

**PROPOSED AMENDMENTS TO THE RULES OF SUPERINTENDENCE
FOR THE COURTS OF OHIO**

Comments Requested: The Supreme Court of Ohio will accept public comments until May 16, 2016, on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

Comments on the proposed amendments should be submitted in writing to: Tasha Ruth, Manager of Case Management Section, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215-3431, or Tasha.Ruth@sc.ohio.gov not later than May 16, 2016. Please include your full name and mailing address in any comments submitted by e-mail.

Key to Proposed Amendment:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

1 **RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

2
3 **RULE 39. Case Time ~~Limits~~ Standards.**

4
5 **(A) ~~Appellate and civil case limits~~. The**

6
7 Except as provided in Sup.R. 39.01, the time ~~limits~~ standards for disposition of appellate
8 and civil cases shall be as indicated on the Supreme Court report forms set forth in
9 Appendix K to this rule.

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11
12 **(B) RULE 39.01. Additional Criminal case time limits and Delinquency Case Time**
13 **Standards. (1)**

14
15 **(A) Speedy trial**

16
17 ~~In common pleas court, all criminal and delinquent cases, a judge shall be tried within six~~
18 ~~months of the date of arraignment on an indictment or information. In municipal and county~~
19 ~~court, all criminal cases shall be tried within~~ comply with the case time provided in
20 standards of R.C. Chapter 2945. of the Revised Code. Whenever a hearing or trial time is
21 extended or shortened pursuant to section R.C. 2945.72 of the Revised Code or Criminal
22 Rule Crim.R. 5 or 45, the judge shall state the reason for the change in an order and
23 journalize the order.

24
25 ~~(2)~~

26 **(B) Warrant or capias**

27
28 In the event an accused fails to appear for a hearing or trial and a warrant or capias is issued
29 for the arrest of the accused, the time for disposition shall be tolled on the date the warrant
30 or capias is issued. Upon return of the accused to the jurisdiction on the warrant or capias,
31 the time standard shall be amended as follows:

32
33 (1) For a failure to appear for a preliminary hearing, the preliminary hearing
34 shall be held within sixty days of the return of the accused to the jurisdiction;

35
36 (2) In all other instances, the case shall be disposed of within one hundred and
37 eighty days of the return of the accused to the jurisdiction or the time period as set
38 forth in Sup.R. 39, whichever is later.

39
40 **(C) Grand jury proceedings.—When**

41
42 (1) Although criminal cases are not reported as filed on “Common Pleas Form A” until
43 the accused is arraigned on an indictment or information, the responsibility of the court of
44 common pleas for the processing of the case begins upon receipt of the papers in the case
45 pursuant to Crim.R. 5 (B)(7).

46 (2) When an accused has been bound over to a grand jury and no final action is taken
47 by the grand jury within sixty days after the date of the bindover, ~~the~~ a court or the
48 administrative judge of the court shall dismiss the charge without prejudice unless for good
49 cause shown the prosecuting attorney is granted a continuance for a definite period of time.
50

51 ~~(3)~~

52 **(D) Felony preliminary hearing.-A**

53
54 A preliminary hearing in a felony case shall be held within ~~one month~~ sixty days of the
55 date of arrest or the date of issuance of the summons.
56

57 ~~(4)~~

58 **(E) Sentencing.-Provided**

59
60 Whenever practical and provided the defendant in a criminal case is available, ~~the~~ a court
61 ~~shall~~ should hold a sentencing hearing with all parties present within fifteen days of the
62 verdict or finding of guilt or within fifteen days of the receipt of a completed pre-sentence
63 investigation report and all other information requested by the court for sentencing,
64 whichever occurs later. ~~Any failure to meet this time standard shall be reported to the~~
65 ~~administrative judge, who shall take the necessary corrective action. In a single judge~~
66 ~~division, the failure shall be reported by the judge to the Case Management Section, which~~
67 ~~shall refer the matter to the Chief Justice of the Supreme Court for corrective action.~~
68

69 ~~(5)~~

70 **(F) Post-conviction relief petitions; death penalty cases.**

71
72 (1) All post-conviction relief petitions filed in death penalty cases shall be ruled upon
73 within one hundred eighty days ~~of~~ after the date of filing or the date of disposition of the
74 direct appeal by the Supreme Court, whichever is later.
75

76 (2) In any month where a post-conviction relief petition in a death penalty case is filed,
77 pending, or terminated, the ~~administrative~~ assigned judge shall submit ~~the~~ a "Post-
78 Conviction Relief Petition Report" detailing the status of the petition.
79

80 ~~(C)~~

81
82
83 **RULE 39.02. Calculation of Time.**

84
85 For purposes of compliance with the time standards of Sup.R. 39 and 39.01, the calculation
86 of time for a case shall begin as follows:
87

88 (1) In all misdemeanor cases, including traffic cases, upon arraignment or
89 waiver of arraignment;
90

91 (2) In a felony case in a municipal or county court pending a preliminary
92 hearing, when the warrant or summons in lieu of a warrant is issued;

93
94 (3) In a felony case in a general division of a court of common pleas in which
95 the defendant has been indicted or where the indictment has been waived, upon
96 arraignment or waiver of arraignment;

97
98 (4) In a delinquency, traffic, or adult case in a juvenile division of a court of
99 common pleas, upon arraignment or waiver of arraignment;

100
101 (5) In civil cases, upon the filing of the complaint or other initial pleading with
102 the clerk of court.

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105 **RULE 39.03.** **Tolling of Time.**

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107 **(A)** **Reasons for tolling of time**

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109 A court may toll the time for disposition of a case only for the reasons provided in the
110 statistical reporting instructions prescribed by the Case Management Section of the
111 Supreme Court pursuant to Sup.R. 35(E).

112
113 **(B)** **Journal entry**

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115 A court tolling the time for disposition of a case pursuant to division (A) of this rule shall
116 state in a journal entry the basis for tolling the time.

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119 **RULE 39.04.** **Monitoring by Administrative Judge.**

120
121 Pursuant to the administrative judge's responsibilities for the management of a court's docket
122 under Sup.R. 4.01, an administrative judge of a court should monitor compliance with the time
123 standards of Sup.R. 39 and 39.01 and the reason for any failure to comply.

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126 **RULE 39.05.** **Reporting of Delay.** ~~Any failure to comply with the time limits specified in~~
127 ~~this rule, and the reason for the failure, shall be reported immediately~~

128
129 **(A)** **Single case delay**

130
131 If any pending case reaches an age that exceeds one and one-half times the applicable time
132 standard of Sup.R. 39 or 39.01, the assigned judge shall report the case and cause for the
133 delay to the administrative judge, ~~who shall take the necessary corrective action.~~ In a
134 single-judge court or division, ~~the failure shall be reported by the judge shall report the~~
135 case and cause for the delay to the Case Management Section. ~~The Case Management~~
136 Section of the Supreme Court, which shall report the delay to the Chief Justice, ~~who may~~

137 ~~take such action as may be necessary to cause the delinquent case to be tried forthwith of~~
138 ~~the Supreme Court.~~

139
140 **(B) Aggregate case delay**

141
142 Excluding the time in which a case is tolled pursuant to Sup.R. 39.03, for any period in
143 which more than ten percent of an assigned judge's caseload within the following case
144 types or collection of case types has been pending for longer than the applicable time
145 standards of Sup.R. 39 and 39.01, the judge shall report each case and the cause for the
146 delay to the administrative judge or, in a single-judge court or division, to the Case
147 Management Section, which shall report the delay to the Chief Justice:

148
149 (1) For appellate courts:

150 (a) All criminal case types combined;

151 (b) Original actions;

152 (c) All other case types combined.

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157 (2) For the general division of a court of common pleas:

158 (a) Criminal cases;

159 (b) All civil case types combined.

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163 (3) For domestic relations cases:

164 (a) Marriage terminations and dissolutions combined;

165 (b) Domestic violence;

166 (c) All other case types combined.

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170 (4) For juvenile cases:

171 (a) Delinquent and unruly combined;

172 (b) Traffic;

173 (c) Abuse, neglect, dependency, and motions for permanent custody
174 combined;

175 (d) All other case types combined.
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233 The dismissal contemplated by division (B)(2) is not a dismissal with prejudice.
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235 Crim.R. 5(B)(1) provides time guidelines for preliminary hearings only. Crim.R. 5(A)(2) and 5(B)(1)
236 each contain provisions pertaining to the extension of preliminary hearing time limits. Crim.R. 45(A) explains
237 the method to be used in computing time. Crim.R. 45(B) provides for the enlargement or reduction of time
238 provisions.
239

240 Division (B)(1) provides for the journalization of all actions taken pursuant to section 2945.72 of the
241 Revised Code, Crim.R. 5(A)(2), 5(B)(1) or 45(B), which either extend or shorten the time periods provided
242 in section 2945.71 of the Revised Code or Crim.R. 5. The journal entry must include the fact of the extension
243 or shortening of time and a statement of the reasons therefor to provide a record should any question arise
244 concerning compliance with section 2945.71 of the Revised Code.
245

246 **Rule ~~39(B)(4)~~ 39.01(E) Sentencing**

247
248 If the defendant is available, the court must take action within fifteen days of the verdict or finding
249 of guilty or within fifteen days of the receipt of a completed presentence investigation report. This action
250 may be to impose sentence, to place on probation, or to hold a hearing on the report.
251

252 Although R.C. 2945.71 is satisfied if the accused is brought to trial within the appropriate period
253 from arrest, the Form A report keys termination to the sentencing or granting of probation. Thus, the six
254 month guidelines contained on the report form includes any period of time between the commencement of
255 trial and the imposition of sentence.
256

257 Failure to meet the time standard of this section must be reported to the administrative judge for
258 corrective action. In a single judge division, any failure is to be reported to the Case Management Section.
259

260 The fifteen day time limit of division (B)(4) of this rule should not be confused with the requirement
261 of Sup.R. 7 that the journal entry be made within thirty days of the judgment.
262

263 **Rule ~~39(B)(5)~~ 39.01(F) Post-conviction relief petitions; death penalty cases**

264
265 Prior to July 1997, no reporting requirements existed for post-conviction relief petitions, and these
266 petitions were treated as motions in previously terminated cases. In view of the public policies reflected by
267 the November 1994 constitutional amendment abolishing intermediate appeals in death penalty cases and
268 legislation affecting post-conviction relief actions (Am. Sub. S.B. 4 of the 121st General Assembly, effective
269 September 21, 1995), it is imperative that courts provide timely consideration of death penalty cases and
270 ensuing post-conviction relief petitions in those cases. To assist in the management of post-conviction relief
271 petitions in death penalty cases, division (B)(5) of this rule establishes a one hundred eighty day time
272 guideline for the disposition of these petitions and provides for the monthly reporting of the status of the
273 petitions. The one hundred eighty day time guideline is identical to the guideline contained in Rule 35 of the
274 Ohio Rules of Criminal Procedure, effective July 1, 1997.
275

276 Although the assigned judge is ultimately responsible for the termination of the case and is so
277 designated on the report form, the administrative judge is responsible for tracking and reporting the status
278 of these petitions.
279

280 **Rule ~~39(C)~~ 39.05 Reporting of delay**

281
282 The time limits imposed by this rule are for administrative purposes only. Failure to comply with
283 these time limits does not give rise to the sanctions imposed by R.C. 2945.71. However, failure to dispose
284 of cases within these times limits may result in the intervention of the administrative judge or the Chief
285 Justice.
286

287 The reports required by this rule should be submitted monthly to the administrative judge or the
288 Case Management Section. A case should be listed on this report for each month during which it is
289 delinquent.

290
291 Although no specific form is prescribed for this report, it should contain, at a minimum, the style of
292 the case, the offense charged, the date of its filing, an explanation of the delay in disposition, and the date
293 on which it is anticipated that the case will be completed.

294
295 Failure to meet the time standard of this section must be reported to the administrative judge for
296 corrective action. In a single-judge division, any failure is to be reported to the Case Management Section.
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APPENDIX K

CASE TIME STANDARDS

Preamble

The following case time standards are the work of the Supreme Court Advisory Committee on Case Management. In the development of the case time standards, the Advisory Committee and its subcommittees reviewed national case time standards in conjunction with Ohio case disposition data. It also considered comments from Ohio’s judges, magistrates, court administrators, and clerks in the creation of the time standards outlined below.

The case time standards are intended to establish a reasonable set of expectations for the courts, for lawyers, and for the public. For the courts, the standards set forth achievable goals. For lawyers, the standards establish a time framework within which to conduct their fact-gathering, preparation, and advocacy activities. For members of the public, standards define what can be expected of their courts, if the courts are provided adequate resources and funding.

Consistent reporting, over a number of years, of greater than ten percent of a judge’s cases pending past these established time standards may indicate a systemic caseflow management issue. The Case Management Section of the Supreme Court of Ohio can provide caseflow management training and assistance to judges and courts that demonstrate such a need.

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Standard 1. Courts of Appeals.

<u>Case Type</u>	<u>Time Standard</u>
<u>Criminal Appeals from Common Pleas</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Criminal Appeals with Death Penalty</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Criminal Appeals from Municipal and County</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Original Actions</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Civil Appeals from Common Pleas</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Civil Appeals from Municipal and County</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Domestic Relations Appeals</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Probate Appeals</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Juvenile Appeals</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Administrative Appeals</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>
<u>Court of Claims</u>	<u>95% in 480 days</u> <u>75% in 320 days</u>

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Standard 2. Courts of Common Pleas, General Division.

<u>Case Type</u>	<u>Time Standard</u>
<u>Professional Tort</u>	<u>95% in 24 months</u> <u>75% in 18 months</u>
<u>Product Liability</u>	<u>95% in 24 months</u> <u>75% in 18 months</u>
<u>Other Torts</u>	<u>95% in 24 months</u> <u>75% in 18 months</u>
<u>Workers' Compensation</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Foreclosures</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Administrative Appeals</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Complex Litigation</u>	<u>95% in 36 months</u> <u>75% in 30 months</u>
<u>Other Civil</u>	<u>95% in 24 months</u> <u>75% in 18 months</u>
<u>Criminal</u>	<u>95% in 9 months</u> <u>75% in 6 months</u>

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Standard 3. Courts of Common Pleas, Domestic Relations Division.

<u>Case Type</u>	<u>Time Standard</u>
<u>Marriage Terminations with Children</u>	<u>95% in 18 months</u> <u>75% in 12 months</u>
<u>Marriage Terminations without Children</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Marriage Dissolutions with Children</u>	<u>95% in 3 months</u>
<u>Marriage Dissolutions without Children</u>	<u>95% in 3 months</u>
<u>Change of Custody</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Visitation Enforcement or Modification</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Support Enforcement or Modification</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Domestic Violence</u>	<u>95% in 3 months</u>
<u>U.I.F.S.A.</u>	<u>95% in 6 months</u>
<u>Parentage</u>	<u>95% in 9 months</u>
<u>All Others</u>	<u>95% in 9 months</u>

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Standard 4. Courts of Common Pleas, Probate Division.

<u>Case Type</u>	<u>Time Standard</u>
<u>Decedents' Estates</u>	<u>95% in 18 months (with certain exceptions)</u>
<u>Guardianships of Minors</u>	<u>95% in 6 months (decision on application)</u>
<u>Guardianships of Incompetents</u>	<u>95% in 6 months (decision on application)</u>
<u>Conservatorships</u>	<u>95% in 6 months (decision on application)</u>
<u>Testamentary Trusts</u>	<u>95% in 6 months (decision on application)</u>
<u>Civil Actions</u>	<u>95% in 24 months</u>
<u>Adoptions</u>	<u>95% in 12 months</u>
<u>Mental Illness and Mental Retardation</u>	<u>95% in 6 months (decision on application)</u>
<u>Minors' Settlements</u>	<u>95% in 6 months</u>
<u>Wrongful Death</u>	<u>Not applicable (case type recommended for elimination)</u>
<u>Delayed Reg. of Birth and Correct. of Birth</u>	<u>95% in 6 months</u>
<u>Change of Name</u>	<u>95% in 6 months</u>

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Standard 5. Courts of Common Pleas, Juvenile Division.

<u>Case Type</u>	<u>Time Standard</u>
<u>Delinquency</u>	<u>95% in 6 months</u> <u>75% in 5 months</u>
<u>Traffic</u>	<u>95% in 3 months</u>
<u>Abuse, Neglect, and Dependency</u>	<u>95% in 3 months</u>
<u>Unruly</u>	<u>95% in 6 months</u> <u>75% in 5 months</u>
<u>Adult Cases</u>	<u>95% in 6 months</u> <u>75% in 5 months</u>
<u>Motion for Permanent Custody</u>	<u>95% in 9 months</u> <u>75% in 6 months</u>
<u>Custody, Change of Custody, and Visitation</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Support Enforcement or Modification</u>	<u>95% in 12 months</u> <u>75% in 9 months</u>
<u>Parentage</u>	<u>95% in 9 months</u>
<u>U.I.F.S.A.</u>	<u>95% in 6 months</u>
<u>All Others</u>	<u>95% in 3 months</u>

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Standard 6. Municipal and County Courts.

<u>Case Type</u>	<u>Time Standard</u>
<u>Felonies</u>	<u>95% in 2 months</u>
<u>Misdemeanors</u>	<u>95% in 6 months</u>
<u>Operating a Vehicle While Under the Influence (O.V.I.)</u>	<u>95% in 6 months</u>
<u>Other Traffic</u>	<u>95% in 6 months</u>
<u>Personal Injury and Property Damage</u>	<u>95% in 24 months</u>
<u>Contracts</u>	<u>95% in 12 months</u>
<u>Forcible Entry and Detainer (F.E.D.)</u>	<u>95% in 12 months</u>
<u>Other Civil</u>	<u>95% in 12 months</u>
<u>Small Claims</u>	<u>95% in 6 months</u>

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