 2002.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 10 Complaint
Juvenile Rule 10(A) Filing

Rule 10(A) was amended to conform to the Sub. Sen. Bill 181 (effective September 4, 2000) changes that provide in R. C. section 2151.27(A)(2) that chronic and habitual truancy complaints against both children and adults responsible for them may also be properly venued in the county in which the child is supposed to be attending public school.

Staff Note (July 1, 2002 Amendment)

Juvenile Rule 10(F) Complaint: planned permanent living arrangement

The July 1, 2002, amendment to Juv. R. 10(F) substituted the language of "planned permanent living arrangement" for the former language of "long term foster care," to conform to the new legislative designation for these child-placing arrangements.

The amendment to Juv. R. 10(F) conforms to sections 2151.27(C) and 2151.353(B) of the Revised Code. Juvenile Rules 2, 15, and 34 also were amended effective July 1, 2002 to reflect this change in terminology.

RULE 11. Transfer to Another County

(A) Residence in another county; transfer optional. If the child resides in a county of this state and the proceeding is commenced in a court of another county, that court, on its own motion or a motion of a party, may transfer the proceeding to the county of the child's residence upon the filing of the complaint or after the adjudicatory or dispositional hearing for such further proceeding as required. The court of the child's residence shall then proceed as if the original complaint had been filed in that court. Transfer may also be made if the residence of the child changes.

(B) Proceedings in another county; transfer required.

The proceedings, other than a removal action, shall be so transferred if other proceedings involving the child are pending in the juvenile court of the county of the child's residence.

(C) Adjudicatory hearing in county where complaint filed. Where either the transferring or receiving court finds that the interests of justice and the convenience of the parties so require, the adjudicatory hearing shall be held in the county wherein the complaint was filed. Thereafter the proceeding may be transferred to the county of the child's residence for disposition.

(D) Transfer of records. Certified copies of all legal and social records pertaining to the proceeding shall accompany the transfer.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1998.]

RULE 12. [RESERVED]

RULE 13. Temporary Disposition; Temporary Orders; Emergency Medical and Surgical Treatment

(A) Temporary disposition. Pending hearing on a complaint, the court may make such temporary orders concerning the custody or care of a child who is the subject of the complaint as the child's interest and welfare may require.

(B) Temporary orders.

(1) Pending hearing on a complaint, the judge or magistrate may issue temporary orders with respect to the relations and conduct of other persons toward a child who is the subject of the complaint as the child's interest and welfare may require.

(2) Upon the filing of an abuse, neglect, or dependency complaint, any party may by motion request that the court issue any of the following temporary orders to protect the best interest of the child:

(a) An order granting temporary custody of the child to a particular party;

(b) An order for the taking of the child into custody pending the outcome of the adjudicatory and dispositional hearings;

(c) An order granting, limiting, or eliminating visitation rights with respect to the child;

(d) An order for the payment of child support and continued maintenance of any medical, surgical, or hospital policies of insurance for the child that existed at the time of the filing of the complaint, petition, writ, or other document;

(e) An order requiring a party to vacate a residence that will be lawfully occupied by the child;

(f) An order requiring a party to attend an appropriate counseling program that is reasonably available to that party;

(g) Any other order that restrains or otherwise controls the conduct of any party which conduct would not be in the best interest of the child.

(3) The orders permitted by division (B)(2) of this rule may be granted ex parte if it appears that the best interest and welfare of the child require immediate issuance. If the court issues the requested ex parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next court day after the day on which it is issued, whichever occurs first. The court shall appoint a guardian ad litem for the child prior to the hearing. The court shall give written notice of the hearing by means reasonably likely to result in the party's receiving actual notice and include all of the following:

(a) The date, time, and location of the hearing;

(b) The issues to be addressed at the hearing;

(c) A statement that every party to the hearing has a right to counsel and to court appointed counsel, if the party is indigent;

(d) The name, telephone number, and address of the person requesting the order;

(e) A copy of the order, except when it is not possible to obtain it because of the exigent circumstances in the case.

(4) The court may review any order under this rule at any time upon motion of any party for good cause shown or upon the motion of the court.

(5) If the court does not grant an ex parte order, the court shall hold a shelter care hearing on the motion within ten days after the motion is filed.

(C) Emergency medical and surgical treatment. Upon the certification of one or more reputable practicing physicians, the court may order such emergency medical and surgical treatment as appears to be immediately necessary for any child concerning whom a complaint has been filed.

(D) Ex parte proceedings. In addition to the ex parte proceeding described in division (B) of this rule, the court may proceed summarily and without notice under division (A), (B), or (C) of this rule, where it appears to the court that the interest and welfare of the child require that action be taken immediately.

(E) Hearing; notice. In addition to the procedures specified in division (B) of this rule and wherever possible, the court shall provide an opportunity for hearing before proceeding under division (D) of this rule. Where the court has proceeded without notice under division (D) of this rule, it shall give notice of the action it has taken to the parties and any other affected person and provide them an opportunity for a hearing concerning the continuing effects of the action.

(F) Probable cause finding. Upon the finding of probable cause at a shelter care hearing that a child is an abused child, the court may do any of the following:

(1) Upon motion by the court or of any party, issue reasonable protective orders with respect to the interviewing or deposition of the child;

(2) Order that the child's testimony be videotaped for preservation of the testimony for possible use in any other proceedings in the case;

(3) Set any additional conditions with respect to the child or the case involving the child that are in the best interest of the child.

(G) Payment. The court may order the parent, guardian, or custodian, if able, to pay for any emergency medical or surgical treatment provided pursuant to division (C) of this rule. The order of payment may be enforced by judgment, upon which execution may issue, and a failure to pay as ordered may be punished as contempt of court.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1996.]

RULE 14. Termination, Extension or Modification of Temporary Custody Orders

(A) Termination. Any temporary custody order issued shall terminate one year after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care. A temporary custody order shall extend beyond a year and until the court issues another dispositional order, where any public or private agency with temporary custody, not later than thirty days prior to the earlier of the date for the termination of the custody order or the date set at the dispositional hearing for the hearing to be held pursuant to division (A) of section 2151.415 of the Revised Code, files a motion requesting that any of the following orders of disposition be issued:

(1) An order that the child be returned home with custody to the child's parents, guardian, or custodian without any restrictions;

(2) An order for protective supervision;

(3) An order that the child be placed in the legal custody of a relative or other interested individual;

(4) An order terminating parental rights;

(5) An order for long term foster care;

(6) An order for the extension of temporary custody.

(B) Extension. Upon the filing of an agency's motion for the extension of temporary custody, the court shall schedule a hearing and give notice to all parties in accordance with these rules. The agency shall include in the motion an explanation of the progress on the case plan and of its expectations of reunifying the child with the child's family, or placing the child in a permanent placement, within the extension period. The court may extend the temporary custody order for a period of up to six months. Prior to the end of the extension period, the agency may request one additional extension of up to six months. The court shall grant either extension upon finding that it is in the best interest of the child, that there has been significant progress on the case plan, and that there is reasonable cause to believe that the child will be reunited with one of the child's parents or otherwise permanently placed within the period of extension. Prior to the end of either extension, the agency that received the extension shall file a motion and the court shall issue one of the orders of disposition set forth in division (A) of this rule. Upon the agency's motion or upon its own motion, the court shall conduct a hearing and issue an appropriate order of disposition.

(C) Modification. The court, upon its own motion or that of any party, shall conduct a hearing with notice to all parties to determine whether any order issued should be modified or terminated, or whether any other dispositional order set forth in division (A) should be issued. The court shall so modify or terminate any order in accordance with the best interest of the child.

[Effective: July 1, 1994.]

RULE 15. Process: Issuance, Form

(A) Summons: issuance. After the complaint has been filed, the court shall cause the issuance of a summons directed to the child, the parents, guardian, custodian, and any other persons who appear to the court to be proper or necessary parties. The summons shall require the parties to appear before the court at the time fixed to answer the allegations of the complaint. A child alleged to be abused, neglected, or dependent shall not be summoned unless the court so directs.

A summons issued for a child under fourteen years of age alleged to be delinquent, unruly, or a juvenile traffic offender shall be made by serving either the child's parents, guardian, custodian, or other person with whom the child lives or resides. If the person who has physical custody of the child or with whom the child resides is other than the parent or guardian, then the parents and guardian also shall be summoned. A copy of the complaint shall accompany the summons.

(B) Summons: form. The summons shall contain:

(1) The name of the party or person with whom the child may be or, if unknown, any name or description by which the party or person can be identified with reasonable certainty.

(2) A summary statement of the complaint and in juvenile traffic offense and delinquency proceedings the numerical designation of the applicable statute or ordinance.

(3) A statement that any party is entitled to be represented by an attorney and that upon request the court will appoint an attorney for an indigent party entitled to appointed counsel under Juv. R. 4(A).

(4) An order to the party or person to appear at a stated time and place with a warning that the party or person may lose valuable rights or be subject to court sanction if the party or person fails to appear at the time and place stated in the summons.

(5) An order to the parent, guardian, or other person having care of a child alleged to be an unruly or delinquent child for being an habitual or chronic truant, to appear personally at the hearing and all proceedings, and an order directing the person having the physical custody or control of the child to bring the child to the hearing, with a warning that if the child fails to appear, the parent, guardian, or other person having care of the child may be subject to court sanction, including a finding of contempt.

(6) A statement that if a child is adjudicated abused, neglected, or dependent and the complaint seeks an order of permanent custody, an order of permanent custody would cause the parents, guardian, or legal custodian to be divested permanently of all parental rights and privileges.

(7) A statement that if a child is adjudicated abused, neglected, or dependent and the complaint seeks an order of temporary custody, an order of temporary custody will cause the removal of the child from the legal custody of the parents, guardian, or other custodian until the court terminates the order of temporary custody or permanently divests the parents of their parental rights.

(8) A statement that if the child is adjudicated abused, neglected, or dependent and the complaint seeks an order for a planned permanent living arrangement, an order for a planned permanent living arrangement will cause the removal of the child from the legal custody of the parent, guardian, or other custodian.

(9) A statement, in a removal action, of the specific disposition sought.

(10) The name and telephone number of the court employee designated by the court to arrange for the prompt appointment of counsel for indigent persons.

(C) Summons: endorsement. The court may endorse upon the summons an order directed to the parents, guardian, or other person with whom the child may be, to appear personally and bring the child to the hearing.

(D) Warrant: issuance. If it appears that the summons will be ineffectual or the welfare of the child requires that the child be brought forthwith to the court, a warrant may be issued against the child. A copy of the complaint shall accompany the warrant.

(E) Warrant: form. The warrant shall contain the name of the child or, if that is unknown, any name or description by which the child can be identified with reasonable certainty. It shall contain a summary statement of the complaint and in juvenile traffic offense and delinquency proceedings the numerical designation of the applicable statute or ordinance. A copy of the complaint shall be attached to the warrant. The warrant shall command that the child be taken into custody and be brought before the court that issued the warrant without unnecessary delay.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1998; July 1, 2001; July 1, 2002.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 15 **Process: Issuance, Form**
Juvenile Rule 15(B) **Summons: form**

Rule 15(B) was amended to add new division (5), which deals with orders to be placed on a summons to parents or other responsible adults when a child or adult is summoned to court pursuant to a complaint of chronic or habitual truancy. The new section tracks the language of Revised Code section 2151.28 (E)(2), as amended by Sub. Sen. Bill 181 (effective September 4, 2000), and makes clear that the parent or responsible adult must bring the child to truancy hearings or be subject to court sanction, including a finding of contempt. Adding this language to the summons alerts responsible adults to the need to ensure not only his or her own appearance, but that of the child as well. Prior divisions (B)(5) through (B)(9) were renumbered (B)(6) through (B)(10) to reflect this interpolation.

Staff Note (July 1, 2002 Amendment)

Juvenile Rule 15(B) Summons: form

The July 1, 2002, amendment to Juv. R. 15(B)(8) substituted the language of "planned permanent living arrangement" for the former language of "long term foster care," to conform to the new legislative designation for these child-placing arrangements.

The amendment to Juv. R. 15(B)(8) conforms to sections 2151.28(D) and 2151.353(B) of the Revised Code. Juvenile Rules 2, 10, and 34 also were amended effective July 1, 2002 to reflect this change in terminology.

RULE 16. Process: Service

(A) Summons: service, return. Except as otherwise provided in these rules, summons shall be served as provided in Civil Rules 4(A), (C) and (D), 4.1, 4.2, 4.3, 4.5 and 4.6. The summons shall direct the party served to appear at a stated time and place. Where service is by certified mail, the time shall not be less than seven days after the date of mailing.

Except as otherwise provided in this rule, when the residence of a party is unknown and cannot be ascertained with reasonable diligence, service shall be made by publication. Service by publication upon a non-custodial parent is not required in delinquent child or unruly child cases when the person alleged to have legal custody of the child has been served with summons pursuant to this rule, but the court may not enter any order or judgment against any person who has not been served with process or served by publication unless that person appears. Before service by publication can be made, an affidavit of a party or party's counsel shall be filed with the court. The affidavit shall aver that service of summons cannot be made because the residence of the person is unknown to the affiant and cannot be ascertained with reasonable diligence and shall set forth the last known address of the party to be served.

Service by publication shall be made by newspaper publication, by posting and mail, or by a combination of these methods. The court, by local rule, shall determine which method or methods of publication shall be used. If service by publication is made by newspaper publication, upon the filing of the affidavit, the clerk shall serve notice by publication in a newspaper of general circulation in the county in which the complaint is filed. If no newspaper is published in that county, then publication shall be in a newspaper published in an adjoining county. The publication shall contain the name and address of the court, the case number, the name of the first party on each side, and the name and last known address, if any, of the person or persons whose residence is unknown. The publication shall also contain a summary statement of the object of the complaint and shall notify the person to be served that the person is required to appear at the time and place stated. The time stated shall not be less than seven days after the date of publication. The publication shall be published once and service shall be complete on the date of publication.

After the publication, the publisher or the publisher's agent shall file with the court an affidavit showing the fact of publication together with a copy of the notice of publication. The affidavit and copy of the notice shall constitute proof of service.

If service by publication is made by posting and mail, upon the filing of the affidavit, the clerk shall cause service of notice to be made by posting in a conspicuous place in the courthouse in which the division of the common pleas court exercising jurisdiction over the complaint is located and in additional public places in the county that have been designated by local rule for the posting of notices pursuant to this rule. The number of additional public places to be designated shall be either two places or the number of state representative districts that are contained wholly or partly in the county in which the courthouse is located, whichever is greater. Alternatively, the postings may be made on the website of the clerk of courts, if available, in a section to be designated for such purpose. The notice shall contain the same information required

to be contained in a newspaper publication. The notice shall be posted in the required locations for seven consecutive days. The clerk also shall cause the summons and accompanying pleadings to be mailed by ordinary mail, address correction requested, to the last known address of the party to be served. The clerk shall obtain a certificate of mailing from the United States Postal Service. If the clerk is notified of a corrected or forwarding address of the party to be served within the seven day period that notice is posted pursuant to this rule, the clerk shall cause the summons and accompanying pleadings to be mailed to the corrected or forwarding address. The clerk shall note the name, address, and date of each mailing in the docket.

After the seven 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.

(B) Warrant: execution; return.

(1) By whom. The warrant shall be executed by any officer authorized by law.

(2) Territorial limits. The warrant may be executed at any place within this state.

(3) Manner. The warrant shall be executed by taking the party against whom it is issued into custody. The officer is not required to have possession of the warrant at the time it is executed, but in such case the officer shall inform the party of the complaint made and the fact that the warrant has been issued. A copy of the warrant shall be given to the person named in the warrant as soon as possible.

(4) Return. The officer executing a warrant shall make return thereof to the issuing court. Unexecuted warrants shall upon request of the issuing court be returned to that court.

A warrant returned unexecuted and not cancelled or a copy thereof may, while the complaint is pending, be delivered by the court to an authorized officer for execution.

An officer executing a warrant shall take the person named therein without unnecessary delay before the court which issued the warrant.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1998; July 1, 2013.]

RULE 17. Subpoena

(A) Form; issuance.

(1) Every subpoena shall do all of the following;

(a) State the name of the court from which it is issued, the title of the action, and the case number;

(b) Command each person to whom it is directed, at a time and place specified in the subpoena, to do one or more of the following:

(i) Attend and give testimony at a trial, hearing, proceeding, or deposition;

(ii) Produce documents or tangible things at a trial, hearing, proceeding, or deposition;

(iii) Produce and permit inspection and copying of any designated documents that are in the possession, custody, or control of the person;

(iv) Produce and permit inspection and copying, testing, or sampling of any tangible things that are in the possession, custody, or control of the person.

(c) Set forth the text of divisions (D) and (E) of this rule.

A command to produce and permit inspection may be joined with a command to attend and give testimony, or may be issued separately.

(2) The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney who has filed an appearance on behalf of a party in an action also may sign and issue a subpoena on behalf of the court in which the action is pending.

(3) If the issuing attorney modifies the subpoena in any way, the issuing attorney shall give prompt notice of the modifications to all other parties.

(B) Parties unable to pay. The court shall order at any time that a subpoena be issued for service on a named witness upon an ex parte application of a party and upon a satisfactory showing that the presence of the witness is necessary and that the party is financially unable to pay the witness fees required by division (C) of this rule. If the court orders the subpoena to be issued, the costs incurred by the process and the fees of the witness so subpoenaed shall be paid in the same manner that similar costs and fees are paid in case of a witness subpoenaed in behalf of the state in a criminal prosecution.

(C) Service. A subpoena may be served by a sheriff, bailiff, coroner, clerk of court, constable, probation officer, or a deputy of any, by an attorney or the attorney's agent, or by any person designated by order of the court who is not a party and is not less than eighteen years of age. Service of a subpoena upon a person named in the subpoena shall be made by delivering a copy of the subpoena to the person, by reading it to him or her in person, or by leaving it at the person's usual place of residence, and by tendering to the person upon demand the fees for one day's attendance and the mileage allowed by law. The person serving the subpoena shall file a return of the subpoena with the clerk. If the witness being subpoenaed resides outside the county in which the court is located, the fees for one day's attendance and mileage shall be tendered without demand. The return may be forwarded through the postal service or otherwise.

(D) Protection of persons subject to subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena.

(2)(a) A person commanded to produce under division (A)(1)(b)(ii), (iii), or (iv) of this rule is not required to appear in person at the place of production or inspection unless commanded to attend and give testimony at a trial, hearing, proceeding, or deposition.

(b) Subject to division (E)(2) of this rule, a person commanded to produce under division (A)(1)(b)(ii), (iii), or (iv) of this rule may serve upon the party or attorney designated in the subpoena written objections to production. The objections must be served within fourteen days after service of the subpoena or before the time specified for compliance if that time is less than fourteen days after service. If objection is made, the party serving the subpoena shall not be entitled to production except pursuant to an order of the court that issued the subpoena. If objection has been made, the party serving the subpoena, upon notice to the person commanded to produce, may move at any time for an order to compel the production. An order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the production commanded.

(3) On timely motion, the court from which the subpoena was issued shall quash or modify the subpoena, or order appearance or production only under specified conditions, if the subpoena does any of the following:

(a) Fails to allow reasonable time to comply;

(b) Requires disclosure of privileged or otherwise protected matter and no exception or waiver applies;

(c) Requires disclosure of a fact known or opinion held by an expert not retained or specially employed by any party in anticipation of litigation or preparation for trial if the fact or opinion does not describe specific events or occurrences in dispute and results from study by that expert that was not made at the request of any party;

(d) Subjects a person to undue burden.

(4) Before filing a motion pursuant to division (D)(3)(d) of this rule, a person resisting discovery under this rule shall attempt to resolve any claim of undue burden through discussions with the issuing attorney. A motion filed pursuant to division (D)(3)(d) of this rule shall be supported by an affidavit of the subpoenaed person or a certificate of that person's attorney of the efforts made to resolve any claim of undue burden.

(5) If a motion is made under division (D)(3)(c) or (D)(3)(d) of this rule, the court shall quash or modify the subpoena unless the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated.

(E) Duties in responding to subpoena.

(1) A person responding to a subpoena to produce documents shall, at the person's option, produce the documents as they are kept in the usual course of business or organized and labeled to correspond with the categories in the subpoena. A person producing documents pursuant to a subpoena for them shall permit their inspection and copying by all parties present at the time and place set in the subpoena for inspection and copying.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(F) Sanctions.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be a contempt of the court from which the subpoena issued. A subpoenaed person or that person's attorney who frivolously resists discovery under this rule may be required by the court to pay the reasonable expenses, including reasonable attorney's fees, of the party seeking the discovery. The court from which a subpoena was issued may impose upon a party or attorney in breach of the duty imposed by division (D)(1) of this rule an appropriate sanction, that may include, but is not limited to, lost earnings and reasonable attorney's fees.

(G) Privileges. Nothing in this rule shall be construed to authorize a party to obtain information protected by any privilege recognized by law or to authorize any person to disclose such information.

(H) Time. Nothing in this rule shall be construed to expand any other time limits imposed by rule or statute. All issues concerning subpoenas shall be resolved prior to the time otherwise set for hearing or trial.

[Effective: July 1, 1972; amended effective July 1, 1994.]

RULE 18. Time

(A) Time: computation. In computing any period of time prescribed or allowed by these rules, by the local rules of any court, by order of court, or by any applicable statute, the date of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday or a legal holiday. Such extension of time includes, but is not limited to, probable cause, shelter care, and detention hearings.

Except in the case of probable cause, shelter care, and detention hearings when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in computation.

(B) Time: enlargement. When an act is required or allowed to be performed at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if application therefor is made before expiration of the period originally prescribed or of that period as extended by a previous order, or (2) upon motion permit the act to be done after expiration of the specified period if the failure to act on time was the result of excusable neglect or would result in injustice to a party, but the court may not extend the time for taking any action under Rule 7(F)(1), Rule 22(F), Rule 29(A) and Rule 29(F)(2)(B), except to the extent and under the conditions stated in them.

(C) Time: unaffected by expiration of term. The period of time provided for the doing of any act or the taking of any proceeding is not affected or limited by the expiration of a term of court. The expiration of a term of court in no way affects the power of a court to do any act in a juvenile proceeding.

(D) Time: for motions; affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing therefor, shall be served not later than seven days before the time specified for the hearing unless a different period is fixed by rule or order of the court. For cause shown such an order may be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion, and opposing affidavits may be served not less than one day before the hearing unless the court permits them to be served at a later time.

(E) Time: additional time after service by mail. Whenever a party has the right or is required to do an act within a prescribed period after the service of a notice or other paper upon the person and the notice or other paper is served upon the person by mail, three days shall be added to the prescribed period. This division does not apply to service of summons.

[Effective: July 1, 1972; amended effective July 1, 1994.]

RULE 19. Motions

An application to the court for an order shall be by motion. A motion other than one made during trial or hearing shall be in writing unless the court permits it to be made orally. It shall state with particularity the grounds upon which it is made and shall set forth the relief or order sought. It shall be supported by a memorandum containing citations of authority and may be supported by an affidavit.

To expedite its business, unless otherwise provided by statute or rule, the court may make provision by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition.

[Effective: July 1, 1972; amended effective July 1, 1994.]

RULE 20. Service and Filing of Papers When Required Subsequent to Filing of Complaint.

(A) Service: when required. Written notices, requests for discovery, designation of record on appeal and written motions, other than those which are heard ex parte, and similar papers shall be served upon each of the parties.

(B) Service: how made; proof of service. Whenever under these rules or by an order of the court service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service is ordered by the court upon the party. Service upon the attorney or upon the party, and proof of service, shall be made in the manner provided in Civ. R. 5(B). Papers filed with the court shall not be considered until proof of service is endorsed thereon or separately filed.

(C) Filing. All papers required to be served shall be filed with the court within three days after service. Discovery requests and responses shall not be filed until they are used in the proceeding or the court orders filing.

(D) Filing with the court defined. Filing with the court shall be as defined by Civ.R. 5(E).

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 2016.]

Staff Note (July 1, 2016 Amendments)

The rule is amended to conform its provisions to the 2016 amendments of Civ.R. 5(D). The amendments retain the substance of Juv.R. 20 except (1) the time for filing is changed from "simultaneously or immediately after service" to "within three days after service" and (2) division (D) is added to define "filing with the court" as it is defined by Civ.R. 5(E).

RULE 21. Preliminary Conferences

At any time after the filing of a complaint, the court upon motion of any party or upon its own motion may order one or more conferences to consider such matters as will promote a fair and expeditious proceeding.

[Effective: July 1, 1972.]

RULE 22. Pleadings and Motions; Defenses and Objections

(A) Pleadings and motions. Pleadings in juvenile proceedings shall be the complaint and the answer, if any, filed by a party. A party may move to dismiss the complaint or for other appropriate relief.

(B) Amendment of pleadings. Any pleading may be amended at any time prior to the adjudicatory hearing. After the commencement of the adjudicatory hearing, a pleading may be amended upon agreement of the parties or, if the interests of justice require, upon order of the court. A complaint charging an act of delinquency may not be amended unless agreed by the parties, if the proposed amendment would change the name or identity of the specific violation of law so that it would be considered a change of the crime charged if committed by an adult. Where requested, a court order shall grant a party reasonable time in which to respond to an amendment.

(C) Answer. No answer shall be necessary. A party may file an answer to the complaint, which, if filed, shall contain specific and concise admissions or denials of each material allegation of the complaint.

(D) Prehearing motions. Any defense, objection or request which is capable of determination without hearing on the allegations of the complaint may be raised before the adjudicatory hearing by motion. The following must be heard before the adjudicatory hearing, though not necessarily on a separate date:

(1) Defenses or objections based on defects in the institution of the proceeding;

(2) Defenses or objections based on defects in the complaint (other than failure to show jurisdiction in the court or to charge an offense which objections shall be noticed by the court at any time during the pendency of the proceeding);

(3) Motions to suppress evidence on the ground that it was illegally obtained;

(4) Motions for discovery;

(5) Motions to determine whether the child is eligible to receive a sentence as a serious youthful offender.

(E) Motion time. Except for motions filed under division (D)(5) of this rule, all prehearing motions shall be filed by the later of:

(1) seven days prior to the hearing, or

(2) ten days after the appearance of counsel.

Rule 22(D)(5) motions shall be filed by the later of:

(1) twenty days after the date of the child's initial appearance in juvenile court; or

(2) twenty days after denial of a motion to transfer.

The filing of the Rule 22(D)(5) motion shall constitute notice of intent to pursue a serious youthful offender disposition.

The court in the interest of justice may extend the time for making prehearing motions.

The court for good cause shown may permit a motion to suppress evidence under division (D)(3) of this rule to be made at the time the evidence is offered.

(F) State's right to appeal upon granting a motion to suppress. In delinquency proceedings the state may take an appeal as of right from the granting of a motion to suppress evidence if, in addition to filing a notice of appeal, the prosecuting attorney certifies that (1) the appeal is not taken for the purpose of delay and (2) the granting of the motion has rendered proof available to the state so weak in its entirety that any reasonable possibility of proving the complaint's allegations has been destroyed.

Such appeal shall not be allowed unless the notice of appeal and the certification by the prosecuting attorney are filed with the clerk of the juvenile court within seven days after the date of the entry of the judgment or order granting the motion. Any appeal which may be taken under this rule shall be diligently prosecuted.

A child in detention or shelter care may be released pending this appeal when the state files the notice of appeal and certification.

This appeal shall take precedence over all other appeals.

[Effective: July 1, 1972; amended effective July 1, 1977; amended effeceive July 1, 1994; July 1, 2001; July 1, 2012.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 22 Pleadings and Motions; Defenses and Objections
Juvenile Rule 22(D) Prehearing motions

Rule 22 (D) was amended to add a fifth category of prehearing motions, the motion of the prosecuting attorney to have the court hold a probable cause hearing to determine whether or not a child is eligible under Revised Code sections 2152.11 or 2152.13 to receive a sentence as a serious youthful offender. These motions provide a timely opportunity for the needed probable cause determination of eligibility for treatment as a serious youthful offender, in circumstances in which the prosecuting attorney does not have sufficient time to seek a grand jury determination of such eligibility.

Juvenile Rule 22(E) Motion time

Rule 22(E) was amended to conform to Sub. Sen. Bill 179 (effective date January 1, 2002) by reflecting that motions for determination of eligibility for treatment as a serious youthful offender are subject to a different time frame than other prehearing motions. It is important for the prosecuting attorney to have sufficient time to investigate before making the significant charging decision to pursue serious youthful offender sentencing. Revised Code section 2152.13(B) provides that the prosecuting attorney

has twenty days after a child's initial appearance within which to file a notice of intent to pursue a serious youthful offender dispositional sentence. Juvenile rule time frames applicable in all other cases would truncate this statutory latitude. For instance, Juvenile Rule 29(A) contemplates that ordinarily the adjudicatory hearing of a child held in detention must occur within ten days. Since these are the most serious cases, it is not unlikely that the child will be in detention. Thus, the ordinary time frames of Rule 22(E) would require the motion to be filed well before the statutory period of twenty days has elapsed. Amended Rule 22(E) also clarifies that the prosecuting attorney has the statutory twenty-day time period for filing a notice of intent to pursue serious youthful offender dispositional sentencing after a transfer is denied.

Finally, Rule 22(E) as amended specifically provides that a Rule 22(D)(5) motion shall serve as the statutory "notice of intent" to pursue serious youthful offender dispositional sentencing. This serves to create a recognized procedural mechanism for the notice and to clarify that a motion is indeed the required notice. It also clarifies that the motion starts the speedy trial time clock running [see also Revised Code section 2152.13(D)(1)].

Other changes to Rule 22(E) were in form only, and were not intended to be substantive.

RULE 23. Continuance

Continuances shall be granted only when imperative to secure fair treatment for the parties.

[Effective: July 1, 1972.]

RULE 24. Discovery

(A) Request for discovery. Upon written request, each party of whom discovery is requested shall , to the extent not privileged, produce promptly for inspection, copying, or photographing the following information, documents, and material in that party's custody, control, or possession:

(1) The names and last known addresses of each witness to the occurrence that forms the basis of the charge or defense;

(2) Copies of any written statements made by any party or witness;

(3) Transcriptions, recordings, and summaries of any oral statements of any party or witness, except the work product of counsel;

(4) Any scientific or other reports that a party intends to introduce at the hearing or that pertain to physical evidence that a party intends to introduce;

(5) Photographs and any physical evidence which a party intends to introduce at the hearing;

(6) Except in delinquency and unruly child proceedings, other evidence favorable to the requesting party and relevant to the subject matter involved in the pending action. In delinquency and unruly child proceedings, the prosecuting attorney shall disclose to respondent's counsel all evidence, known or that may become known to the prosecuting attorney, favorable to the respondent and material either to guilt or punishment.

(B) Order granting discovery: limitations; sanctions. If a request for discovery is refused, application may be made to the court for a written order granting the discovery. Motions for discovery shall certify that a request for discovery has been made and refused. An order granting discovery may make such discovery reciprocal for all parties to the proceeding, including the party requesting discovery. Notwithstanding the provisions of subdivision (A), the court may deny, in whole or part, or otherwise limit or set conditions on the discovery authorized by such subdivision, upon its own motion, or upon a showing by a party upon whom a request for discovery is made that granting discovery may jeopardize the safety of a party, witness, or confidential informant, result in the production of perjured testimony or evidence, endanger the existence of physical evidence, violate a privileged communication, or impede the criminal prosecution of a minor as an adult or of an adult charged with an offense arising from the same transaction or occurrence.

(C) Failure to comply. If at any time during the course of the proceedings it is brought to the attention of the court that a person has failed to comply with an order issued pursuant to this rule, the court may grant a continuance, prohibit the person from introducing in evidence the material not disclosed, or enter such other order as it deems just under the circumstances.

[Effective: July 1, 1972; amended effective July 1, 1994.]

RULE 25. Depositions

(A) Depositions in the following matters shall be governed by the Rules of Civil Procedure:

(1) Those taken in parentage actions and original actions to determine custody or the allocation of parental rights and responsibilities to which the State of Ohio is not a party;

(2) Those taken in any post-dispositional matters to which neither the State of Ohio nor any public child protective services agency is a party.

(B) Depositions shall only be taken with leave of court in delinquency, unruly, juvenile traffic offender, abuse, neglect, and dependency actions and all other juvenile court proceedings not specified in division (A). Except as provided in division (A)(2), depositions taken under this division shall only be taken to preserve testimony when it appears probable that a prospective witness will be unable to attend or will be prevented from attending a hearing, and if it further appears that the testimony is material and that it is necessary to take the deposition in order to prevent a miscarriage of justice. Depositions taken under this division shall be taken upon such terms and conditions and in such manner as the court may fix.

[Effective: July 1, 1972; July 1, 2009.]

Staff Notes (July 1, 2009 Amendments)

Juvenile Rule 25 governs depositions taken in juvenile court actions. The amendments clarify that depositions in delinquency, unruly, traffic offender, abuse, neglect and dependency actions may be taken only to preserve the testimony of unavailable witnesses. The decision to allow depositions to preserve testimony is left to the discretion of the court.

In paternity actions and privately-filed actions for custody or the allocation of parental rights and responsibilities, depositions are governed by the Civil Rules. This will ensure uniformity with the manner by which depositions in these actions that are filed in domestic relations courts are governed.

If the State of Ohio is no longer a party in post-dispositional litigation that is filed in a delinquency, unruly, traffic offender, abuse, neglect or dependency action, depositions in such litigation are governed by the Civil Rules. For purposes of this rule, the State of Ohio shall not be deemed to be a party to a post-dispositional action simply because a child support enforcement agency participates in such action..

RULE 26. [RESERVED]

RULE 27. Hearings: General

(A) General provisions. Unless otherwise stated in this rule, the juvenile court may conduct its hearings in an informal manner and may adjourn its hearings from time to time.

The court may excuse the attendance of the child at the hearing in neglect, dependency, or abuse cases.

(1) Public access to hearings. In serious youthful offender proceedings, hearings shall be open to the public. In all other proceedings, the court may exclude the general public from any hearing, but may not exclude either of the following:

(a) persons with a direct interest in the case;

(b) persons who demonstrate, at a hearing, a countervailing right to be present.

(2) Separation of juvenile and adult cases. Cases involving children shall be heard separate and apart from the trial of cases against adults, except for cases involving chronic or habitual truancy.

(3) Jury trials. The court shall hear and determine all cases of children without a jury, except for the adjudication of a serious youthful offender complaint, indictment, or information in which trial by jury has not been waived.

(B) Special provisions for abuse, neglect, and dependency proceedings.

(1) In any proceeding involving abuse, neglect, or dependency at which the court removes a child from the child's home or continues the removal of a child from the child's home, or in a proceeding where the court orders detention, the court shall determine whether the person who filed the complaint in the case and removed the child from the child's home has custody of the child or will be given custody and has made reasonable efforts to do any of the following:

(a) Prevent the removal of the child from the child's home;

(b) Eliminate the continued removal of the child from the child's home;

(c) Make it possible for the child to return home.

(2) In a proceeding involving abuse, neglect, or dependency, the examination made by the court to determine whether a child is a competent witness shall comply with all of the following:

(a) Occur in an area other than a courtroom or hearing room;

(b) Be conducted in the presence of only those individuals considered necessary by the court for the conduct of the examination or the well being of the child;

(c) Be recorded in accordance with Juv. R. 37 or Juv. R. 40. The court may allow the prosecutor, guardian ad litem, or attorney for any party to submit questions for use by the court in determining whether the child is a competent witness.

(3) In a proceeding where a child is alleged to be an abused child, the court may order that the testimony of the child be taken by deposition in the presence of a judge or a magistrate. On motion of the prosecuting attorney, guardian ad litem, or a party, or in its own discretion, the court may order that the deposition be videotaped. All or part of the deposition is admissible in evidence where all of the following apply:

(a) It is filed with the clerk;

(b) Counsel for all parties had an opportunity and similar motive at the time of the taking of the deposition to develop the testimony by direct, cross, or redirect examination;

(c) The judge or magistrate determines there is reasonable cause to believe that if the child were to testify in person at the hearing, the child would experience emotional trauma as a result of the child's participation at the hearing.

[Effective: July 1, 1972; amended effective July 1, 1976; July 1, 1994; July 1, 1996; July 1, 2001.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 27 Hearings: General
Juvenile Rule 27(A) General provisions

Rule 27(A) was completely rewritten and reorganized to conform to changes necessitated by Sub. Sen. Bill 179 (serious youthful offenders) (effective date January 1, 2002), and Sub. Sen. Bill 181 (chronic and habitual truants) (effective date September 4, 2000).

Rule 27(A) as amended deals separately with the informality of hearings [division (A)], public access to hearings [division (A)(1)], separation of juvenile and adult cases [division (A)(2)], and jury trials [division (A)(3)].

Division (A)(1) clarifies that in serious youthful offender proceedings, adult rules about public access shall apply, and thus a qualified presumption of public access is appropriate. The rule seeks to conform to the Supreme Court's ruling in *State ex rel. New World Communications of Ohio, Inc. v. Geauga County Court of Common Pleas, Juvenile Division* (2000), 90 Ohio St. 3d 79, 734 N.E.2d 1214. In juvenile proceedings, there is no qualified right of public access, and no presumption that the proceedings be either open or closed. The amended rule recognizes that the policies of confidentiality and rehabilitation important in juvenile proceedings may justify closure to those without a direct interest after a hearing. In that hearing, the party seeking closure bears the burden of proof, but Rule 27(A)(1)(b) clarifies that closure is justified unless there is a "comparable competing interest" for public access, which the rule describes as a countervailing right. The amendment also conforms to Revised Code section 2151.35 (A) as amended by Sub. Sen. Bill 179.

Rule 27(A)(2) conforms to Revised Code section 2151.35 (A)(1), which provides that in cases in which both a child and an adult are charged for chronic or habitual truancy, the cases need not be heard separately, while preserving separate proceedings in all other cases.

Rule 27(A)(3) conforms to Revised Code section 2152.13(D) providing for a jury determination in cases seeking a serious youthful offender dispositional sentence, while preserving nonjury proceedings in all other cases.

Juvenile Rule 27(B) Special Provisions for Abuse, Neglect, and Dependency Proceedings

Rule 27(B) was not amended, but was recaptioned to clarify that its provisions apply to abuse, neglect and dependency proceedings.

RULE 28. [RESERVED]

RULE 29. Adjudicatory Hearing

(A) Scheduling the hearing. The date for the adjudicatory hearing shall be set when the complaint is filed or as soon thereafter as is practicable. If the child is the subject of a complaint alleging a violation of a section of the Revised Code that may be violated by an adult and that does not request a serious youthful offender sentence, and if the child is in detention or shelter care, the hearing shall be held not later than fifteen days after the filing of the complaint. Upon a showing of good cause, the adjudicatory hearing may be continued and detention or shelter care extended.

The prosecuting attorney's filing of either a notice of intent to pursue or a statement of an interest in pursuing a serious youthful offender sentence shall constitute good cause for continuing the adjudicatory hearing date and extending detention or shelter care.

The hearing of a removal action shall be scheduled in accordance with Juv. R. 39(B).

If the complaint alleges abuse, neglect, or dependency, the hearing shall be held no later than thirty days after the complaint is filed. For good cause shown, the adjudicatory hearing may extend beyond thirty days either for an additional ten days to allow any party to obtain counsel or for a reasonable time beyond thirty days to obtain service on all parties or complete any necessary evaluations. However, the adjudicatory hearing shall be held no later than sixty days after the complaint is filed.

The failure of the court to hold an adjudicatory hearing within any time period set forth in this rule does not affect the ability of the court to issue any order otherwise provided for in statute or rule and does not provide any basis for contesting the jurisdiction of the court or the validity of any order of the court.

(B) Advisement and findings at the commencement of the hearing. At the beginning of the hearing, the court shall do all of the following:

(1) Ascertain whether notice requirements have been complied with and, if not, whether the affected parties waive compliance;

(2) Inform the parties of the substance of the complaint, the purpose of the hearing, and possible consequences of the hearing, including the possibility that the cause may be transferred to the appropriate adult court under Juv. R. 30 where the complaint alleges that a child fourteen years of age or over is delinquent by conduct that would constitute a felony if committed by an adult;

(3) Inform unrepresented parties of their right to counsel and determine if those parties are waiving their right to counsel;

(4) Appoint counsel for any unrepresented party under Juv. R. 4(A) who does not waive the right to counsel;

(5) Inform any unrepresented party who waives the right to counsel of the right: to obtain counsel at any stage of the proceedings, to remain silent, to offer evidence, to cross-examine witnesses, and, upon request, to have a record of all proceedings made, at public expense if indigent.

(C) Entry of admission or denial. The court shall request each party against whom allegations are being made in the complaint to admit or deny the allegations. A failure or refusal to admit the allegations shall be deemed a denial, except in cases where the court consents to entry of a plea of no contest.

(D) Initial procedure upon entry of an admission. The court may refuse to accept an admission and shall not accept an admission without addressing the party personally and determining both of the following:

(1) The party is making the admission voluntarily with understanding of the nature of the allegations and the consequences of the admission;

(2) The party understands that by entering an admission the party is waiving the right to challenge the witnesses and evidence against the party, to remain silent, and to introduce evidence at the adjudicatory hearing.

The court may hear testimony, review documents, or make further inquiry, as it considers appropriate, or it may proceed directly to the action required by division (F) of this rule.

(E) Initial procedure upon entry of a denial. If a party denies the allegations the court shall:

(1) Direct the prosecuting attorney or another attorney-at-law to assist the court by presenting evidence in support of the allegations of a complaint;

(2) Order the separation of witnesses, upon request of any party;

(3) Take all testimony under oath or affirmation in either question-answer or narrative form; and

(4) Determine the issues by proof beyond a reasonable doubt in juvenile traffic offense, delinquency, and unruly proceedings; by clear and convincing evidence in dependency, neglect, and abuse cases, and in a removal action; and by a preponderance of the evidence in all other cases.

(F) Procedure upon determination of the issues. Upon the determination of the issues, the court shall do one of the following:

(1) If the allegations of the complaint, indictment, or information were not proven, dismiss the complaint;

(2) If the allegations of the complaint, indictment, or information are admitted or proven, do any one of the following, unless precluded by statute:

(a) Enter an adjudication and proceed forthwith to disposition;

(b) Enter an adjudication and continue the matter for disposition for not more than six months and may make appropriate temporary orders;

(c) Postpone entry of adjudication for not more than six months;

(d) Dismiss the complaint if dismissal is in the best interest of the child and the community.

(3) Upon request make written findings of fact and conclusions of law pursuant to Civ. R. 52.

(4) Ascertain whether the child should remain or be placed in shelter care until the dispositional hearing in an abuse, neglect, or dependency proceeding. In making a shelter care determination, the court shall make written finding of facts with respect to reasonable efforts in accordance with the provisions in Juv. R. 27(B)(1) and to relative placement in accordance with Juv. R. 7(F)(3).

[Effective: July 1, 1972; amended effective July 1, 1976; July 1, 1994; July 1, 1998; July 1, 2001; July 1, 2004.]

Staff Note (July 1, 2004 Amendment)

Juvenile Rule 29(A) Scheduling the hearing

Division (A) was amended to conform the language of the rule to R.C. 2151.28, as amended effective May 16, 2002.

Juvenile Rule 29(B) Advisement and findings at the commencement of the hearing

Division (C) was amended to conform the language of the rule to R.C. 2151.10 and 2151.12, which allow the transfer of juveniles age fourteen and over to adult court for trial.

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 29 Adjudicatory Hearing
Juvenile Rule 29(A) Scheduling the hearing

Rule 29(A) was amended to conform to Revised Code section 2152.13(B), which provides that the prosecuting attorney has twenty days after a child's initial appearance in juvenile court within which to file a notice of intent to pursue a serious youthful offender dispositional sentence. The rule preserves the ten-day time period within which to hold an adjudicatory hearing for all other cases in which the child is in detention or shelter care. However, because the rule contemplates a hearing within ten days, but the statute grants a twenty-day time period for making the charging decision, the amended rule also provides a mechanism by which a prosecuting attorney can preserve the twenty-day time period by filing a "statement of interest in pursuing a serious youthful offender sentence." The amended rule states that either the notice of intent (i.e., a Rule 22(D)(5) motion) or a statement of interest shall be good cause for extending both the date for an adjudicatory hearing and detention or shelter care. If the prosecuting attorney does not file a notice of intent to pursue a serious youthful offender sentence before the twenty-day time period lapses, the ordinary juvenile time frames again become operative. If the prosecuting attorney does not obtain an indictment or information, or the court denies the Rule 22(D)(5) motion, the ordinary juvenile time frames will again become operative. If the child is determined to be eligible for a serious youthful offender sentence, the ordinary juvenile time frames do not apply. Instead, adult time frames, i.e., speedy trial provisions, become operative [Revised Code section 2152.13(D)(1)].

Juvenile Rule 29(C) Entry of admission or denial

Rule 29(C) was amended in response to Section 3 of Sub. Sen. Bill 179 (effective January 1, 2002), in which the General Assembly encouraged the Supreme Court to amend Rule 29(C) to permit "no contest" pleas with the consent of the court, similar to the provisions in Criminal Rule 11.

Juvenile Rule 29(F) Procedure upon determination of the issues

Rule 29(F) was amended in response to both the chronic and habitual truancy act and the serious youthful offender act. Divisions (F)(1) and (2) include recognition that a serious youthful offender case will proceed by indictment or information. Division (F)(2) also recognizes that certain dispositions within the power of the juvenile court may be precluded by statute for certain types of cases. The amendment removes any perception of conflict between statutorily authorized dispositions and those authorized in the rule. Specifically, the division conforms to Revised Code section 2152.13(E), which controls the dispositions in serious youthful offender cases. The division also recognizes that chronic or habitual truant dispositions are heavily regulated by statute.

RULE 30. Relinquishment of Jurisdiction for Purposes of Criminal Prosecution

(A) Preliminary hearing. In any proceeding where the court considers the transfer of a case for criminal prosecution, the court shall hold a preliminary hearing to determine if there is probable cause to believe that the child committed the act alleged and that the act would be an offense if committed by an adult. The hearing may be upon motion of the court, the prosecuting attorney, or the child.

(B) Mandatory transfer. In any proceeding in which transfer of a case for criminal prosecution is required by statute upon a finding of probable cause, the order of transfer shall be entered upon a finding of probable cause.

(C) Discretionary transfer. In any proceeding in which transfer of a case for criminal prosecution is permitted, but not required, by statute, and in which probable cause is found at the preliminary hearing, the court shall continue the proceeding for full investigation. The investigation shall include a mental examination of the child by a public or private agency or by a person qualified to make the examination. When the investigation is completed, an amenability hearing shall be held to determine whether to transfer jurisdiction. The criteria for transfer shall be as provided by statute.

(D) Notice. Notice in writing of the time, place, and purpose of any hearing held pursuant to this rule shall be given to the state, the child's parents, guardian, or other custodian and the child's counsel at least three days prior to the hearing, unless written notice has been waived on the record.

(E) Retention of jurisdiction. If the court retains jurisdiction, it shall set the proceedings for hearing on the merits.

(F) Waiver of mental examination. The child may waive the mental examination required under division (C) of this rule. Refusal by the child to submit to a mental examination or any part of the examination shall constitute a waiver of the examination.

(G) Order of transfer. The order of transfer shall state the reasons for transfer.

(H) Release of child. With respect to the transferred case, the juvenile court shall set the terms and conditions for release of the child in accordance with Crim. R. 46.

[Effective: July 1, 1972; amended effective July 1, 1976; July 1, 1994; July 1, 1997.]

RULE 31. [RESERVED]

RULE 32. Social History; Physical Examination; Mental Examination; Investigation Involving the Allocation of Parental Rights and Responsibilities for the Care of Children

(A) Social history and physical or mental examination: availability before adjudication. The court may order and utilize a social history or physical or mental examination at any time after the filing of a complaint under any of the following circumstances:

(1) Upon the request of the party concerning whom the history or examination is to be made;

(2) Where transfer of a child for adult prosecution is an issue in the proceeding;

(3) Where a material allegation of a neglect, dependency, or abused child complaint relates to matters that a history or examination may clarify;

(4) Where a party's legal responsibility for the party's acts or the party's competence to participate in the proceedings is an issue;

(5) Where a physical or mental examination is required to determine the need for emergency medical care under Juv. R. 13; or

(6) Where authorized under Juv. R. 7(I).

(B) Limitations on preparation and use. Until there has been an admission or adjudication that the child who is the subject of the proceedings is a juvenile traffic offender, delinquent, unruly, neglected, dependent, or abused, no social history, physical examination or mental examination shall be ordered except as authorized under subdivision (A) And any social history, physical examination or mental examination ordered pursuant to subdivision (A) Shall be utilized only for the limited purposes therein specified. The person preparing a social history or making a physical or mental examination shall not testify about the history or examination or information received in its preparation in any juvenile traffic offender, delinquency, or unruly child adjudicatory hearing, except as may be required in a hearing to determine whether a child should be transferred to an adult court for criminal prosecution.

(C) Availability of social history or investigation report. A reasonable time before the dispositional hearing, or any other hearing at which a social history or physical or mental examination is to be utilized, counsel shall be permitted to inspect any social history or report of a mental or physical examination. The court may, for good cause shown, deny such inspection or limit its scope to specified portions of the history or report. The court may order that the contents of the history or report, in whole or in part, not be disclosed to specified persons. If inspection or disclosure is denied or limited, the court shall state its reasons for such denial or limitation to counsel.

(D) Investigation: allocation of parental rights and responsibilities for the care of children; habeas corpus. On the filing of a complaint for the allocation of parental rights and responsibilities for the care of children or for a writ of habeas corpus to determine the allocation of parental rights and responsibilities for the care of a child, or on the filing of a motion for change in the allocation of parental rights and responsibilities for the care of children, the court may cause an investigation to be made as to the character, health, family relations, past conduct, present living conditions, earning ability, and financial worth of the parties to the action. The report of the investigation shall be confidential, but shall be made available to the parties or their counsel upon written request not less than three days before hearing. The court may tax as costs all or any part of the expenses of each investigation.

[Effective: July 1, 1972; amended effective July 1, 1973; July 1, 1976; July 1, 1991; July 1, 1994.]

RULE 33. [RESERVED]

RULE 34. Dispositional Hearing

(A) Scheduling the hearing. Where a child has been adjudicated as an abused, neglected, or dependent child, the court shall not issue a dispositional order until after it holds a separate dispositional hearing. The dispositional hearing for an adjudicated abused, neglected, or dependent child shall be held at least one day but not more than thirty days after the adjudicatory hearing is held. The dispositional hearing may be held immediately after the adjudicatory hearing if all parties were served prior to the adjudicatory hearing with all documents required for the dispositional hearing and all parties consent to the dispositional hearing being held immediately after the adjudicatory hearing. Upon the request of any party or the guardian ad litem of the child, the court may continue a dispositional hearing for a reasonable time not to exceed the time limit set forth in this division to enable a party to obtain or consult counsel. The dispositional hearing shall not be held more than ninety days after the date on which the complaint in the case was filed. If the dispositional hearing is not held within this ninety day period of time, the court, on its own motion or the motion of any party or the guardian ad litem of the child, shall dismiss the complaint without prejudice.

In all other juvenile proceedings, the dispositional hearing shall be held pursuant to Juv. R. 29(F)(2)(a) through (d) and the ninety day requirement shall not apply. Where the dispositional hearing is to be held immediately following the adjudicatory hearing, the court, upon the request of any party, shall continue the hearing for a reasonable time to enable the party to obtain or consult counsel.

(B) Hearing procedure. The hearing shall be conducted in the following manner:

(1) The judge or magistrate who presided at the adjudicatory hearing shall, if possible, preside;

(2) Except as provided in division (I) of this rule, the court may admit evidence that is material and relevant, including, but not limited to, hearsay, opinion, and documentary evidence;

(3) Medical examiners and each investigator who prepared a social history shall not be cross-examined, except upon consent of all parties, for good cause shown, or as the court in its discretion may direct. Any party may offer evidence supplementing, explaining, or disputing any information contained in the social history or other reports that may be used by the court in determining disposition.

(C) Judgment. After the conclusion of the hearing, the court shall enter an appropriate judgment within seven days. A copy of the judgment shall be given to any party requesting a copy. In all cases where a child is placed on probation, the child shall receive a written statement of the conditions of probation. If the judgment is conditional, the order shall state the conditions. If the child is not returned to the child's home, the court shall determine the school district that shall bear the cost of the child's education and may fix an amount of support to be paid by the responsible parent or from public funds.

(D) Dispositional Orders. If a child is adjudicated an abused, neglected, or dependent child, the court may make any of the following orders of disposition:

(1) Place the child in protective supervision;

(2) Commit the child to the temporary custody of a public or private agency, either parent, a relative residing within or outside the state, or a probation officer for placement in a certified foster home or approved foster care;

(3) Award legal custody of the child to either parent or to any other person who, prior to the dispositional hearing, files a motion requesting legal custody;

(4) Commit the child to the permanent custody of a public or private agency, if the court determines that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines that the permanent commitment is in the best interest of the child;

(5) Place the child in a planned permanent living arrangement with a public children services agency or private child placing agency, if a public children services agency or private child placing agency requests the court to place the child in a planned permanent living arrangement and if the court finds, by clear and convincing evidence, that a planned permanent living arrangement is in the best interest of the child, that the child is sixteen years of age or older, and that one of the following exists:

(a) The child because of physical, mental, or psychological problems or needs is unable to function in a family-like setting and must remain in residential or institutional care now and for the foreseeable future beyond the date of the dispositional hearing held pursuant to R.C. 2151.35;

(b) The parents of the child have significant physical, mental or psychological problems and are unable to care for the child because of those problems, adoption is not in the best interest of the child and the child, as determined in accordance with R.C. 2151.414(D)(1), retains a significant and positive relationship with a parent or relative;

(c) The child has been counseled on the permanent placement options available to the child and is unwilling to accept or unable to adapt to a permanent placement.

(E) Protective supervision. If the court issues an order for protective supervision, the court may place any reasonable restrictions upon the child, the child's parents, guardian, or any other person including, but not limited to, any of the following:

(1) Ordering a party within forty-eight hours to vacate the child's home indefinitely or for a fixed period of time;

(2) Ordering a party, parent, or custodian to prevent any particular person from having contact with the child;

(3) Issuing a restraining order to control the conduct of any party.

(F) Case plan. As part of its dispositional order, the court shall journalize a case plan for the child. The agency required to maintain a case plan shall file the case plan with the court prior to the child's adjudicatory hearing but not later than thirty days after the earlier of the date on which the complaint in the case was filed or the child was first placed in shelter care. The plan shall specify what additional information, if any, is necessary to complete the plan and how the information will be obtained. All parts of the case plan shall be completed by the earlier of thirty days after the adjudicatory hearing or the date of the dispositional hearing for the child. If all parties agree to the content of the case plan and the court approves it, the court shall journalize the plan as part of its dispositional order. If no agreement is reached, the court, based upon the evidence presented at the dispositional hearing and the best interest of the child, shall determine the contents of the case plan and journalize it as part of the dispositional order for the child.

(G) Modification of temporary order. The department of human services or any other public or private agency or any party, other than a parent whose parental rights have been terminated, may at any time file a motion requesting that the court modify or terminate any order of disposition. The court shall hold a hearing upon the motion as if the hearing were the original dispositional hearing and shall give all parties and the guardian ad litem notice of the hearing pursuant to these rules. The court, on its own motion and upon proper notice to all parties and any interested agency, may modify or terminate any order of disposition.

(H) Restraining orders. In any proceeding where a child is made a ward of the court, the court may grant a restraining order controlling the conduct of any party if the court finds that the order is necessary to control any conduct or relationship that may be detrimental or harmful to the child and tend to defeat the execution of a dispositional order.

(I) Bifurcation; Rules of Evidence. Hearings to determine whether temporary orders regarding custody should be modified to orders for permanent custody shall be considered dispositional hearings and need not be bifurcated. The Rules of Evidence shall apply in hearings on motions for permanent custody.

(J) Advisement of rights after hearing. At the conclusion of the hearing, the court shall advise the child of the child's right to record expungement and, where any part of the proceeding was contested, advise the parties of their right to appeal.

[Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1996; July 1, 2002; July 1, 2018.]

Staff Note (July 1, 2018 Amendment)

Division (D)(5): Placement in planned permanent living arrangement.

Division (D)(5) is amended to incorporate the amendments to R.C. 2151.353(A)(5) effective September 17, 2014.

Staff Note (July 1, 2002 Amendment)

Juvenile Rule 34(D) Dispositional orders

The July 1, 2002, amendment to Juv. R. 34(D)(5) substituted the language of "planned permanent living arrangement" for the former language of "long term foster care," to conform to the new legislative designation for these child-placing arrangements.

The amendment to Juv. R. 34(D)(5) conforms to section 2151.353(A)(5) of the Revised Code. Juvenile Rules 2, 10, and 15 also were amended effective July 1, 2002 to reflect this change in terminology.

RULE 35. Proceedings After Judgment

(A) Continuing jurisdiction; invoked by motion. The continuing jurisdiction of the court shall be invoked by motion filed in the original proceeding, notice of which shall be served in the manner provided for the service of process.

(B) Revocation of probation. The court shall not revoke probation except after a hearing at which the child shall be present and apprised of the grounds on which revocation is proposed. The parties shall have the right to counsel and the right to appointed counsel where entitled pursuant to Juv. R. 4(A). Probation shall not be revoked except upon a finding that the child has violated a condition of probation of which the child had, pursuant to Juv. R. 34(C), been notified.

(C) Detention. During the pendency of proceedings under this rule, a child may be placed in detention in accordance with the provisions of Rule 7.

[Effective: July 1, 1972; amended effective July 1, 1994.]

RULE 36. Dispositional Review

(A) Court review. A court that issues a dispositional order in an abuse, neglect, or dependency case may review the child's placement or custody arrangement, the case plan, and the actions of the public or private agency implementing that plan at any time. A court that issues a dispositional order shall hold a review hearing one year after the earlier of the date on which the complaint in the case was filed or the child was first placed into shelter care. The court shall schedule the review hearing at the time that it holds the dispositional hearing. The court shall hold a similar review hearing no later than every twelve months after the initial review hearing until the child is adopted, returned to the child's parents, or the court otherwise terminates the child's placement or custody arrangement. A hearing pursuant to section 2151.415 of the Revised Code shall take the place of the first review hearing. The court shall schedule each subsequent review hearing at the conclusion of the review hearing immediately preceding the review hearing to be scheduled. Review hearings may also be conducted by a magistrate.

(B) Citizens' review board. The court may appoint a citizens' review board to conduct review hearings, subject to the review and approval by the court.

(C) Agency review. Each agency required to prepare a case plan for a child shall complete a semiannual administrative review of the case plan no later than six months after the earlier of the date on which the complaint in the case was filed or the child was first placed in shelter care. After the first administrative review, the agency shall complete semiannual administrative reviews no later than every six months. The agency shall prepare and file a written summary of the semiannual administrative review that shall include an updated case plan. If the agency, parents, guardian, or custodian of the child and guardian ad litem stipulate to the revised case plan, the plan shall be signed by all parties and filed with the written summary of the administrative review no later than seven days after the completion of the administrative review. If the court does not object to the revised case plan, it shall journalize the case plan within fourteen days after it is filed with the court. If the court does not approve of the revised case plan or if the agency, parties, guardian ad litem, and the attorney of the child do not agree to the need for changes to the case plan and to all of the proposed changes, the agency shall file its written summary and request a hearing. The court shall schedule a review hearing to be held no later than thirty days after the filing of the case plan or written summary or both, if required. The court shall give notice of the date, time, and location of the hearing to all interested parties and the guardian ad litem of the child. The court shall take one of the following actions:

(1) Approve or modify the case plan based upon the evidence presented;

(2) Return the child home with or without protective supervision and terminate temporary custody or determine which agency shall have custody;

(3) If the child is in permanent custody determine what actions would facilitate adoption;

(4) Journalize the terms of the updated case plan.

[Effective: July 1, 1994; amended effective July 1, 1996.]

RULE 37. Recording of Proceedings

(A) Recording of proceedings. The juvenile court shall make a record of adjudicatory and dispositional proceedings in abuse, neglect, dependent, unruly, and delinquent cases; permanent custody cases; and proceedings before magistrates. In all other proceedings governed by these rules, a record shall be made upon request of a party or upon motion of the court. The record shall be taken in shorthand, stenotype, or by any other adequate mechanical, electronic, or video recording device.

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

[Effective: July 1, ; amended effective July 1, 1996; July 1, 2001.]

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 37 Recording of Proceedings
Juvenile Rule 37(B) Restrictions on use of recording or transcript

Division (B) of this rule was amended to conform the rule with Revised Code section 2151.358 (E)(2), which provides for law enforcement personnel to have access to certain juvenile court records. The amendment was not intended to designate juvenile court records as public documents or to enlarge access to juvenile records beyond that specifically designated by a statute directed at juvenile court records.

RULE 38. Voluntary Surrender of Custody

(A) Temporary custody.

(1) A person with custody of a child may enter into an agreement with any public or private children services agency giving the agency temporary custody for a period of up to thirty days without the approval of the juvenile court. The agency may request the court to grant a thirty day extension of the original agreement. The court may grant the original extension if it determines the extension to be in the best interest of the child. A case plan shall be filed at the same time the request for extension is filed. At the expiration of the original thirty day extension period, the agency may request the court to grant an additional thirty day extension. The court may grant the additional extension if it determines the extension is in the child's best interest. The agency shall file an updated case plan at the same time it files the request for additional extension. At the expiration of the additional thirty day extension period, or at the expiration of the original thirty day extension period if no additional thirty day extension was requested, the agency shall either return the child to the custodian or file a complaint requesting temporary or permanent custody and a case plan.

(2) Notwithstanding division (A)(1) of this rule, the agreement may be for a period of sixty days if executed solely for the purpose of obtaining the adoption of a child less than six months of age. The agency may request the court to extend the temporary custody agreement for thirty days. A case plan shall be filed at the same time the request for extension is filed. At the expiration of the thirty day extension, the agency shall either return the child to the child's custodian or file a complaint with the court requesting temporary or permanent custody and a case plan.

(B) Permanent Custody.

(1) A person with custody of a child may make an agreement with court approval surrendering the child into the permanent custody of a public children service agency or private child placing agency. A public children service agency shall request and a private child placing agency may request the juvenile court of the county in which the child had residence or legal settlement to approve the permanent surrender agreement. The court may approve the agreement if it determines it to be in the best interest of the child. The agency requesting the approval shall file a case plan at the same time it files its request for approval of the permanent surrender agreement.

(2) An agreement for the surrender of permanent custody of a child to a private service agency is not required to be approved by the court if the agreement is executed solely for the purpose of obtaining an adoption of a child who is less than six months of age on the date of the execution of the agreement.

One year after the agreement is entered and every subsequent twelve months after that date, the court shall schedule a review hearing if a final decree of adoption has not been entered for a child who is the subject of an agreement for the surrender of permanent custody.

[Effective: July 1, 1994.]

RULE 39. Out of County Removal Hearings

(**A) Notice of removal hearing**. Upon the filing of a removal action, the court in which the complaint is filed shall immediately contact the court that issued the original dispositional order for information necessary for service of summons and issuance of notice of the removal hearing. The court that issued the original dispositional order shall respond within five days after receiving the request.

Summons shall issue pursuant to Juv.R. 15 and 16.

Notice of the removal hearing shall be sent by first class mail, as evidenced by a certificate of mailing filed with the clerk of court, to the following, not otherwise summoned, at least five days before the hearing:

(1) The court issuing the dispositional order;

(2) The guardian *ad litem* for the child;

(3) Counsel for the child;

(4) The placing entity;

(5) The custodial entity;

(6) The complainant;

(7) The guardian *ad litem* and counsel presently representing the child in the court that issued the original dispositional order;

(8) Any other persons the court determines to be appropriate.

(B) Removal hearing. The removal hearing shall be held not later than thirty days after service of summons is obtained. if, after the removal hearing, the court grants relief in favor of the complainant, the court shall send written notice of such relief to the juvenile court that issued the original dispositional order.

[Effective: July 1, 1998.]

RULE 40. Magistrates

(A) Appointment

The court may appoint one or more magistrates who shall have been engaged in the practice of law for at least four years and be in good standing with the Supreme Court of Ohio at the time of appointment. A magistrate appointed under this rule also may serve as a magistrate under Crim. R. 19. The court shall not appoint as a magistrate any person who has contemporaneous responsibility for working with, or supervising the behavior of, children who are subject to dispositional orders of the appointing court or any other juvenile court.

(B) Compensation

The compensation of magistrates shall be fixed by the court, and no part of the compensation shall be taxed as costs.

(C) Authority

(1) *Scope.* To assist juvenile courts of record and pursuant to reference under Juv.R. 40(D)(1), magistrates are authorized, subject to the terms of the relevant reference, to do any of the following:

(a) Determine any motion in any case, except a case involving the determination of a child's status as a serious youthful offender;

(b) Conduct the trial of any case that will not be tried to a jury, except the adjudication of a case against an alleged serious youthful offender;

(c) Exercise any other authority specifically vested in magistrates by statute and consistent with this rule.

(2) *Regulation of proceedings*. In performing the responsibilities described in Juv. R. 40(C)(1), magistrates are authorized, subject to the terms of the relevant reference, to regulate all proceedings as if by the court and to do everything necessary for the efficient performance of those responsibilities, including but not limited to, the following:

(a) Issuing subpoenas for the attendance of witnesses and the production of evidence;

(b) Ruling upon the admissibility of evidence;

(c) Putting witnesses under oath and examining them;

(d) Calling the parties to the action and examining them under oath;

(e) When necessary to obtain the presence of an alleged contemnor in cases involving direct or indirect contempt of court, issuing an attachment for the alleged contemnor and setting the type, amount, and any conditions of bail pursuant to Crim.R. 46;

(f) Imposing, subject to Juv.R. 40(D)(8), appropriate sanctions for civil or criminal contempt committed in the presence of the magistrate.

(D) Proceedings in Matters Referred to Magistrates

(1) *Reference by court of record.*

(a) *Purpose and method* A court may, for one or more of the purposes described in Juv. R. 40(C)(1), refer a particular case or matter or a category of cases or matters to a magistrate by a specific or general order of reference or by rule.

(b) *Limitation.* A court may limit a reference by specifying or limiting the magistrate's powers, including but not limited to, directing the magistrate to determine only particular issues, directing the magistrate to perform particular responsibilities, directing the magistrate to receive and report evidence only, fixing the time and place for beginning and closing any hearings, or fixing the time for filing any magistrate's decision on the matter or matters referred.

(2) *Magistrate's order; motion to set aside magistrate's order.*

(a) *Magistrate's order.*

(i) *Nature of order.* Subject to the terms of the relevant reference, a magistrate may enter orders without judicial approval if necessary to regulate the proceedings and if not dispositive of a claim or defense of a party.

(ii) *Form, filing, and service of magistrate's order.* A magistrate's order shall be in writing, identified as a magistrate's order in the caption, signed by the magistrate, filed with the clerk, and served on all parties or their attorneys.

(iii) *Magistrate's order include.* A magistrate's order includes any of the following:

(A) Pretrial proceedings under Civ. R. 16;

(B) Discovery proceedings under Civ. R. 26 to 37, Juv. R. 24, and Juv. R.25;

(C) Appointment of an attorney or guardian ad litem pursuant to Juv. R. 4 and Juv. R.29(B)(4);

(D) Taking a child into custody pursuant to Juv. R. 6;

(E) Detention hearings pursuant to Juv. R. 7;

(F) Temporary orders pursuant to Juv. R. 13;

(G) Extension of temporary orders pursuant to Juv. R. 14;

(H) Summons and warrants pursuant to Juv. R. 15;

(I) Preliminary conferences pursuant to Juv. R. 21;

(J) Continuances pursuant to Juv. R. 23;

(K) Deposition orders pursuant to Juv. R. 27(B)(3);

(L) Orders for social histories, physical and mental examinations pursuant to Juv. R. 32;

(M) Proceedings upon application for the issuance of a temporary protection order as authorized by law;

(N) Other orders as necessary to regulate the proceedings.

(b) *Motion to set aside magistrate's order.* Any party may file a motion with the court to set aside a magistrate's order. The motion shall state the moving party's reasons with particularity and shall be filed not later than ten days after the magistrate's order is filed. The pendency of a motion to set aside does not stay the effectiveness of the magistrate's order, though the magistrate or the court may by order stay the effectiveness of a magistrate's order.

(3) *Magistrate's decision; objections to magistrate's decision.*

(a) *Magistrate's decision.*

(i) *When required.* Subject to the terms of the relevant reference, a magistrate shall prepare a magistrate's decision respecting any matter referred under Juv. R. 40(D)(1).

(ii) *Findings of fact and conclusions of law.* Subject to the terms of the relevant reference, a magistrate's decision may be general unless findings of fact and conclusions of law are timely requested by a party or otherwise required by law. A request for findings of fact and conclusions of law shall be made before the entry of a magistrate's decision or within seven days after the filing of a magistrate's decision. If a request for findings of fact and conclusions of law is timely made, the magistrate may require any or all of the parties to submit proposed findings of fact and conclusions of law.

(iii) *Form; filing, and service of magistrate's decision.* A magistrate's decision shall be in writing, identified as a magistrate's decision in the caption, signed by the magistrate, filed with the clerk, and served on all parties or their attorneys no later than three days after the decision is filed. A magistrate's decision shall indicate conspicuously that a party shall not assign as error on

appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion as required by Juv. R. 40(D)(3)(b).

(b) *Objections to magistrate's decision.*

(i) Time for filing. A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Juv. R. 40(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. If a party makes a timely request for findings of fact and conclusions of law, the time for filing objections begins to run when the magistrate files a decision that includes findings of fact and conclusions of law.

(ii) Specificity of objection. An objection to a magistrate's decision shall be specific and state with particularity all grounds for objection.

(iii) Objection to magistrate's factual finding; transcript or affidavit. An objection to a factual finding, whether or not specifically designated as a finding of fact under Juv. R. 40(D)(3)(a)(ii), shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available. With leave of court, alternative technology or manner of reviewing the relevant evidence may be considered. The objecting party shall file the transcript or affidavit with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement the objections.

(iv) Waiver of right to assign adoption by court as error on appeal. Except for a claim of plain error, a party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40(D)(3)(a)(ii), unless the party has objected to that finding or conclusion as required by Juv. R. 40(D)(3)(b).

(4) *Action of court on magistrate's decision and on any objections to magistrate's decision; entry of judgment or interim order by court.*

(a) *Action of court required.* A magistrate's decision is not effective unless adopted by the court.

(b) *Action on magistrate's decision.* Whether or not objections are timely filed, a court may adopt or reject a magistrate's decision in whole or in part, with or without modification. A court may hear a previously-referred matter, take additional evidence, or return a matter to a magistrate.

(c) *If no objections are filed*. If no timely objections are filed, the court may adopt a magistrate's decision, unless it determines that there is an error of law or other defect evident on the face of the magistrate's decision.

(d) *Action on objections.* If one or more objections to a magistrate's decision are timely filed, the court shall rule on those objections. In ruling on objections, the court shall undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law. Before so ruling, the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.

(e) *Entry of judgment or interim order by court*. A court that adopts, rejects, or modifies a magistrate's decision shall also enter a judgment or interim order.

(i) *Judgment.* The court may enter a judgment either during the fourteen days permitted by Juv. R. 40(D)(3)(b)(i) for the filing of objections to a magistrate's decision or after the fourteen days have expired. If the court enters a judgment during the fourteen days permitted by Juv. R. 40(D)(3)(b)(i) for the filing of objections, the timely filing of objections to the magistrate's decision shall operate as an automatic stay of execution of the judgment until the court disposes of those objections and vacates, modifies, or adheres to the judgment previously entered.

(ii) *Interim order.* The court may enter an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified. The timely filing of objections does not stay the execution of an interim order, but an interim order shall not extend more than twenty-eight days from the date of entry, subject to extension by the court in increments of twenty-eight additional days for good cause shown.

(5) *Extension of time.* For good cause shown, the court shall allow a reasonable extension of time for a party to file a motion to set aside a magistrate's order or file objections to a magistrate's decision. "Good cause" includes, but is not limited to, a failure by the clerk to timely serve the party seeking the extension with the magistrate's order or decision.

(6) *Disqualification of a magistrate*. Disqualification of a magistrate for bias or other cause is within the discretion of the court and may be sought by motion filed with the court.

(7) *Recording of proceedings before a magistrate.* Except as otherwise provided by law, all proceedings before a magistrate shall be recorded in accordance with procedures established by the court.

(8) *Contempt in the presence of a magistrate.*

(a) *Contempt order.* Contempt sanctions under Juv. R. 40(C)(2)(f) may be imposed

only by a written order that recites the facts and certifies that the magistrate saw or heard the conduct constituting contempt.

(b) *Filing and provision of copies of contempt order.* A contempt order shall be filed and copies provided forthwith by the clerk to the appropriate judge of the court and to the subject of the order.

(c) *Review of contempt order by court; bail.* The subject of a contempt order may by motion obtain immediate review by a judge. A judge or the magistrate entering the contempt order may set bail pending judicial review of the order.

[Effective: July 1, 1972; amended effective July 1, 1975; July 1, 1985; July 1, 1992; July 1, 1995; July 1, 1998; July 1, 2001; July 1, 2003; July 1, 2006; July 1, 2011; July 1, 2014.]

Staff Note (July 1, 2014 Amendments)

The amendment to Juv.R. 40(C) eliminates any perceived authority for a magistrate to preside over a jury trial in juvenile court. The amendment resulted from the Commission's review and revision of the procedures under which magistrates conduct civil jury trials under Civ.R. 53 which largely parallels Juv.R. 40. That review concluded that jury trials in juvenile court are extremely rare and occur only in cases of "serious youthful offenders" and of adult defendants charged with child endangering and/or contributing to the delinquency of minors. Since the rule as previously written excluded magistrates from conducting jury trials for "serious youthful offenders", and since all trials of adult offenders are governed by the Ohio Rules of Criminal Procedure, which expressly exclude magistrates from hearing jury trials under Crim.R. 19(C)(1)(h), the Commission decided to simply eliminate the provision for jury trials under Juv.R. 40.

Staff Note (July 1, 2006 Amendment)

Rule 40 has been reorganized in an effort to make it more helpful to bench and bar and reflective of developments since the rule was last substantially revised effective July 1, 1995. The relatively-few significant changes included in the reorganization are noted below.

Rule 40(A) Appointment

Juv. R. 40(A) is similar to former Juv. R. 40(A), except that it now requires all magistrates appointed pursuant to the rule to be attorneys admitted to practice in Ohio. The former rule allowed magistrates first appointed prior to July 1, 1995 to be nonattorneys.

Rule 40(B) Compensation

Juv. R. 40(B) is the same as former Juv. R. 40(B).

Rule 40(C) Authority

Juv. R. 40(C) is drawn largely from former Juv. R. 40(C)(1) and (2) and reflects the admonition of the Supreme Court that "a [magistrate's] oversight of an issue or issues, or even an entire trial, is not a *substitute* for the judicial functions but only an *aid* to them." *Hartt v. Munobe* (1993), 67 Ohio St.3d 3, 6, 1993-Ohio-177, 615 N.E.2d 617 (emphases added). Juv. R. 40(C) specifies that juvenile court magistrates may determine motions and conduct trials but may not preside over the determination or trial of a serious youthful offender.

Rule 40(D) Proceedings in Matters Referred to Magistrates

Juv. R. 40(D)(1) through (4) treat each of the steps that potentially occur if a magistrate participates: (1) reference to a magistrate; (2) magistrate's orders and motions to set aside magistrate's orders; (3) magistrate's decisions and objections to magistrate's decisions; and (4) action of the court on magistrate's decisions and on any objections to magistrate's decisions and entry of judgment or interim order by the court. Juv. R. 40(D)(5) through (8) deal with good cause extensions of time, disqualification of a magistrate, recording of proceedings before a magistrate, and contempt in the presence of a magistrate.

Reference by court of record

Juv. R. 40(D)(1), unlike former Juv. R. 40(C)(1)(b), specifically authorizes reference of types of matters by rule as well as by a specific or general order of reference. In so doing, it recognizes existing practice in some courts. See, e.g., Loc. R. 99.02, Franklin Cty. Ct. of Common Pleas; Loc. R. 23(B), Hamilton Cty. Ct. of Common Pleas; *State ex rel. Nalls v. Russo,* 96 Ohio St.3d 410, 412-13, 2002-Ohio-4907 at ¶¶ 20-24, 775 N.E.2d 522; *Davis v. Reed* (Aug. 31, 2000), 8th Dist. App. No. 76712, 2000 WL 1231462 at *2 (citing *White v. White* (1977), 50 Ohio App.2d 263, 266-268, 362 N.E.2d 1013), and *Partridge v. Partridge* (Aug. 27, 1999), 2nd Dist. App. No. 98 CA 38, 1999 WL 945046 at *2, (treating a local rule of the Greene Cty. Ct. of Common Pleas, Dom. Rel. Div., as a standing order of reference).

Magistrate's order; motion to set aside magistrate's order

Juv. R. 40(D)(2)(a)(i) generally authorizes a magistrate to enter orders without judicial approval if necessary to regulate the proceedings and, adapting language from Crim. R. 19(B)(5)(a), if "not dispositive of a claim or defense of a party." The new language removes the arguably limiting title of former Juv. R. 40(C)(3)(a) ["Pretrial orders"] and is intended to more accurately reflect proper and existing practice. This language is not intended to narrow the power of a magistrate to enter orders without judicial approval. Juv. R. 40(D)(2)(a) lists certain actions that are included as magistrate orders. These are similar to those listed in former Juv. R. 40(C)(3), with the addition of division (D)(2)(a)(iii)(M) regarding the issuance of a temporary protection order. However, consistent with the admonition in *Hartt*, *supra*, any temporary protection order issued as a result of such proceedings must be signed by a judge.

Juv. R. 40(D)(2)(b) replaces language in former Juv. R. 40(C)(3)(b), which purported to authorize "[a]ny person" to "appeal to the court" from any order of a magistrate "by filing a motion to set the order aside." The new language refers to the appropriate challenge to a magistrate's order as solely a "motion to set aside" the order. Juv. R. 40(D)(2)(b) likewise limits the authorization to file a motion to "any *party*," though an occasional nonparty may be entitled to file a motion to set aside a magistrate's order. Sentence two of Juv. R. 40(D)(2)(b) changes the trigger for the ten days permitted to file a motion to set aside a magistrate's order from entry of the order to filing of the order, as the latter date is definite and more easily available to counsel. Juv. R. 40(D)(2)(b) retains the provision of former Juv. R. 40(C)(3)(b) that the pendency of a motion to set aside a magistrate's order does not stay the effectiveness of the magistrate's order, although the magistrate or the court, by order, may stay the magistrate's order.

Magistrate's decision; objections to magistrate's decision

Juv. R. 40(D)(3) prescribes procedures for preparation of a magistrate's decision and for any objections to a magistrate's decision.

Juv. R. 40(D)(3)(a)(ii), unlike former Juv. R. 40(E)(2), adapts language from Civ. R. 52 rather than simply referring to Civ. R. 52. The change is intended to make clear that, e.g., a request for findings of fact and conclusions of law in a referred matter should be directed to the magistrate rather than to the court. Juv. R. 40(D)(3)(a)(ii) explicitly authorizes a magistrate's decision, subject to the terms of the relevant reference, to be general absent a timely request for findings of fact and conclusions of law or a provision of law that provides otherwise. Occasional decisions under former Juv. R. 40 said as much. See, *e.g.*, *In re Chapman*

(Apr. 21, 1997), 12th Dist. App. No. CA96-07-127, 1997 WL 194879 at *2; *Burke v. Brown*, 4th Dist. App. No. 01CA731, 2002-Ohio-6164 at ¶ 21; and *Rush v. Schlagetter* (Apr. 15, 1997), 4th Dist. App. No. 96CA2215, 1997 WL 193169 at *3. For a table of sections of the Ohio Revised Code that purport to make findings of fact by judicial officers mandatory in specified circumstances, see 2 Klein-Darling, Ohio Civil Practice § 52-4, 2002 Pocket Part at 136 (West Group 1997).

Juv. R. 40(D)(3)(a)(iii) now requires that the magistrate's decision be served on the parties or their attorneys no later than three days after the decision was filed. The former rule contained no specific time requirement. The provision further requires that a magistrate's decision include a conspicuous warning of the waiver rule prescribed by amended Juv. R. 40(D)(3)(b)(iv). The latter rule now provides that a party shall not assign as error on appeal a court's adoption of any factual finding or legal conclusion of a magistrate, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40(D)(3)(a)(ii), unless that party has objected to that finding or conclusion as required by Juv. R. 40(D)(3)(b). While the prior waiver rule, prescribed by former Juv. R. 40(E)(3)(b) (effective July 1, 1995) and former Juv. R. 40(E)(3)(d) (effective July 1, 2003), arguably applied only to findings of fact or conclusions of law specifically designated as such, the amended waiver rule applies to any factual finding or legal conclusion in a magistrate's decision and the required warning is broadened accordingly.

Juv. R. 40(D)(3)(b)(i) retains the fourteen-day time for filing written objections to a magistrate's decision. While the rule continues to authorize filing of objections by a "party," it has been held that a non-party attorney can properly object to a magistrate's decision imposing sanctions on the attorney. *All Climate Heating & Cooling, Inc. v. Zee Properties, Inc.* (May 17, 2001), 10th Dist. App. No. 00AP-1141, 2001 WL 521408 at *3.

Sentence one of Juv. R. 40(D)(3)(b)(iii) requires that an objection to a factual finding in a magistrate's decision, whether or not specifically designated as a finding of fact under Juv. R. 40(D)(3)(a)(ii), be supported by a transcript of all the evidence submitted to the magistrate relevant to that fact or by an affidavit of that evidence if a transcript is not available. The Supreme Court has prescribed the consequences on appeal of failure to supply the requisite transcript or affidavit as follows: (1) "appellate review of the court's findings is limited to whether the trial court abused its discretion in adopting the [magistrate's decision]" and (2) "the appellate court is precluded from considering the transcript of the hearing submitted with the appellate record." *State ex rel. Duncan v. Chippewa Twp. Trustees* (1995), 73 Ohio St.3d 728, 730, 654 N.E.2d 1254.

Sentence two of Juv. R. 40(D)(3)(b)(iii) adds a new requirement, adapted from Loc. R. 99.05, Franklin Cty. Ct. of Common Pleas, that the requisite transcript or affidavit be filed within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. The last sentence of Juv. R. 40(D)(3)(b)(iii) allows an objecting party to seek leave of court to supplement previously filed objections where the additional objections become apparent after a transcript has been prepared.

Juv. R. 40(D)(3)(b)(iv), as noted above, expands the "waiver rule" prescribed by former Juv. R. 40(E)(3)(b) (effective July 1, 1995) and former Juv. R. 40(E)(3)(d) (effective July 1, 2003) to include any factual finding or legal conclusion in a magistrate's decision, whether or not specifically designated as a finding of fact or conclusion of law under Juv. R. 40(D)(3)(a)(ii). The Rules Advisory Committee was unable to discern a principled reason to apply different requirements to, e.g., a factual finding depending on whether or not that finding is specifically designated as a finding of fact under Juv. R. 40(D)(3)(a)(ii). An exception to the "waiver rule" exists for plain error, which cannot be waived based on a party's failure to object to a magistrate's decision.

<u>Action of court on magistrate's decision and on any objections to magistrate's decision; entry of judgment or interim order by the court</u>

Juv. R. 40(D)(4)(a), like sentence one of former Juv. R. 40(E)(4)(a), confirms that a magistrate's decision is not effective unless adopted by the court.

Juv. R. 40(D)(4)(b) provides that a court may properly choose among a wide range of options in response to a magistrate's decision, whether or not objections are timely filed. See, *e.g.*, *Johnson v. Brown* 2nd Dist. App. No. 2002 CA 76, 2003-Ohio-1257 at ¶ 12 (apparently concluding that former Civ. R. 53(E)(4)(b) permitted the trial court to modify an aspect of the magistrate's decision to which no objection had been made).

Juv. R. 40(D)(4)(c) provides that if no timely objections are filed, the court may adopt a magistrate's decision, unless the court determines that there is an error of law or other defect evident on the face of the decision. A similar result was reached under sentence two of former Civ. R. 53(E)(4)(a). See, *e.g.*, *Perrine v. Perrine*, 9th Dist. App. No. 20923, 2002-Ohio-4351 at ¶ 9; *City of Ravenna Police Dept. v. Sicuro* (Apr. 30, 2002), 11th Dist. App. No. 2001-P-0037; and *In re Weingart* (Jan. 17, 2002), 8th Dist. App. No. 79489, 2002 WL 68204 at *4.The language of Juv. R. 40(D)(4)(c) has been modified in an attempt to make clear that the obligation of the court does not extend to any "error of law" whatever but is limited to errors of law that are evident on the face of the decision. To the extent that decisions such as *In re Kelley*, 11th Dist. App. No. 2002-A-0088, 2003-Ohio-194 at ¶ 8 suggest otherwise, they are rejected. The "evident on the face" standard does not require that the court conduct an independent analysis of the magistrate's decision. The amended rule does not speak to the effect, if any, on the waiver rule prescribed by amended Juv. R. 40(D)(3)(b)(iv) of the "evident on the face" requirement. At least two courts have explicitly held that the "evident on the face" standard generates an exception to the waiver rule. *Dean-Kitts v. Dean*, 2nd Dist. App. No. 2002CA18, 2002-Ohio-5590 at ¶ 13 and *Hennessy v. Hennessy* (Mar. 24, 2000), 6th Dist. App. No. L-99-1170, 2000 WL 299450 at *1. Other decisions have indicated that the standard may generate an exception to the waiver rule. *Ohlin v. Ohlin* (Nov. 12, 1999), 11th Dist. App. No. 98-PA-87, 1999 WL 1580977 at *2; *Group One Realty, Inc. v. Dixie Intl. Co.* (1998), 125 Ohio App.3d 767, 769, 709 N.E.2d 589; *In re Williams* (Feb. 25, 1997), 10th Dist. App. No. 96APF06-778, 1997 WL 84659 at *1. However, the Supreme Court applied the waiver rule three times without so much as referring to the "evident on the face" standard as a possible exception. *State ex rel. Wilson v. Industrial Comm'n.* (2003), 100 Ohio St. 3d 23, 24, 2003-Ohio-4832 at ¶ 4, 795 N.E.2d 662; *State ex rel. Abate v. Industrial Comm'n.* (2002), 96 Ohio St.3d 343, 2002-Ohio-4796, 774 N.E.2d 1212; *State ex rel. Booher v. Honda of America Mfg. Co., Inc.* (2000), 88 Ohio St.3d 52, 2000-Ohio-269, 723 N.E.2d 571.

As noted above, even if no timely objection is made, a court may, pursuant to Juv. R. 40(D)(4)(b), properly choose a course of action other than adopting a magistrate's decision, even if there is no error of law or other defect evident on the face of the magistrate's decision.

Sentence one of Juv. R. 40(D)(4)(d), like sentence one of former Juv. R. 40(E)(4)(b), requires that the court rule on timely objections. Sentence two of Juv. R. 40(D)(4)(d) requires that, if timely objection is made to a magistrate's decision, the court give greater scrutiny than if no objections are made. The "independent review as to the objected matters" standard that applies if timely objection is made should be distinguished from the lesser scrutiny permitted if no objections to a magistrate's decision are timely filed, the latter standard having been first adopted by former Juv. R. 40(E)(4)(a), effective July 1, 1995, and retained by new Juv. R. 40(D)(4)(c), discussed above.

The "independent review as to the objected matters" standard is intended to exclude the more limited appellate standards of review and codify the practice approved by most courts of appeals. The Second District Court of Appeals has most clearly and consistently endorsed and explained that standard. *See, e.g., Crosby v. McWilliam*, 2nd Dist. App. No. 19856, 2003-Ohio-6063; *Quick v. Kwiatkowski* (Aug. 3, 2001), 2nd Dist. App. No. 18620, 2001 WL 871406 (acknowledging that "Magistrates truly do the 'heavy lifting' on which we all depend"); *Knauer v. Keener* (2001), 143 Ohio App.3d 789, 758 N.E.2d 1234. Other district courts of appeal have followed suit. *Reese v. Reese*, 3rd Dist. App. No. 14-03-42, 2004-Ohio-1395; *Palenshus v. Smile Dental Group, Inc.*, 3rd Dist. App. No. 3-02-46, 2003-Ohio-3095,; *Huffer v. Chafin*, 5th Dist. App. No. 01 CA 74, 2002-Ohio-356; *Rhoads v. Arthur* (June 30, 1999), 5th Dist. App. No. 98CAF10050, 1999

WL 547574; *Barker v. Barker* (May 4, 2001), 6th Dist. App. No. L-00-1346, 2001 WL 477267; *In re Day*, 7th Dist. App. No. 01 BA 28, 2003-Ohio-1215; *State ex rel. Ricart Auto. Personnel, Inc. v. Industrial Comm'n. of Ohio*, 10th Dist. App. No. 03AP-246, 2003-Ohio-7030; *Holland v. Holland* (Jan. 20, 1998), 10th Dist. App. No. 97APF08-974, 1998 WL 30179; *In re Gibbs* (Mar. 13, 1998), 11th Dist. App. No. 97-L-067, 1998 WL 257317.

Only one court of appeals appears consistently and knowingly to have taken a different approach. *Lowery v. Keystone Bd. of Ed.* (May 9, 2001), 9th Dist. App. No. 99CA007407, 2001 WL 490017; *Weber v. Weber* (June 30, 1999), 9th Dist. App. No. 2846-M, 1999 WL 459359; *Meadows v. Meadows* (Feb. 11, 1998), 9th Dist. App. No. 18382, 1998 WL 78686; *Rogers v. Rogers* (Dec. 17, 1997), 9th Dist. App. No. 18280, 1997 WL 795820.

The Rules Advisory Committee believes that the view adopted by the majority of courts of appeals is correct and that no change was made by the 1995 amendments to Juv. R. 40 in the review required of a trial judge upon the filing of timely objections to a magistrate's report.

The phrase "as to the objected matters" permits a court to choose to limit its independent review to those matters raised by proper objections. If a court need apply only the "defect evident on the face" standard if no objections are filed at all, then, if one or more objections *are* filed, a court logically need apply the more stringent independent review only to those aspects of the magistrate's decision that are challenged by that objection or those objections.

Sentence three of Juv. R. 40(D)(4)(d) provides that, before ruling on objections, a court may hear additional evidence and that it may refuse to hear additional evidence unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.

Juv. R. 40(D)(4)(e) is similar to former Juv. R. 40(D)(4)(c) and requires that a court that adopts, rejects, or modifies a magistrate's decision also enter a judgment or interim order. Juv. R. 40(D)(4)(e)(i) permits the court to enter a judgment during the fourteen days permitted for the filing of objections to a magistrate's decision but provides that the timely filing of objections operates as an automatic stay of execution of the judgment until the court disposes of those objections and vacates, modifies, or adheres to the judgment previously entered. Juv. R. 40(D)(4)(e)(ii) permits the court, if immediate relief is justified, to enter an interim order during the fourteen days permitted for the filing of objections to a magistrate's decision. The timely filing of objections does not stay such an interim order, but the order may not properly extend more than twenty-eight days from the date of entry, subject to extension by the court in increments of twenty-eight additional days for good cause shown. Juv. R. 40(D)(4)(e)(ii) allows multiple twenty-eight day extensions, whereas the former Juv. R. 40(D)(4)(c) allowed only one such extension.

Extension of time

Juv. R. 40(D)(5) is new and requires the court, for good cause shown, to provide an objecting party with a reasonable extension of time to file a motion to set aside a magistrate's order or file objections to a magistrate's decision. "Good cause" would include the failure of a party to receive timely service of the magistrate's order or decision.

Disqualification of a magistrate

Juv. R. 40(D)(6) has no counterpart in former Juv. R. 40. The statutory procedures for affidavits of disqualification apply to judges rather than magistrates. Rev. Code §§ 2101.39, 2501.13, 2701.03, 2701.131; *In re Disqualification of Light* (1988), 36 Ohio St.3d 604, 522 N.E.2d 458. The new provision is based on the observation of the Chief Justice of the Supreme Court that "[t]he removal of a magistrate is within the discretion of the judge who referred the matter to the magistrate and should be brought by a motion filed with the trial court." *In re Disqualification of Wilson* (1996), 77 Ohio St. 3d 1250, 1251, 674 N.E.2d 260; see also *Mascorro v. Mascorro* (June 9, 2000), 2nd Dist. App. No. 17945, 2000 WL 731751 at *3 (citing *In re*

Disqualification of Wilson); *Reece v. Reece* (June 22, 1994), 2nd Dist. App. No. 93-CA-45, 1994 WL 286282 at *2 ("Appointment of a referee is no different from any other process in which the trial court exercises discretion it is granted by statute or rule. * * * If the defect concerns possible bias or prejudice on the part of the referee, that may be brought to the attention of the court by motion."); *Moton v. Ford Motor Credit Co.*, 5th Dist. App. No. 01CA74, 2002-Ohio-2857, appeal not allowed (2002), 95 Ohio St.3d 1422, 2002-Ohio-1734, 766 N.E.2d 163, reconsideration denied (2002), 95 Ohio St.3d 1476, 2002-Ohio-244, 768 N.E.2d 1183; *Walser v. Dominion Homes, Inc.* (June 11, 2001), 5th Dist. App. No. 00-CA-G-11-035, 2001 WL 704408 at *5; *Unger v. Unger* (Dec. 29, 2000), 12th Dist. App. No. CA2000-04-009, 2000 WL 1902196 at *2 (citing *In re Disqualification of Wilson*, *supra)*; *Jordan v. Jordan* (Nov. 15, 1996), 4th Dist. App. No. 1427, 1990 WL 178162 at *5 ("Although referees are not judges and arguably, are not bound by Canon 3(C)(1) of the Code of Judicial Conduct, it would appear axiomatic that a party should be able to petition the court to have a referee removed from the case if the referee is unable to render a fair and impartial decision."); *In re Reiner* (1991), 74 Ohio App.3d 213, 220, 598 N.E.2d 768 ("where a referee affirmatively states that he is biased on the matter before him, it is an abuse of the court's discretion to fail to recuse the referee"). Particularly because "a [magistrate's] oversight of an issue or issues, or even an entire trial, is not a *substitute* for the judicial functions but only an *aid* to them," *Hartt v. Munobe* (1993), 67 Ohio St.3d 3, 6, 1993-Ohio-177, 615 N.E.2d 617 (emphases added), Juv. R. 40(D)(6) contemplates that disqualification on a ground other than bias may sometimes be appropriate.

Recording of proceedings before a magistrate

Juv. R. 40(D)(7), generally requiring recording of proceedings before a magistrate, is taken verbatim from former Juv. R. 40(D)(2).

Contempt in the presence of a magistrate

Juv. R. 40(D)(8) is adapted from sentences two, three, and four of former Juv. R. 40(C)(3)(c). Juv. R. 40(D)(8)(b), unlike its predecessor, explicitly requires that the clerk provide a copy of a contempt order to the subject of the order.

Staff Note (July 1, 2003 Amendment)

Juvenile Rule 40 Magistrates

Juvenile Rule 40(E) Decisions in referred matters

The amendment to this rule is identical to an amendment to Civ. R. 53(E), also effective July 1, 2003.

It was suggested to the Rules Advisory Committee that the waiver rule prescribed by sentence four of former Civ. R. 53(E)(3)(b) [identical to sentence four of former Juv.R. 40(E)(3)(b)] sometimes surprised counsel and *pro se* litigants because they did not expect to be required to object to a finding of fact or conclusion of law in a magistrate's decision in order to assign its adoption by the trial court as error on appeal. A review of relevant appellate decisions seemed to confirm that suggestion.

It was further suggested that counsel or a *pro se* litigant was particularly likely to be surprised by the waiver rule of sentence four of former Civ. R. 53(E)(3)(b) if a trial court, as authorized by sentence two of Civ. R. 53(E)(4)(a), adopted a magistrate's decision prior to expiration of the fourteen days permitted for the filing of objections. See, e.g., *Riolo v. Navin*, 2002 WL 502408, 2002-Ohio-1551, (8th Dist. Ct. App., 4-19-2002).

Since 1995, the potential for surprise posed by the waiver rule may have been exacerbated by the fact that, under the original versions of Juv. R. 40 and Civ. R. 53, a party did not, by failing to file an objection, waive the right to assign as error on appeal the adoption by the trial court of a finding or fact or conclusion of law of a referee. See 30 Ohio St. 3d xlii-xliii (1972) (original version of Juv. R. 40); *Normandy Place*

Associates v. Beyer, 2 Ohio St.3d 102, 103 (1982) (syl. 1)(noting absence of waiver rule in original version of Civ. R. 53). As of July 1, 1985, sentence one of Juv. R. 40(E)(6) and sentence one of Civ. R. 53(E)(6) were amended to read "[a] party may not assign as error the court's adoption of a referee's *finding of fact* unless an objection to that finding is contained in that party's written objections to the referee's report" (emphasis added). See 18 Ohio St.2d xxxv (1985)(Juv. R. 40(E)(6)); *State ex rel. Donah v. Windham Exempted Village Sch Dist. Bd. of Ed.*, 69 Ohio St.3d 114, 118 (1994) (confirming that the waiver rule of sentence one of the 1985 version of Civ. R. 53 applied only to findings of fact by referee). The wording of the waiver rule of sentence one of Juv. R. 40(E)(6) was modified slightly effective July 1, 1992. See 64 Ohio St.3d cxlv (1992); *In re McClure*, 1995 WL 423391, No. 7-95-2 (3d Dist. Ct. App., 7-19-95) (applying 1992 version of the waiver rule of sentence one of Juv. R. 40(E)(6)). The present waiver rule, which applies to both findings of fact and conclusions of law, took effect July 1, 1995, and represents a complete reversal of the position of the original Juv. R. 40. See *State ex rel. Booher v. Honda of America Mfg., Inc.*, 88 Ohio St. 3d 52 (2000) (confirming that the waiver rule of sentence four of Civ.R. 53(E)(3)(b), which is identical to the waiver rule of sentence four of Juv. R. 40(E)(3)(b), now applies to conclusions of law as well as to findings of fact by a magistrate).

The amendment thus makes three changes in Juv. R. 40(E), none of which are intended to modify the substantive scope or effect of the waiver rule contained in sentence four of former Juv.R. 40(E)(3)(b) [now division (E)(3)(d)]. First, the amendment retains, but breaks into three appropriately-titled subdivisions, the four sentences which comprised former Juv. R. 40(E)(3)(b). Sentences two and three of former Juv.R. 40(E)(3)(b) are included in a new subdivision (c) entitled "Objections to magistrate's findings of fact." Sentence four of former Juv. R. 40(E)(3)(b), which prescribes the waiver rule, is a new subdivision (d) entitled "Waiver of right to assign adoption by court as error on appeal."

Second, new language is inserted at the beginning of Juv. R. 40(E)(3)(a) to make it more evident that a party may properly file timely objections to a magistrate's decision even if the trial court has previously adopted that decision as permitted by Juv. R. 40(E)(4)(c).

Third, the amendment adds a new sentence to Juv. R. 40(E)(2), which sentence requires that a magistrate who files a decision which includes findings of fact and conclusions of law also provide a conspicuous warning that timely and specific objection as required by Juv. R. 40(E)(3) is necessary to assign as error on appeal adoption by the trial court of any finding of fact or conclusion of law. It is ordinarily assumed that rule language which prescribes a procedural requirement (see, e.g., sentence six of Civ. R. 51(A), which is analogous to the waiver rule of sentence four of Juv. R. 40(E)(3)) constitutes sufficient notice to counsel and to *pro se* litigants of that requirement. The Committee nonetheless concluded that the additional provision requiring that a magistrate's decision that includes findings of fact and conclusions of law call attention of counsel and *pro se* litigants to the waiver rule is justified because, as noted above, the original version of Juv. R. 40 imposed no waiver at all and even the 1985 and 1992 versions imposed waiver only as to findings of fact by referees.

Staff Note (July 1, 2001 Amendment)

Juvenile Rule 40 Magistrates
Juvenile Rule 40(C) Reference and powers

Divisions (C)(1)(a)(i), (ii), and (iii) were amended to reflect that certain proceedings involving serious youthful offenders shall not be referred to a magistrate, i.e., the hearing on a motion to determine if there is probable cause to prosecute the child as a serious youthful offender, and the adjudication itself, whether to a jury or not. These restrictions recognize the seriousness of the charges and their determination, and are consistent with the restrictions upon the use of magistrates within the Criminal Rules.

Substitute Senate Bill 179, effective January 1, 2002, created the new category of serious youthful offender. Juv. R. 2(KK) was added effective July 1, 2001, defining serious youthful offender as "a child eligible for sentencing as described in sections 2152.11 and 2152.13 of the Revised Code."

RULE 41. Taking Testimony

At trial or hearing, the witnesses' testimony shall be taken in open court unless a statute, the Rules of Evidence, these rules, or other rules adopted by the Supreme Court provide otherwise. In all juvenile matters, except adjudicatory hearings in delinquency, unruly, and juvenile traffic cases and adult criminal trials, the juvenile court, with appropriate safeguards, may permit testimony in open court by contemporaneous transmission from a different location either with the agreement of the parties or for good cause shown.

[Effective: July 1, 2015]

RULE 42. Consent to Marry

(A) Application where parental consent not required. When a minor desires to contract matrimony and has no parent, guardian, or custodian whose consent to the marriage is required by law, the minor shall file an application under oath in the county where the female resides requesting that the judge of the juvenile court give consent and approbation in the probate court for such marriage.

(B) Contents of application. The application required by division (A) of this rule shall contain all of the following:

(1) The name and address of the person for whom consent is sought;

(2) The age of the person for whom consent is sought;

(3) The reason why consent of a parent is not required;

(4) The name and address, if known, of the parent, where the minor alleges that parental consent is unnecessary because the parent has neglected or abandoned the child for at least one year immediately preceding the application.

(C) Application where female pregnant or delivered of child born out of wedlock. Where a female is pregnant or delivered of a child born out of wedlock and the parents of such child seek to marry even though one or both of them is under the minimum age prescribed by law for persons who may contract marriage, such persons shall file an application under oath in the county where the female resides requesting that the judge of the juvenile court give consent in the probate court to such marriage.

(D) Contents of application. The application required by subdivision (C) shall contain:

(1) The name and address of the person or persons for whom consent is sought;

(2) The age of such person;

(3) An indication of whether the female is pregnant or has already been delivered;

(4) An indication of whether or not any applicant under eighteen years of age is already a ward of the court; and

(5) Any other facts which may assist the court in determining whether to consent to such marriage.

If pregnancy is asserted, a certificate from a physician verifying pregnancy shall be attached to the application. If an illegitimate child has been delivered, the birth certificate of such child shall be attached.

The consent to the granting of the application by each parent whose consent to the marriage is required by law shall be indorsed on the application.

(E) Investigation. Upon receipt of an application under subdivision (C), the court shall set a date and time for hearing thereon at its earliest convenience and shall direct that an inquiry be made as to the circumstances surrounding the applicants.

(F) Notice. If neglect or abandonment is alleged in an application under subdivision (A) and the address of the parent is known, the court shall cause notice of the date and time of hearing to be served upon such parent.

(G) Judgment. If the court finds that the allegations stated in the application are true, and that the granting of the application is in the best interest of the applicants, the court shall grant the consent and shall make the applicant referred to in subdivision (C) a ward of the court.

(H) Certified copy. A certified copy of the judgment entry shall be transmitted to the probate court.

[Effective: July 1, 1972; amended effective July 1, 1980; July 1, 1994.]

RULE 43. Reference to Ohio Revised Code

A reference in these rules to a section of the Revised Code shall mean the section as amended from time to time including the enactment of additional sections, the numbers of which are subsequent to the section referred to in the rules.

[Effective: July 1, 1994.]

RULE 44. Jurisdiction Unaffected

These rules shall not be construed to extend or limit the jurisdiction of the juvenile court.

[Effective: July 1, 1972.]

RULE 45. Rules by Juvenile Courts; Procedure Not Otherwise Specified

(A) Local rules. The juvenile court may adopt rules concerning local practice that are not inconsistent with these rules. Local rules shall be adopted only after the court gives appropriate notice and an opportunity for comment. If the court determines that there is an immediate need for a rule, the court may adopt the rule without prior notice and opportunity for comment but promptly shall afford notice and opportunity for comment. Local rules shall be filed with the Supreme Court.

(B) Procedure not otherwise specified. If no procedure is specifically prescribed by these rules or local rule, the court shall proceed in any lawful manner not inconsistent with these rules or local rule.

[Effective: July 1, 1972; amended effective July 1, 1994.]

RULE 46. Forms

The forms contained in the Appendix of Forms which the Supreme Court from time to time may approve are sufficient under these rules and shall be accepted for filing by courts of this state. Forms adopted by local courts that are substantially similar to the forms in the Appendix of Forms may also be accepted for filing. The forms in the Appendix of Forms are intended to indicate the simplicity and brevity of statement which these rules contemplate.

[Effective: July 1, 1972; amended effective July 1, 2011.]

RULE 47. Effective Date

(A) Effective date of rules. These rules shall take effect on first day of July, 1972. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending except to the extent that their application in a particular action pending when the rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

(B) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on January 12, 1973, shall take effect on the first day of July, 1973. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application is a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(C) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on January 10, 1975, and on April 29, 1975, shall take effect on July 1, 1975. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(D) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on January 9, 1976 shall take effect on July 1, 1976. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(E) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on January 14, 1980, shall take effect on July 1, 1980. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(F) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on December 24, 1984 and January 8, 1985 shall take effect on July 1, 1985. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(G) Effective date of amendments. The amendments submitted by the Supreme Court to the General Assembly on January 10, 1991 shall take effect on July 1, 1991. They

govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(H) Effective date of amendments. The amendments filed by the Supreme Court with the General Assembly on January 14, 1992 and further filed on April 30, 1992, shall take effect on July 1, 1992. They govern all proceedings in actions brought after they take effect and also all future proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(I) Effective date of amendments. The amendments filed by the Supreme Court with the General Assembly on January 14, 1994 and further revised and filed on April 29, 1994 shall take effect on July 1, 1994. They govern all proceedings in actions brought after they take effect and also all future proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(J) Effective Date of Amendments. The amendments to Rules 1, 4, and 40 filed by the Supreme Court with the General Assembly on January 11, 1995 and further revised and filed on April 25, 1995 shall take effect on July 1, 1995. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(K) Effective Date of Amendments. The amendments to Rules 6, 8, 13, 27, 34, 36, and 37 filed by the Supreme Court with the General Assembly on January 5, 1996 and refiled on April 26, 1996 shall take effect on July 1, 1996. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(L) Effective date of amendments. The amendments to Rule 30 filed by the Supreme Court with the General Assembly on January 10, 1997 and refiled on April 24, 1997 shall take effect on July 1, 1997. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(M) Effective date of amendments. The amendments to Rules 2, 4, 10, 11, 15, 16, 29, 39, and 40 filed by the Supreme Court with the General Assembly on January 15, 1998 and further revised and refiled on April 30, 1998 shall take effect on July 1, 1998. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the

amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(N) Effective date of amendments. The amendments to Juvenile Rules 2, 7, 8, 10, 15, 22, 27, 29, 37, and 40 filed by the Supreme Court with the General Assembly on January 12, 2001, and revised and refiled on April 26, 2001, shall take effect on July 1, 2001. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(O) Effective date of amendments. The amendments to Juvenile Rules 2, 10, 15, and 34 filed by the Supreme Court with the General Assembly on January 11, 2002, and refiled on April 18, 2002 shall take effect on July 1, 2002. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(P) Effective date of amendments. The amendments to Juvenile Rule 40 filed by the Supreme Court with the General Assembly on January 9, 2003 and refiled on April 28, 2003, shall take effect on July 1, 2003. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(Q) Effective date of amendments. The amendments to Juvenile Rule 29 filed by the Supreme Court with the General Assembly on January 7, 2004 and refiled on April 28, 2004 shall take effect on July 1, 2004. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(R) Effective date of amendments. The amendments to Juvenile Rule 40 filed by the Supreme Court with the General Assembly on January 12, 2006 shall take effect on July 1, 2006. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(S) Effective date of amendments. The amendments to Juvenile Rule 25 filed by the Supreme Court with the General Assembly on January 14, 2009 and revised and refiled on April 30, 2009 shall take effect on July 1, 2009. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(T) Effective date of amendments. The amendments to Juvenile Rules 40 and 46 filed by the Supreme Court with the General Assembly on January 5, 2011 and refiled on April 21, 2011 shall take effect on July 1, 2011. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(U) Effective date of amendments. The amendments to Juvenile Rules 3, 5, 22, and 47 filed by the Supreme Court with the General Assembly on January 13, 2012 and revised and refiled on April 30, 2012 shall take effect on July 1, 2012. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(V) Effective date of amendments. The amendments to Juvenile Rules 16 and 47 filed by the Supreme Court with the General Assembly on January 15, 2013 and revised and refiled on April 29, 2013 shall take effect on July 1, 2013. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(W) Effective date of amendments. The amendments to Juvenile Rules 40 and 47 filed by the Supreme Court with the General Assembly on January 15, 2014 and refiled on April 30, 2014 shall take effect on July 1, 2014. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(X) Effective date of amendments. The amendments to Juvenile Rules 41 and 47 filed by the Supreme Court with the General Assembly on January 15, 2015 and refiled on April 30, 2015 shall take effect on July 1, 2015. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(Y) Effective date of amendments. The amendments to Juvenile Rules 20 and 47 filed by the Supreme Court with the General Assembly on January 13, 2016 and refiled on April 29, 2016 shall take effect on July 1, 2016. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

(Z) Effective date of amendments. The amendments to Juvenile Rule 34 filed by the Supreme Court with the General Assembly on January 9, 2018 and refiled on April 24, 2018 shall take effect on July 1, 2018. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that their application in a particular action pending when the amendments take effect would not be feasible or would work injustice, in which event the former procedure applies.

RULE 48. Title

These rules shall be known as the Ohio Rules of Juvenile Procedure and may be cited as "Juvenile Rules" or "Juv. R. ___."

[Effective: July 1, 1972.]