



THE SUPREME COURT *of* OHIO

# DESKTOP GUIDE *for* JUVENILE COURT CLERKS





# THE SUPREME COURT *of* OHIO

## GUIDE FOR JUVENILE COURT CLERKS



**MAUREEN O'CONNOR**

CHIEF JUSTICE

**TERRENCE O'DONNELL**

**SHARON L. KENNEDY**

**JUDITH L. FRENCH**

**PATRICK F. FISCHER**

**R. PATRICK DEWINE**

**MARY DEGENARO**

JUSTICES

**MICHAEL L. BUENGER**

ADMINISTRATIVE DIRECTOR

**STEPHANIE E. HESS**

DEPUTY ADMINISTRATIVE DIRECTOR

## OFFICE OF COURT SERVICES

**STEPHANIE GRAUBNER NELSON**

DIRECTOR OF COURT SERVICES

### CASE MANAGEMENT SECTION

**TASHA RUTH**

MANAGER

**ASHLEY GILBERT**

POLICY COUNSEL

**COLLEEN ROSSHIRT**

POLICY COUNSEL

**CHRISTINE BRATTON**

PROGRAM COORDINATOR

### CHILDREN & FAMILIES SECTION

**STEPHANIE GRAUBNER NELSON**

MANAGER

**LUCY CHANDLER**

POLICY COUNSEL

**DIANA RAMOS-REARDON**

POLICY COUNSEL

**VERONICA BURROUGHS**

COURT IMPROVEMENT PROGRAM ANALYST

**PATRICIA LATHAM**

PROGRAM ASSISTANT

## TABLE OF CONTENTS

Section	Page Number
<a href="#">Introduction</a> .....	1
<a href="#">Acknowledgements</a> .....	2
<a href="#">Common Pleas Courts Divisional Configurations</a> .....	5
I. <a href="#">Establishment of Juvenile Courts and the Role of the Clerk</a> .....	7
II. <a href="#">Assignment of Visiting Judges</a> .....	9
III. <a href="#">Magistrates</a> .....	11
IV. <a href="#">New Judge Requirements</a> .....	15
V. <a href="#">Employees, Compensation &amp; Bond</a> .....	21
VI. <a href="#">Fiscal Management</a> .....	23
VII. <a href="#">Fines and Costs</a> .....	29
<a href="#">Commonly Applied Court Costs Table</a> .....	32
VIII. <a href="#">Bonds</a> .....	37
IX. <a href="#">Language Services</a> .....	41
X. <a href="#">Access to Records</a> .....	47
XI. <a href="#">Record Retention</a> .....	49
XII. <a href="#">Reports</a> .....	53
<a href="#">Report Quick Guide Table</a> .....	60
XIII. <a href="#">Data Entry and Assignment of Case Numbers</a> .....	61
XIV. <a href="#">Complaints</a> .....	63
XV. <a href="#">Motions</a> .....	65
XVI. <a href="#">Hearings: Type and Time Guidelines</a> .....	67
XVII. <a href="#">Computation of Time</a> .....	73
XVIII. <a href="#">Controlling the Docket</a> .....	75
XIX. <a href="#">Service</a> .....	79
XX. <a href="#">Subpoenas</a> .....	85
XXI. <a href="#">Court Appointments</a> .....	89
<a href="#">Attorney Qualifications for County Reimbursement</a>	
<a href="#">Juvenile Appeals Table</a> .....	96
XXII. <a href="#">Self-Represented Litigants</a> .....	99
XXIII. <a href="#">Jury Trials</a> .....	105
XXIV. <a href="#">Exhibits/Evidence &amp; Recording of Proceedings</a> .....	109
XXV. <a href="#">Entries and Orders</a> .....	113
XXVI. <a href="#">Delinquency and Unruly Cases</a> .....	115
XXVII. <a href="#">Bindover/Transfer/Waiver or Relinquishment of Jurisdiction Proceeding</a>	121
XXVIII. <a href="#">Traffic Cases</a> .....	125
XXIX. <a href="#">Abuse/Neglect/Dependency (AND) Cases</a> .....	131

## TABLE OF CONTENTS - *cont.*

<b>Section</b>	<b>Page Number</b>
XXX. <a href="#">Grandparent Power of Attorney/Caretaker Authorization Affidavit</a> .....	141
XXXI. <a href="#">Voluntary Surrender of Custody Actions</a> .....	145
XXXII. <a href="#">Sex Offender Registration and Notification</a> .....	147
XXXIII. <a href="#">Tobacco Law Violations</a> .....	151
XXXIV. <a href="#">Abortion Consent: Unmarried Minors</a> .....	153
XXXV. <a href="#">Juvenile Civil Protection Order (JCPO)</a> .....	157
XXXVI. <a href="#">Consent to Marry Petition</a> .....	163
XXXVII. <a href="#">Sealing and Expunging Juvenile Records</a> .....	167
<a href="#">Example: Written Notice Regarding Sealing and Expungement of Records</a> .....	173
<a href="#">Attorney General Sealing &amp; Expungement Form for Police Departments, Sheriff's Offices &amp; Clerks of Courts</a> .....	174
XXXVIII. <a href="#">Appellate Procedures</a> .....	175
<a href="#">Appellate Timeline</a> .....	182
<a href="#">Court of Appeals Appellate Districts Map</a> .....	183
XXXIX. <a href="#">Public Access to Court Proceedings</a> .....	185
<b>APPENDICES</b>	
A. <a href="#">Supreme Court of Ohio Website Resources</a> .....	189
B. <a href="#">Recommended Caseflow and Operations Management Reports</a> .....	197
C. <a href="#">Useful Websites</a> .....	201

## INTRODUCTION

### General Overview

This manual provides a general overview of the state laws, rules, and practices that apply to juvenile courts. This manual was created with the input and review of clerks and judicial officers across the state. Although courts will have the final discretion, this manual can help juvenile clerks implement best practices and procedures that will impact the court's caseflow and timeliness.

### Additional Resources

Clerks also can find additional educational opportunities provided free of charge through the Supreme Court of Ohio's Judicial College. Brochures on upcoming educational sessions are regularly distributed to courts; the course schedule can be accessed on the Supreme Court of Ohio's website under "Judicial College." [sc.ohio.gov/Boards/judCollege/default.aspx](http://sc.ohio.gov/Boards/judCollege/default.aspx)

The Supreme Court of Ohio also hosts a roundtable for clerks. The Clerks' Roundtable provides an opportunity for clerks to come together to share ideas, concerns, and triumphs. The meeting is facilitated by Supreme Court staff, but the topics are determined by the members of the roundtable. Clerks from all juvenile courts are able to become roundtable members. The schedule for the roundtables can be found on the [website](http://sc.ohio.gov/JCS/courtSvcs/default.asp) under the "Office of Court Services." [sc.ohio.gov/JCS/courtSvcs/default.asp](http://sc.ohio.gov/JCS/courtSvcs/default.asp)

Additionally, clerks can take advantage of conferences and networking opportunities through the Juvenile Clerks Association.

### Helpful Tips for Using this Manual

- Review your court's local rules for further details or practices used in your court.
- Each section has links to the legal and/or resource references used to describe the practices. Click on the links to get further information.
- Citations are listed at the end of each section.
- Many sections have sample forms or charts which provide examples that can be implemented in local courts. Be sure to consult your judge prior to implementing any forms or procedures found in this manual.
- This manual is not meant to be read from beginning to end. It is meant as a useful guide for a new clerk trying to learn, seasoned clerks needing a refresher, and all court personnel in between.
- For the most recent copy of the manual, check the Supreme Court of Ohio's website. The manual will be maintained under the Children and Families Section "Publications & Resources" page. [sc.ohio.gov/JCS/CFC/resources/default.asp](http://sc.ohio.gov/JCS/CFC/resources/default.asp)
- This publication will be updated as new legislation is passed or rules are adopted. If you notice anything that needs to be updated, contact the Children and Families Section at [CFC@sc.ohio.gov](mailto:CFC@sc.ohio.gov).

## ACKNOWLEDGEMENTS

This guide was developed under the guidance and oversight of the [Supreme Court Advisory Committee on Children and Families](#). The Advisory Committee's duties include the promotion of statewide rules and uniform standards concerning the establishment and operation of programs for children and families in Ohio's courts, the development and delivery of services to Ohio courts on matters involving children and families, and the consideration of any other issues necessary to assist the Court and its staff regarding children and families in Ohio courts.

The Court wishes to extend special recognition and tremendous gratitude to court staff who contributed countless hours and dedicated their collective effort, experience, expertise, and energy to drafting this guide.

### **Writers:**

Kathy Lopez, Director of Administrative Services, Clark County Domestic Relations/Juvenile Court

Linda Brooks, Chief Deputy Clerk, Cuyahoga County Juvenile Court

Nicole Rodriguez, Chief Clerk, Miami County Probate/Juvenile Court

Donald Lomax, Chief Deputy Clerk, Summit County Juvenile Court

Kim Rosengarten, Chief Deputy Clerk, Shelby County Probate/Juvenile Court

Kimberly S. Yoli, Assistant Manager, Franklin County Clerk of Courts Juvenile Division, Franklin County Domestic Relations/Juvenile Court

Stacey Mathieu, Lead Deputy Clerk, Summit County Juvenile Court

Tiayra Matthews, Case Management Clerk, Cuyahoga County Juvenile Court

### **Editors:**

Richard White, Magistrate, Mahoning Juvenile Court

Amy H. Lewis, Magistrate, Greene County Juvenile Court

Frank Noble, Magistrate, Jefferson County Juvenile Court

Kari Childs, Magistrate, Delaware County Juvenile Court

Greg Scott, Magistrate, Montgomery County Juvenile Court

Je'Nine A. Nickerson, Magistrate, Cuyahoga County Juvenile Court

Jeralyn Goldberg-Mercer, Magistrate, Mahoning County Juvenile Court

John W. Menzies Jr., Magistrate, Cuyahoga County Juvenile Court

Tom Freeman, Magistrate, Summit County Juvenile Court

Lisa Louy, Magistrate, Medina County Probate/Juvenile Court

Mark Miars, Magistrate, Clinton County Probate/Juvenile Court

Michelle Edgar, Magistrate, Fairfield County Probate/Juvenile Court

Susana Lewis, Magistrate, Medina County Probate/Juvenile Court



Leah Garrett, Clerk, Clark County Domestic Relations/Juvenile Court

Karen Captstick, Grant/Title IV-E Clerk, Ashtabula County Juvenile Court

Heather Eidenour, Chief Deputy Clerk, Sandusky County Probate/Juvenile Court

Renee Lovelien, Department Head, Clerical Services, Delaware County Probate/Juvenile Court

Berlin Carroll, Court Administrator, Allen County Probate/Juvenile Court

**Supreme Court Staff:**

Ashley Gilbert, Policy Counsel, Case Management Section

Veronica Burroughs, Court Improvement Program Analyst, Children and Families Section

Lucy Chandler, Policy Counsel, Children and Families Section

Colleen Rosshirt, Policy Counsel, Case Management Section

Stephanie Nelson, Director, Court Services

Comments or questions about this Desktop Guide should be directed to:

The Supreme Court of Ohio

Children and Families Section

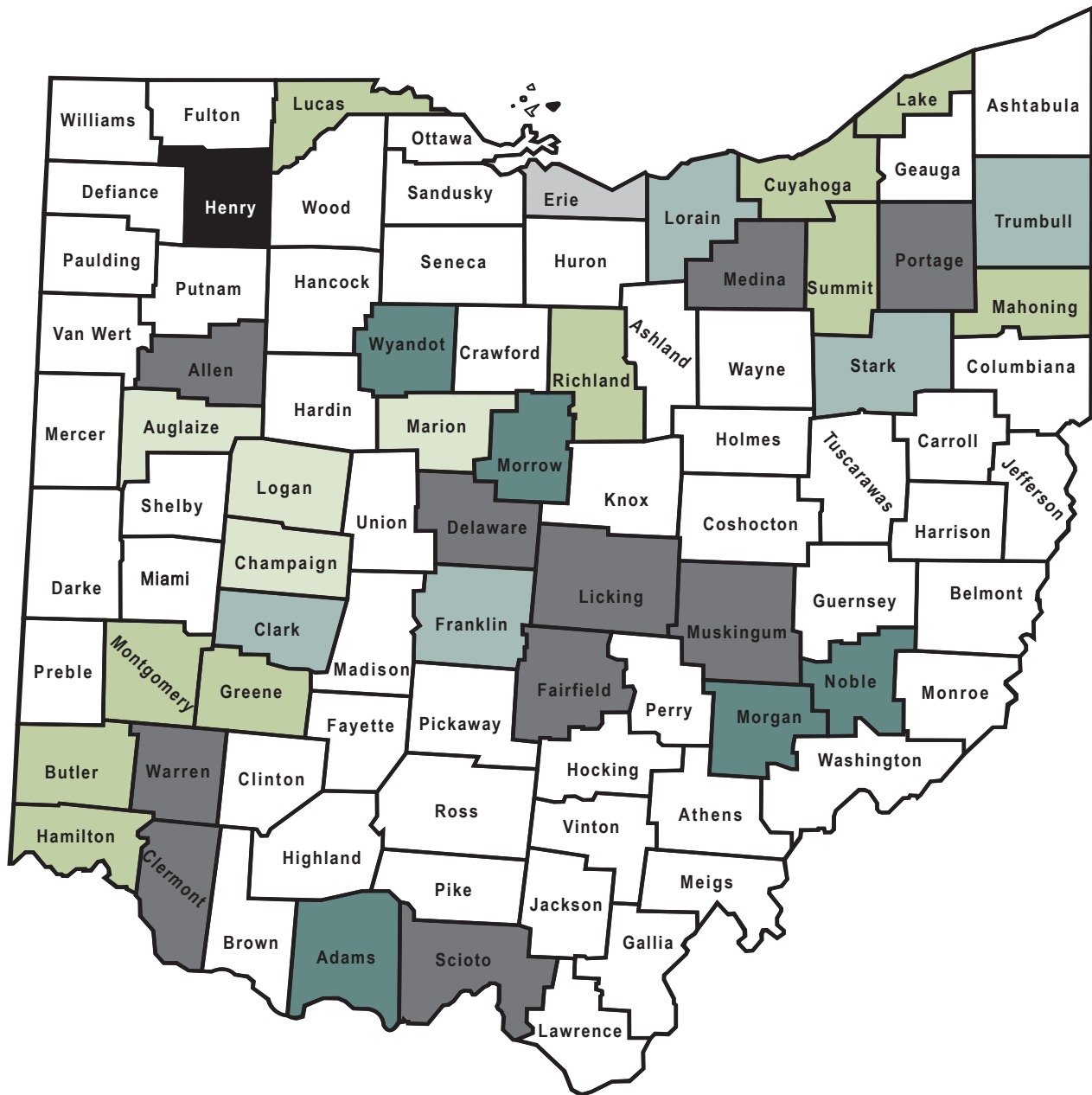
65 South Front Street

Columbus, Ohio 43215-3431

614.387.9400



## COMMON PLEAS COURTS DIVISIONAL CONFIGURATIONS



- All divisions combined (5)
- All division separate (10)
- Domestic relations & general combined; probate & juvenile combined (52)
- Probate & juvenile combined; domestic relations & general separate (10)
- Domestic relations & juvenile combined; general & probate separate (5)
- Domestic relations, probate & juvenile combined; general separate (4)
- Domestic relations & juvenile combined; general & probate combined (1)
- Domestic relations, general & probate combined; juvenile separate (1)



## I. ESTABLISHMENT OF JUVENILE COURTS AND THE ROLE OF THE CLERK

Prior to the introduction of juvenile courts, youth were tried and punished in the same manner as adults. Once sentenced to confinement, they were sent to the same institutions that housed adults, regardless of the severity of the crime. By the early 1800s, people began to realize that children did not belong in adult facilities. In 1899, the nation's first juvenile court was established in Cook County, Illinois. In 1902, Ohio's first juvenile court was established in Cuyahoga County, based upon the Cook County model. The juvenile model spread rapidly, and by 1925, all but two states had juvenile courts. The goal was rehabilitation and court supervision. Judges were given great discretion in handling cases, and could utilize services such as probation, treatment and confinement in institutions for youth (such as reform schools). By the mid-20th century, juvenile courts were given the authority to handle cases involving adults contributing to the delinquency and neglect of children.

In Ohio, the juvenile court is a court of record within the court of common pleas.<sup>1</sup> Depending upon the county, the juvenile court can be a separate division from or part of the family, probate, or domestic relations court. The juvenile court has jurisdiction over unruly and delinquent children; abused, neglected and dependent children; juvenile traffic offenders; minors seeking consent to marry or obtain an abortion bypass; and certain adult charges relating to the well-being of a child.<sup>2</sup> The juvenile court also may have jurisdiction over matters involving parentage, custody of children, child support, and visitation for unwed parents of children or married parents living separate and apart who have not yet filed for divorce or dissolution in a domestic relations court, mentally ill children, and orders of protection for children.

The judge of the juvenile court is directly responsible for the functioning of the court. In a few counties in Ohio, the judge has entered into an agreement with the clerk of the court of common pleas to keep the records of the juvenile court.<sup>3</sup> In the majority of counties however, the juvenile judge is his/her own clerk.

In most cases, the judge appoints ex officio a deputy clerk of courts to ensure that the administrative duties of the court system are carried out in a timely manner.

Clerks typically have a wide range of administrative duties that vary county to county, but can include:

- Filing documents;
- Managing the court docket;
- Maintaining records;
- Responding to requests for information;
- Receiving payments of fines, costs and restitution;
- Supervising the processing of fines and forfeitures;
- Disbursing funds;
- Processing required reports;

- Assisting the public in person and by phone;
- Processing motions and complaints;
- Serving parties for hearing; and
- Scheduling hearings with legal counsel.

This manual is designed to help clerks understand and carry out their duties and responsibilities in accordance with the rules and statutes that govern the juvenile court system in Ohio.

#### ENDNOTES

- 1 [R.C. 2151.07](#)
- 2 [R.C. 2151.23](#)
- 3 [R.C. 2151.12](#)

## II. ASSIGNMENT OF VISITING JUDGES

There are times when vacations; recusals due to conflicts, illnesses, and other emergencies; or overburdened dockets give rise to the need for a court to require the assignment of a visiting judge. Ohio law exclusively vests the chief justice of the Supreme Court with the authority to assign visiting judges.

### **When and how can a court request a visiting judge?**

In most situations before requesting a visiting judge, the local common pleas court should attempt to resolve the need for a visiting judge by first looking within its ranks. In multi-judge juvenile courts, the administrative judge has the authority under [Sup.R. 4.01](#) to cause the reassignment of cases to other judges of the division when assistance is needed. In addition, a common pleas court's presiding judge has the authority under [Sup.R. 3.01](#) to assign judges from one division into another. The chief justice has promulgated the [Guidelines for the Assignment of Judges](#), which contain detailed information concerning the standards and procedures governing the assignment of visiting judges. The guidelines can be found at [sc.ohio.gov/JCS/judicialAssignment/judgeAssignGuide.pdf](http://sc.ohio.gov/JCS/judicialAssignment/judgeAssignGuide.pdf).

Requests for visiting judges are to be made using the Supreme Court's online assignment request system, named *Igor*. More information on the chief justice's assigned-judge program, including instructions for using *Igor*, is at [sc.ohio.gov/JCS/judicialAssignment](http://sc.ohio.gov/JCS/judicialAssignment).

### **How does a court report the activity of a visiting judge on Form D?**

Form D's "Visiting Judge" column captures activity of visiting judges who have presided during the reporting period over cases originally assigned to the reporting judge. See the Supreme Court of Ohio [Statistical Reporting Instructions](#) for clarification on reporting the activity of visiting judges on Form D. These instructions can be found at [sc.ohio.gov/JCS/casemng/statisticalReporting/formDInstruct.pdf](http://sc.ohio.gov/JCS/casemng/statisticalReporting/formDInstruct.pdf).





### III. MAGISTRATES

#### General Overview<sup>1</sup>

The juvenile court may appoint one or more magistrates to preside over cases and assist in the administration of justice and case management. A court may refer a particular case or a category of cases to a magistrate. Additionally, a magistrate may determine motions and conduct trials, but may not preside over the determination or trial of a serious youthful offender.

#### What authority does a magistrate have?<sup>2</sup>

Magistrates are authorized 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:

- Determine any motion in any case (except a case involving the determination of a child's status as a serious youthful offender (SYO));
- Conduct the trial of any case that will not be tried to a jury (except the adjudication of a case against an alleged SYO);
- Issue subpoenas;
- Rule on the admissibility of evidence;
- Put witnesses under oath and examine them;
- Call the parties to the action and examine them under oath;
- Set bail;
- Impose sanctions for contempt committed in the presence of the magistrate; and
- Exercise any other authority vested in magistrates by statute.

#### Should proceedings before a magistrate be recorded?<sup>3</sup>

All proceedings before a magistrate shall be recorded in accordance with procedures established by the court.

#### What is the process when a magistrate oversees a case?<sup>4</sup>

The steps that potentially occur if a magistrate participates include:

- 1) Case is referred to the magistrate;
- 2) The magistrate issues orders and parties may file motions to set aside magistrate's orders;
- 3) The magistrate issues decisions and parties may file objections to magistrate's decisions; and
- 4) The court may take action on magistrate's decisions and on any objections to the magistrate's decisions. The court may issue a judgment entry or interim.

## Magistrate's Orders vs. Magistrate's Decisions

### What is the difference between a magistrate's order and a magistrate's decision?<sup>5</sup>

A magistrate's order generally relates to matters necessary to regulate proceedings such as continuances, discovery issues, temporary orders, pretrial motions, etc. 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.

A magistrate can issue a decision relating to such issues as the custody of a child or whether a juvenile is delinquent. However, a magistrate cannot render a final judgment in a case. To become an order of the court, a magistrate's decision must be adopted by a judge.

## Magistrate's Orders<sup>6</sup>

### When can a magistrate's order be effective without the approval of a judge?<sup>7</sup>

A magistrate may enter orders without the approval of the judge if the order is:

- Necessary to regulate the proceedings; and
- Not dispositive of a claim or defense of a party.

Any party may file a motion with the court to set aside a magistrate's order.

### What information is required in a magistrate's order?

A magistrate's order must 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.

### What issues can a magistrate's order cover?<sup>8</sup>

- Pretrial proceedings;
- Discovery proceedings;
- Appointment of an attorney or guardian ad litem;
- Taking a child into custody;
- Detention hearings;
- Temporary orders;
- Extension of temporary orders;
- Summons and warrants;
- Preliminary conferences;
- Continuances;
- Deposition orders;
- Orders for social histories, physical and mental examinations;
- Proceedings upon application for the issuance of a temporary protection order as authorized by law; and
- Other orders as necessary to regulate proceedings.

## Magistrate's Decisions<sup>9</sup>

### What happens after a magistrate issues a magistrate's decision?

A magistrate's decision is not effective unless adopted by the judge. A judge may adopt or reject a magistrate's decision in whole or in part, with or without modification. A judge also may hear a previously-referred matter, take additional evidence, or return a matter to a magistrate.

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.

### What entries are filed after a judge reviews a magistrate's decision?

A court that adopts, rejects, or modifies a magistrate's decision also must enter a judgment or interim order. A party may file written objections to a magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision. The judge may enter a judgment either during or after the 14-day period.

### What information is required in a magistrate's decision?

A magistrate's decision must 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 3 days after the decision is filed.

### Why is timely service of a magistrate's order or decision so important?<sup>10</sup>

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 must be allowed upon good cause shown. "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.

### Are there any registration requirements for magistrates?<sup>11</sup>

Magistrates must register annually with the Office of Attorney Services of the Supreme Court by filing a certificate with the office. A separate registration should be completed for each court appointment. The [registration form](http://sc.ohio.gov/AttySvcs/CLE/forms/Magistrate.pdf) can be found at [sc.ohio.gov/AttySvcs/CLE/forms/Magistrate.pdf](http://sc.ohio.gov/AttySvcs/CLE/forms/Magistrate.pdf).

### **Notification<sup>12</sup>**

The administrative judge must notify the [Office of Attorney Services](#) within 30 days of the magistrate's appointment or termination from the court.

### **Oath of Office<sup>13</sup>**

Magistrates must take an oath of office, administered by the administrative judge of the court, within 30 days of appointment. A certificate of oath, signed by the magistrate and administrative judge, must be filed with the clerk of the court in which the magistrate works.

For Supreme Court reporting purposes, cases that are terminated as a result of a trial by magistrate should be reported under "Trial by Magistrate" - Line 6, on Form D.

Cases that are terminated as a result of an uncontested hearing conducted by a magistrate should be reported under "Admission to Magistrate" - Line 9, on Form D.

ENDNOTES

- 1 [Juv.R. 40\(A\) & \(D\)](#)
- 2 [Juv.R. 40\(C\)](#)
- 3 [Juv.R. 40\(D\)\(7\)](#)
- 4 [Juv.R. 40\(D\)\(1\) - \(4\)](#)
- 5 [Juv.R. 40\(D\)\(2\)\(a\)\(i\)](#)
- 6 [Juv.R. 40\(D\)](#)
- 7 [Juv.R. 40\(D\)](#)
- 8 [Juv.R. 40\(D\)\(2\)\(a\)\(iii\)](#)
- 9 [Juv.R. 40\(D\)](#)
- 10 [Juv. R. 40\(D\)\(5\)](#)
- 11 [Sup.R. 19\(C\)](#)
- 12 [Sup.R. 19\(B\); Sup.R. 4.01](#)
- 13 [Sup.R. 19\(D\)](#)

## IV. NEW JUDGE REQUIREMENTS

### General Overview

When a new judge is elected or appointed, there are several things the court will need to do while transitioning to new leadership. Below is a list of requirements for each new juvenile court judge to be aware of, as well as rules and administrative tasks for clerks to keep in mind as the court transitions. This list is *not* exhaustive.

#### Is a new judge required to attend any training and education?

Any juvenile court judge, elected or appointed, must attend a four-part Judicial Orientation Program during the judge's first year on the bench, provided by the Supreme Court of Ohio [Judicial College](#).

- The first part of this program takes place in December, after the November election, but before the judge takes the bench.
- The second part of this orientation program occurs in the spring of the next year, after the judge has commenced official duties.
- The third part of the orientation includes participation in a mandatory Judicial College Mentor Program. This program pairs the new judge with an experienced judge-mentor within the same subject matter jurisdiction. The judge and mentor must have regular contact with each other for a minimum of one year.<sup>1</sup>
- Juvenile judges can elect to participate in a capital cases seminar as the fourth part of the orientation only if they want to be eligible to preside over capital cases.<sup>2</sup>

Throughout a judge's career, each judge is required to complete a minimum of 40 credit hours of continuing legal education for each two-year period on subjects devoted to the law and judicial administration. At least 10 of the 40 hours must be instruction offered by the Supreme Court of Ohio Judicial College.

A full list of courses is found on the Supreme Court of Ohio Judicial College website: [sc.ohio.gov/Boards/judCollege](http://sc.ohio.gov/Boards/judCollege).

#### What about case inventory?<sup>3</sup>

**New Judge Case Inventory:** All new judges must complete a physical or electronic inventory of all pending cases within 3 months of taking office.

- The inventory must include all pending cases and the judge can decide if the review will include inactive or closed cases as well.
- If the court maintains paper files, an actual review is required of the physical case files. If the court maintains electronic files through a case management system, a review of the electronic case files is required.
- The judge should review each file and identify cases:
  - In which a conflict of interest exists and therefore must be reassigned to another judge of the court or assigned to a visiting judge;
  - That lack a next scheduled event date;

- That should be terminated or closed for purposes of reporting on [Statistical Report Form D](#);
- That are ripe for settlement or resolution prior to the scheduled trial date; and
- That have been incorrectly classified on a previous report.
- A judge may amend any report previously submitted by the judge's predecessors. For example, a case inventory might reveal cases that are pending which were not previously reported as such or cases that had been previously reported as pending which have been terminated. The goal is to ensure good quality data going forward.
  - Instructions on how to make necessary corrections to [Statistical Report Form D](#) as a result of a physical inventory are found in the instructions for preparation of the report forms.
- The completion of the inventory must be documented on [Statistical Report Form D](#) by indicating the date the most recent inventory was completed.

**Annual Case Inventory:** Each judge is required to annually complete a physical or electronic inventory of all pending cases.

- The inventory must be completed on or before October 1 of each year.
- The completion of the inventory must be documented on [Statistical Report Form D](#) by indicating the date the most recent inventory was completed.
- All requirements outlined for the completion of the new judge inventory (above) apply to the annual case inventory.

#### What if the local rules need changed?<sup>4</sup>

Courts may adopt additional rules concerning local practice which are not inconsistent with the rules promulgated by the Supreme Court. Before a court may adopt a local rule, notice and an opportunity to comment must be provided by the court. All local rules must be filed with the juvenile court clerk.

Additionally, by February 1 of each year, each court shall do one of the following:

- File a complete copy of all local rules with the [Clerk of the Supreme Court](#); or
- Send certification to the Clerk of the Supreme Court that there were no changes in the immediately preceding calendar year to the local rules.
- Local rules or a letter certifying no changes were made should be sent to [LocalRules@sc.ohio.gov](mailto:LocalRules@sc.ohio.gov).

#### Are there specific local rules that juvenile courts are required to adopt?<sup>5</sup>

All juvenile courts must adopt the following by local rules:

- A case management plan, for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases;

- A jury management plan for purposes of ensuring the efficient and effective use and management of jury resources (this requirement only applies to courts that use juries in the hearing and disposition of cases); and
- A rule governing the use of physical restraints on children appearing in court proceedings. The rule must create the presumption that physical restraint shall not be utilized unless the court makes an individualized determination on the record that there is no less restrictive alternative to the use of physical restraint and that physical restraint is necessary.<sup>6</sup>

**Are there any other miscellaneous tasks to consider as the new judge transitions?**

Prior to a new judge taking the bench, there are many “housekeeping” issues for a court to consider. Below is a (non-exhaustive) list of possible considerations:

- Update all signs, paper, etc. with the new judge’s name:
  - File stamp, electronic signature and/or signature stamp;
  - Letterhead and envelopes;
  - Business cards;
  - Name plates at all locations throughout the courthouse;
  - Bank accounts, signature authorization at the bank, deposit slips and checks;
  - Court documents distributed by the clerk;
  - Court’s website;
  - COOP/Disaster Recovery Box; and
  - Case management system (consider whether the vendor must make the changes).
- Schedule meetings with partner agencies (e.g. children’s services board and JFS, CSEA, the office of the prosecuting attorney and public defender, detention center, law enforcement, etc.);
- Discuss the swearing-in of employees (i.e., does new judge want to swear-in and reappoint all employees?); and
- Review the guidelines of all reporting requirements, including how data is collected.

*See Section XII., Reports, for a list of required reports for juvenile courts.*

**What if the judge hires or terminates a magistrate?**

**Notification<sup>7</sup>**

The administrative judge must notify the [Office of Attorney Services of the Supreme Court](#) within 30 days of the magistrate’s appointment or termination from the court.

### **Oath of Office**<sup>8</sup>

New magistrates must take an oath of office, administered by the administrative judge of the court, within 30 days of appointment. A certificate of oath, signed by the magistrate and administrative judge, must be filed with the clerk of the court in which the magistrate works.

### **What resources are available to assist a court's transition under a new judge?**

The Supreme Court of Ohio offers training and support to Ohio's juvenile courts.

#### **Supreme Court of Ohio's Case Management Section:**

- **Statistical Reporting Education**: Staff is available to train courts and their clerks in correctly performing their reporting obligations. These training sessions can be on-site at the local court or at the Supreme Court.
- **Process Mapping**: SCO Case Management Staff meet with local court staff for a day-long session tailored to "map" the court's current caseflow process. After the process is visually depicted, opportunities for improvement are identified. The process is reimaged to create a simpler, faster, better, and less costly system. Each training is tailored to meet the specific goals and objectives identified by the court's leaders, in coordination with the Case Management Section.
- **Caseflow and Operations Management Review**: The most comprehensive service offered by the Case Management Section is caseflow and operations management review. In this process, experienced court professionals trained in caseflow management techniques study a court's operations from top to bottom and provide detailed, written recommendations on ways the court can improve its case management processes.

#### **Roundtables:**

- The Children and Families Section and Case Management Section offer facilitated roundtable conversations hosted by Court Services staff. Roundtables provide a way for judges, magistrates, clerks, court administrators, chief probation officers, and other court and justice system partners from similar jurisdictions to share ideas, concerns, and triumphs. Agenda topics to be discussed are solicited from roundtable participants ahead of each roundtable meeting. Roundtables are in the fall and spring. Details can be found at [sc.ohio.gov/JCS/roundtables.pdf](http://sc.ohio.gov/JCS/roundtables.pdf).

#### **Visiting Judges:**

*[See Section II., Assignment of Visiting Judges, for additional information.](#)*

## ENDNOTES

- 1 [Gov.Jud.R. IV\(10\)](#)
- 2 [Gov.Jud.R. IV\(3\)](#)
- 3 [Sup.R. 38](#)



ENDNOTES - *cont.*

- 4 [Sup.R. 5\(A\)](#)
- 5 [Sup.R. 5\(B\)](#)
- 6 [Sup.R. 5.01](#)
- 7 [Sup.R. 19\(B\)](#); [Sup.R. 4.01](#)
- 8 [Sup.R. 19\(D\)](#)



## V. EMPLOYEES, COMPENSATION AND BOND

Juvenile judges have the authority to appoint clerks, bailiffs, probation officers, and other employees that are necessary to the operation of the court. The judge may designate employee titles and fix their duties, compensation, and allowable expenses. Such employees serve at the pleasure of the judge.

The juvenile court can authorize a deputy clerk to administer oaths when necessary in the course of his/her duties by making an entry on its journal. The judge may require an employee to give bond, conditioned for the honest and faithful performance of his/her duties, in the manner prescribed in [R.C. 2151.12](#).

The compensation and expenses of court employees are to be paid in semimonthly payments by the county treasurer from the money appropriated for the operation of the court.<sup>1</sup>

### ENDNOTE

1 [R.C. 2151.13](#)



## VI. FISCAL MANAGEMENT

### General Overview

Fiscal management procedures for local clerks' offices are not governed by Ohio rules of court, regulations, or statutes. The Government Accounting Standards Board (GASB) mandates that all 50 states must adhere to generally accepted accounting principles (GAAP) for governments. Although currently not required for county and local government offices by the Ohio Auditor of State, most county and local government offices in Ohio are compliant with generally accepted accounting principles.

[Section 117-2-01 of the Ohio Administrative Code](#), although not a legal authority for the courts, provides guidance on accounting and reporting by public offices, including the responsibility for design and operation of an adequate system of internal controls. Ultimately, it is the court management's responsibility to ensure that internal controls are in place to safeguard its resources, to ensure transactions are properly authorized and recorded accurately, to plan for adequate segregation of duties or compensating controls, to report on financial information timely, and to monitor accounts and activities to assess the quality of the internal controls over time.

### Best Practices

Below are best practices to keep in mind when creating or reviewing your court's fiscal management policy and procedures, cashier drawer and receipting.

### Fiscal Management

#### **Fiscal management policy**

A fiscal management policy, and fiscal procedures, should be developed to include addressing adequate internal controls in the following areas:

- Fiscal records and accounts of the court;
- Duties regarding the court's cashier drawer, and receipting of monies collected;
- Deposits made by the court;
- End of month account reconciliations.

#### **Fiscal records and accounts**

- No funds or accounts should be kept for purposes not fully and accurately disclosed. Unrecorded or "off-the-books" funds may not be kept for any purpose;

- No one employee should be functionally responsible for a financial or business transaction from start to finish. There should be segregation of duties;
- Clerks should be prepared to provide governmental auditors with all information requested in a timely manner and to inform the auditors regarding the court's accounting practices to ensure that the control procedures used comply with generally accepted accounting principles and conform to laws, rules, and regulations;
- No refunds should be provided without judicial authorization (order of the court), and no entries should be made that intentionally conceal the true nature of any transaction or record of the court.

### Cashier Drawer and Receipting

#### Cashier drawer

- Duties that require the handling of cashier transactions shall be on a rotating basis;
- If the court accepts cash, clerks should be trained to identify counterfeit bills;
- Negotiable instruments, including checks and money orders, are to be made payable to Clerk of Court or by other means that prevent another party from cashing or depositing the instrument;
- Checks, money orders, and other instruments should be endorsed immediately upon acceptance;
- There should be proper identification of payer and payee;
- The court should not accept pre-dated or post-dated checks;
- Checks should be reviewed to assure the numerical amount agrees to the written amount;
- The receipt number should appear on the face of the check, or the check number should appear on the receipt;
- Cashiers/deputy clerks should not be permitted to cash checks to make change from cash drawers;
- The clerk should not accept checks for bounced checks;
- Cash drawers should be balanced and funds accounted for at the end of each day;
- Errors in cash drawer accounting, including shortages and overages, should be assessed and every effort should be made to ascertain where the error occurred and how to correct the error as quickly as possible.

### **Receipting**

- A receipt must be generated for every financial transaction;
- Receipts should be sequentially numbered and should contain the following data elements at a minimum:
  - Date of receipt
  - Court
  - Receipt number
  - Case number
  - Person making payment
  - Person for whom account payment is made
  - Type of payment
- Original receipts should be given to the payer as proof of payment;
- The clerk should prepare and issue a receipt for each over-the-counter payment and each payment received by mail. Multiple tenders should be accounted for within a receipt;
- The receipt number should be recorded on each check in case the check does not clear;
- When money is transmitted to a cashier/deputy clerk from a mail unit or some court agency, an aggregate receipt should be issued to the agency, supplying a list of individual payments received;
- There should be no commingling of receipts from multiple sources;
- A method should be in place identifying which agent/clerk created the receipt.

### **Bank deposits**

- A reconciliation should be done at the close of each day, making sure deposits match total receipts and actual money on hand;
- The reconciliation should include an account of receipts in numerical sequence, explaining voided or omitted receipts, with approval by a supervisor, and with copies of those receipts submitted at the end of the day;
- Deposits should be made more than once a day if large amounts of money are receipted;
- Money on hand should be safeguarded until timely deposited;
- The person making the deposit should be someone different, if possible, than the person who prepared the deposit;
- The court should request an escort (sheriff, deputy, etc.) for the clerk to deposit large sums of money.

**End-of-the-month reconciliation and disbursements**

- A monthly reconciliation should be done so bank statements, checkbook registers, account balances and deposits on hold are reconciled. This reconciliation should be done, if possible, by someone other than the person responsible for receipts or deposits, or the reconciliation should be reviewed by a supervisor with signature or initials documenting the review;
- All disbursements should be authorized prior to disbursement. Availability of funds should be prior to disbursement. All disbursements should be made by checks that are pre-numbered. If on an automated system, the computer should generate sequential numbers for checks with no mechanism for overriding the feature. The check supply should be secured and cancelled, spoiled, or missing checks must be accounted for;
- If on an automated system with vendor entry, the person entering new vendors for payment should be someone different than the person requesting checks for disbursement to those vendors;
- The court should prohibit checks made out to “cash”;
- The court should require written authorization to sign checks approved by the clerk, filing a signature card for reference purposes;
- Dual signatures should be used for large disbursements, when practicable;
- The court should require that the person signing the checks is not the same person who issues the checks for disbursement;
- The court should require that someone other than the signer periodically review the check stock and the numbered sequence on checks;
- The court should require supporting documentation for each check that is issued such as an approved proper invoice or approved expense reimbursement with proper receipt;
- The court should prohibit the use of pre-signed checks;
- Case information, including case numbers, should be referenced on check stubs;
- Disbursements should be reflected in case records;
- Disbursements should be made within established time frames ensuring service to individuals and cash flow benefits to the office. As a guideline, statute for state disbursements is within 30 days, or up to 45 days if a documented dispute made within the first 15 days of request for disbursement;
- Analytical review of accounts should be performed periodically to look for unexpected anomalies.



## Responsibility of Court Employees

No employee shall directly or indirectly falsify, cause or allow to be falsified any book record or account of the court. This includes expenditures, travel records, time sheets, approval of vendor invoices, cash transaction records, or any other business/financial record of the court.

Any employee who has knowledge of avoidance of established internal controls shall immediately notify his/her supervisor. If the employee has reason to believe that the employee's supervisor may be involved, the employee shall immediately notify the court administrator. However, if the employee has reason to suspect the court administrator also may be involved, the employee should contact the judge. Every employee shall cooperate with administrative investigations pursuant to administrative procedure. The employee shall not discuss the matter with anyone other than his/her supervisor, the court administrator, the judge, the county auditor, and the prosecuting attorney. When employees fail to report, the court may consider avoidance of established controls as negligence and may take disciplinary action up to termination.



## VII. FINES AND COSTS

### General Overview<sup>1</sup>

The juvenile court shall assess and collect the same fees as are allowed the clerk of the court of common pleas for similar services.

### What fines and costs can the court collect?<sup>2</sup>

In a delinquency, unruly, or AND case, only fines and costs required by [R.C. 2743.70](#) or [R.C. 2949.091](#), or fines and costs specifically ordered by the court, may be assessed. Costs may not be assessed against a child whose delinquency case is dismissed.<sup>3</sup>

### Can the court waive costs?<sup>4</sup>

In a delinquency or traffic case, where the court is specifically required by the Ohio Revised Code, to impose court costs, the court shall not waive the payment of the required court costs unless the court determines that the child is indigent. If the court determines the child is indigent, the court may waive payment of all court costs or enter an order in its journal stating that no court costs are to be applied in the case.

PRACTICE TIP: Court costs should be assessed for each case and not for each offense.<sup>5</sup>

### Can the court collect costs incurred for services imposed as part of disposition?<sup>6</sup>

The court may require the child to reimburse any or all of the costs incurred for services or sanctions imposed, including (but not limited to):

- The costs of implementing community control sanctions, including a supervision fee;
- All or part of confinement costs in a residential or department of youth services facility.
  - The amount of reimbursement ordered for a child shall not exceed the total amount of reimbursement the child is able to pay as determined at a hearing.

### Are there special considerations that apply to the collection of financial sanctions?<sup>7</sup>

The clerk, or an authorized person, may do any of the following:

- Enter into contracts with public agencies or private vendors for the collection of financial sanctions;
  - The amounts due may include interest;
- Permit payment of all (or part) of the financial sanction:
  - To be made in installments;
  - To be paid by credit or debit card or electronic transfer, or by any other reasonable method;

- To be made within any period of time, and on any terms that the court considers just, except that the maximum time permitted for payment shall not exceed 5 years;
- Pay any fee associated with processing an electronic transfer out of public money and charge the fee to the delinquent child; and
- Charge a reasonable fee to a child who elects a payment plan rather than payment of a lump sum (to defray administrative costs).

**Can the court collect costs after the defendant turns 21?<sup>8</sup>**

The court cannot collect court costs from a defendant after the child turns 21 years of age. Dispositional orders made by the court shall be temporary and shall continue for a period that is designated by the court in its order, until terminated or modified by the court, or until the child attains 21 years of age. This includes collection by a collection agency designated by the court to collect costs from the child.

**What can the court do if the juvenile defendant fails to pay costs and fines?<sup>9</sup>**

Court costs and fees are civil, not criminal, obligations and may be collected only by the methods provided for in the collection of civil judgments.<sup>10</sup> Before punishing a child for failure to pay fines, costs, or other financial sanctions, the court must first determine the child’s ability to pay, considering factors particularly applicable to youth.<sup>11</sup>

**BEST PRACTICE: Juvenile justice agencies should presume that children are unable to pay fines and fees and only impose them after an affirmative showing of ability to pay.<sup>12</sup>**

A child may **not** be sent to detention for failure to pay court costs.<sup>13</sup> The court may reduce costs to a civil judgment. However, this does not apply to fines; fines may not be reduced to a civil judgment (the court may not be reimbursed).<sup>14</sup> If a child fails to pay a fine, the court may impose a term of community service in lieu of the sanction.<sup>15</sup>

**Additional Resources**

See the “Financial Sanctions and Obligations in Juvenile Court” bench card for additional information regarding juvenile cases. [sc.ohio.gov/Publications/JCS/benchcards/juvenileFinancialSanctions.pdf](https://sc.ohio.gov/Publications/JCS/benchcards/juvenileFinancialSanctions.pdf).

Also see the “Collection of Fines and Costs in Adult Trial Courts” bench card for additional information regarding adult cases in juvenile court. [sc.ohio.gov/Publications/JCS/finesCourtCosts.pdf](https://sc.ohio.gov/Publications/JCS/finesCourtCosts.pdf).

ENDNOTES

- 1 [R.C. 2151.54](#)
- 2 [R.C. 2151.54](#)
- 3 [In re Graham, 7th Dist., 2002-Ohio-6615](#)
- 4 [R.C. 2151.54](#)
- 5 [Middleburg Hts. v. Quinones, 8th Dist. Cuyahoga No. 88242, 2007-Ohio-3643](#)
- 6 [R.C. 2152.20\(A\)\(4\)\(a\) - \(b\)](#)
- 7 [R.C. 2152.20\(E\)](#)
- 8 [R.C. 2152.22\(A\)](#)
- 9 [R.C. 2335.24](#)
- 10 [Strattman v. Studt \(1969\), 20 Ohio St.2d 95.](#)
- 11 [In re McClanahan, 5th Dist., 2004-Ohio-4113](#) (hearing on ability to pay upon the imposition of fines or costs is discretionary (also [In re Carter, 2004-Ohio-7285](#)), but hearing to determine ability to pay after failure to pay is mandatory).
- 12 U.S. Dep't of Justice, *Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on Levying Fines and Fees on Juveniles* (January 2017). <https://ojp.gov/about/ocr/pdfs/AdvisoryJuvFinesFees.pdf>.
- 13 [In re Rinehart \(1983\), Ohio 10 App.3d 318.](#)
- 14 [R.C. 2335.19](#)
- 15 [R.C. 2152.20\(D\)](#)

DESKTOP GUIDE for JUVENILE COURT CLERKS

COMMONLY APPLIED COURT COSTS\*

SPECIFIC COST	OHIO REVISED CODE SECTION	COST TYPE	AMOUNT OF COST	RECIPIENT
\$25.00 for each cause of action, including: (1) Docketing; (2) Filing necessary documents; (3) Issuing certificate of deposit in foreign writs; (4) Indexing pending suits and living judgments; (5) Noting on appearance docket all papers mailed; (6) Certificate for attorney's fee; (7) Certificate for stenographer's fee; (8) Preparing cost bill; (9) Entering on indictment any plea; (10) Entering costs on docket and cash book.	<a href="#">R.C. 2303.20(A)</a>	Regular costs	\$25.00	County treasury
For taking each undertaking, bond or recognizance.	<a href="#">R.C. 2303.20(B)</a>		\$2.00	County treasury
Issuing each writ, order, or notice, (except subpoenas).	<a href="#">R.C.2302.20(C)</a>	Regular costs	\$2.00	County treasury
Issuing subpoenas, swearing witness, entering attendance, and certifying fees.	<a href="#">R.C. 2303.20(D)</a>		\$2.00	County treasury
Calling a jury.	<a href="#">R.C. 2303.20(E)</a>	Regular costs	\$25.00 per cause	County treasury
Entering on journal, indexing, and posting on any docket.	<a href="#">R.C. 2303.20(F)</a>		\$2.00 per page	County treasury
Making complete record, including indexing.	<a href="#">R.C. 2303.20(H)</a>	Regular costs	\$1.00 per page	County treasury
Certificate of fact under seal of the court (paid by the party demanding it).	<a href="#">R.C. 2303.20(L)</a>		\$1.00	
Taking each affidavit, including certificate and seal.	<a href="#">R.C. 2303.20(M)</a>	Regular costs	\$1.00	County treasury
Docketing and indexing each appeal, including the filing and noting of all necessary documents.	<a href="#">R.C. 2303.20(U)</a>		\$25.00	County treasury
Each electronic transmission of a document (paid by the party requesting the electronic transmission).	<a href="#">R.C. 2303.20(Y)</a>	Regular costs	\$2.00, plus \$1.00 per page	County treasury
Copies of pleadings, process, record, or files, including certificate and seal.	<a href="#">R.C. 2303.20(Z)</a>		\$1.00 per page	County treasury
Fee for an interpreter in any legal proceeding for a party or witness with a hearing, speech or other impairment.	<a href="#">R.C. 2335.09</a>	Regular costs	\$12/day; \$6/half day; .40-per-mile mileage	Interpreter

\*This list is not intended to be inclusive of all court costs that may be charged.

DESKTOP GUIDE for JUVENILE COURT CLERKS

**COMMONLY APPLIED COURT COSTS\***

<b>SPECIFIC COST</b>	<b>OHIO REVISED CODE SECTION</b>	<b>COST TYPE</b>	<b>AMOUNT OF COST</b>	<b>RECIPIENT</b>
Witness fee in a civil or criminal case.	<a href="#">R.C. 2746.01</a> as provided in <a href="#">R.C. 2335.06</a> and <a href="#">R.C. 2335.08</a>		\$12/day; \$6/half day and mileage to be set by commissioners (not to exceed .50 per mile)	Witness
Fee for the cost of a juvenile’s house arrest with electronic monitoring.	<a href="#">R.C. 2746.05</a> as provided in <a href="#">R.C. 2152.19(A)(4)</a>	Regular costs	Actual cost	Person or persons who incurred the costs
May collect on the filing of each civil or criminal cause of action or appeal.	<a href="#">R.C. 2151.541(A)(1)</a> and <a href="#">R.C. 2153.081(A)(1)</a>		Set by court, but not to exceed \$3.00	County treasury for deposit into separate fund
May collect on the filing of each civil or criminal cause of action or appeal, filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment.	<a href="#">R.C. 2151.541(B)(1)</a> , <a href="#">R.C. 2153.081(B)(1)</a> , and <a href="#">R.C. 2301.031(B)(1)</a>	Regular costs	Set by court, but not to exceed \$10.00	County treasury for deposit into separate fund
Party who requests or is provided with a public defender or appointed counsel (the court may waive or reduce application fee)	<a href="#">R.C. 120.36(A)(1)</a>	Application fee for appointed counsel	\$25.00	County treasury for deposit into separate fund
Restitution surcharge (paid to the entity responsible for collecting and processing restitution payments).	<a href="#">R.C. 2929.28(A)(1)</a>	Restitution	Not more than 5 percent of amount of restitution ordered	County treasury for deposit into specific fund
Additional funds are necessary to acquire and pay for special projects, including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges and magistrates, and other related services.	<a href="#">R.C. 2303.201(E)</a>	Special projects	Set by court	County treasury for deposit into specific fund

\*This list is not intended to be inclusive of all court costs that may be charged.

DESKTOP GUIDE for JUVENILE COURT CLERKS

COMMONLY APPLIED COURT COSTS\*

SPECIFIC COST	OHIO REVISED CODE SECTION	COST TYPE	AMOUNT OF COST	RECIPIENT
If a court issues an order requiring mediation, it also may order the parents to pay the cost of mediation, (unless either or both of the parents file a motion requesting that the court waive costs).	<a href="#">R.C. 3109.052</a>	Mediation	Set by court	County treasury for deposit into specific fund
For adjudication as a delinquent child for committing a felony.	<a href="#">R.C. 2949.091(A)(2)(a)(i)</a>	Indigent Defense Support Fund	\$30.00	State treasury
For adjudication as a delinquent child, or a juvenile traffic offender, for committing a misdemeanor.	<a href="#">R.C. 2949.091(A)(2)(a)(ii)</a>	Indigent Defense Support Fund	\$20.00	State treasury
For adjudication as a juvenile traffic offender if the offense is a traffic offense that is not a moving violation, excluding parking violations.	<a href="#">R.C. 2949.091(A)(2)(a)(iii)</a>	Indigent Defense Support Fund	\$10.00	State treasury
For adjudication as a delinquent child or a juvenile traffic offender for committing an offense, other than a traffic offense, that is a felony.	<a href="#">R.C. 2743.70(A)(2)(a)</a>	Reparations Fund	\$30.00	State treasury
For adjudication as a delinquent child or a juvenile traffic offender for committing an offense, other than a traffic offense, that is a misdemeanor.	<a href="#">R.C. 2743.70(A)(2)(b)</a>	Reparations Fund	\$9.00	State treasury
An additional filing fee of \$15.00 shall apply to custody, visitation, and parentage actions.	<a href="#">R.C. 2303.201(C)</a>	Legal aid societies and the office of the state public defender	\$15.00. with 1 percent of total collections to cover administrative costs	State treasury
The court in which any person is convicted of or pleads guilty to any moving violation shall impose an additional court cost of \$10.00 upon the offender.	<a href="#">R.C. 2949.094(A)</a>	Additional costs for moving violation		35% to state treasury, 15% to indigent drivers alcohol treatment fund, 25% to indigent defense support fund
Failure of driver to wear a seatbelt.	<a href="#">R.C. 4513.263(G)(1)</a>	Seatbelt fine for driver	\$30.00	State treasury

\*This list is not intended to be inclusive of all court costs that may be charged.



DESKTOP GUIDE for JUVENILE COURT CLERKS

**COMMONLY APPLIED COURT COSTS\***

<b>SPECIFIC COST</b>	<b>OHIO REVISED CODE SECTION</b>	<b>COST TYPE</b>	<b>AMOUNT OF COST</b>	<b>RECIPIENT</b>
Failure of front seat passenger to wear a seatbelt.	<a href="#">R.C. 4513.263(G)(2)</a>	Seatbelt fine for passenger	\$20.00	State treasury
Fine for possessing, using, purchasing or receiving cigarettes or other tobacco or alternative nicotine products.	<a href="#">R.C. 2151.87(F)(2)</a>	Tobacco Violation Fine	Not more than \$100.00	State treasury
Surcharge to be paid when a person is charged with any offense other than a traffic offense that is not a moving violation and posts bail.	<a href="#">R.C. 2937.22(B)</a>	Bail surcharge	\$25.00	State treasury (to be deposited into the indigent defense support fund)

\*This list is not intended to be inclusive of all court costs that may be charged.



## VIII. BONDS

### General Overview

Bail is security for the appearance of an accused to appear in court and answer to a specific criminal charge.<sup>1</sup> Bond is money posted as a financial condition for a person to be released before trial and to assure the person's presence in court later. "Bond" and "bail" are used interchangeably in this section. The criminal rules and statutes that govern bail/bond for adult defendants do not apply to juveniles in juvenile court, except in serious-youth-offender (SYO) proceedings.

**BEST PRACTICE :** Model the juvenile court's local rules, procedures, and bond schedule after the rules that apply to the local general division of the court of common pleas.

#### How are Serious Youthful Offender proceedings handled?<sup>2</sup>

A child charged as an SYO has a constitutional right to bail. If the child is detained awaiting adjudication, indictment, or bill of information, the child has the same right to bail as an adult charged with the offense. In SYO proceedings, all provisions of [Title XXIX of the Revised Code](#) and the [Criminal Rules](#) shall apply in the case and to the child (except during an SYO hearing held pursuant to [R.C. 2152.14\(D\)](#)). The juvenile court shall afford the child all rights afforded an adult who is prosecuted for committing a crime.

#### How are adult criminal defendants in juvenile court handled?

Rules and procedures must be in place to address cases where an adult is criminally charged in juvenile court. Additionally, the juvenile court shall establish a bail bond schedule covering all misdemeanors, either specifically, by type, by potential penalty, or by some other reasonable method of classification.<sup>3</sup>

Juvenile court has exclusive jurisdiction\* to hear and determine all criminal cases in which an adult is charged with:

- Non-support [[R.C. 2919.21\(C\)](#)];
- Abuse/Endangering Children [[R.C. 2919.22\(B\)\(1\)](#)];
- Interference with Custody [[R.C. 2919.23\(B\)](#)];
- Contributing to the Delinquency/Unruly of a Minor [[R.C. 2919.24](#)]; and
- Parental Education Neglect [[R.C. 2919.222](#)].<sup>4</sup>

\*The juvenile court has exclusive jurisdiction provided the charge is not included in an indictment that also charges the adult with the commission of a felony arising out of the same actions that are the basis of the alleged violation.

#### How are adult offenders in civil cases handled in juvenile court?

Juvenile court has exclusive jurisdiction to hear charges of Failure to Send (Child to School)<sup>5</sup> and Abuse, Neglect, Dependency charges. Performance bonds may be used in these cases.

- **Performance Bond:** A performance bond is not used to ensure a person's appearance in court. A performance bond is ordered to ensure some type of action on the behalf of the defendant. This type of bond is usually posted for a set period of time and if at the end of that time period, the act has been performed, the defendant may file a motion to have the bond released.

Performance bonds may be used for the following case types:

- **Failure to Send Performance Bond:** A court may order a parent to post a performance bond when he/she has been found guilty of a failure to send (child to school) charge. The performance bond may be no more than \$500.00. This bond is not to ensure the parent's appearance in court, but rather to ensure that the parent sends the child to school.<sup>6</sup>
- **Parental Performance Bond:**
  - **Delinquency proceedings:** When a juvenile has been adjudicated a delinquent child or juvenile traffic offender, the court may make an order restraining the conduct of the parent or guardian. This order may require the parent or guardian to post a performance bond which may be forfeited if conditions are not upheld.<sup>7</sup>
  - **Unruly and Abuse, Neglect, and Dependency proceedings:** Similarly, when a juvenile has been adjudicated an unruly or abused, neglected, or dependent child, the court may require the parent or guardian to post a bond, conditioned upon the completion of any conditions or control required by the court. Any future adjudication may result in full or partial forfeiture of the bond.<sup>8</sup>

#### Who collects bail in juvenile court?<sup>9</sup>

All bail shall be received by the clerk or deputy clerk of court, the magistrate, or by a special referee appointed by the Supreme Court. Except in cases of recognizances, receipt shall be given.

#### Do surcharges apply when bail is posted?<sup>10</sup>

If bail is posted for any offense (other than a traffic offense) in juvenile court, a \$25.00 surcharge shall apply. The clerk shall keep the \$25.00 until the person is convicted, pleads guilty, forfeits bail, is found not guilty, or has the charges dismissed. This surcharge must be paid and is not waivable if the defendant is found to be indigent.

The clerk shall transmit the \$25.00 to the state treasury by 20th day of the month following the month in which the person was convicted, pleaded guilty, or forfeited bail. The state treasury shall deposit the money into the indigent defense support fund. If the person is found not guilty or the charges are dismissed, the clerk shall return the \$25.00.

Additional surcharges may be applied when bail is posted in juvenile court.

*See Section VII., Fines and Costs, for a complete list of financial obligations.*

ENDNOTES

- 1 [R.C. 2937.22\(A\)](#)
- 2 [R.C. 2152.13\(C\)\(2\)](#)
- 3 [Crim.R. 46\(G\)](#)
- 4 [R.C. 2151.23\(A\)\(6\)](#)
- 5 [R.C. 3321.38](#)
- 6 [R.C. 3321.38](#)
- 7 [R.C. 2152.61\(B\)](#)
- 8 [R.C. 2151.359\(A\)\(2\); R.C.2152.61\(B\)](#)
- 9 [R.C. 2937.22\(C\)](#)
- 10 [R.C. 2937.22\(B\)](#)



## IX. LANGUAGE SERVICES

### What is the court's responsibility to provide language services for deaf, hard of hearing or limited English individuals?

**In order to comply with the prohibition against national origin discrimination in Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et. seq., the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3789d(c), and 28 C.F.R. Part 42, Subparts C and D, recipients of federal funds must provide meaningful access to limited English proficient (LEP) individuals. *Lau v. Nichols*, 414 U.S. 563 (1974). The U.S. Department of Justice advises that practices, such as charging for interpretation and translation services or seeking recoupment for those costs, significantly impair, restrict, or preclude the participation of LEP individuals in the judicial system and are inconsistent with recipients' Title VI obligations. For more information, please refer to Guidance from the U.S. Department of Justice to state court justices and administrators' letter from Assistant Attorney of the Civil Rights Division to Chief Justices and State Court Administrators (Aug. 16, 2010); Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41455 (June 18, 2002).**

Additionally, the Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation.

- Title II of the ADA requires public entities, including state and local courts, to provide equal access to their programs and services.<sup>1</sup>
- Public entities are required to “take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others.”<sup>2</sup>
- Public entities must “furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by a public entity.”<sup>3</sup>
- These auxiliary aids and services include the provision of “qualified interpreters, notetakers, computer-aided transcription services, written materials...or other effective methods of making aurally delivered materials available to individuals with hearing impairments.”<sup>4</sup>
- To determine “what type of auxiliary aid and service is necessary, a public entity shall give primary consideration to the requests of the individual with disabilities.”<sup>5</sup>

- Deaf and hard-of-hearing people may not be charged for the costs of such auxiliary aids or services.<sup>6</sup>

In the State of Ohio, under the [Ohio Revised Code](#) and the [Rules of Superintendence for the Courts of Ohio](#):

- Whenever a party or witness in a legal proceeding cannot readily understand or communicate, due to a hearing, speech, or other impairment, the court shall appoint a qualified interpreter to assist such person.<sup>7</sup>
- A court must appoint a foreign language interpreter when a non-English-speaking party or witness:
  - Requests an interpreter and the court determines the interpreter is necessary; or
  - Does not make a request, but the court concludes the party is limited in communication and the services of the interpreter are necessary for meaningful participation.<sup>8</sup>
- Courts must appoint a sign language interpreter when a deaf, hard-of-hearing, or deaf blind party, witness or juror:
  - Requests an interpreter; or
  - Does not make a request, but the court concludes an interpreter is necessary for meaningful participation.<sup>9</sup>

**Now that Ohio offers certification for interpreters, do courts have to appoint a certified interpreter in every case?**

For foreign language, the court must appoint a Supreme Court certified interpreter in a case or court function if one exists or is reasonably available to participate in person. If a certified interpreter does not exist or is not reasonably available to participate in person, the court may appoint a provisionally qualified interpreter. If a certified or provisionally qualified interpreter does not exist or is not reasonably available to participate in person, the court may appoint a language-skilled interpreter.

Finally, if a Supreme Court certified foreign language interpreter, provisions qualified foreign language interpreter, or language-skilled interpreter does not exist or is not reasonably available to participate in person, the court also may appoint a telephonic interpreter. In appointing the telephonic interpreter, the court must follow the same order of certification preference.<sup>10</sup>

It is important to note that if a certified interpreter is not appointed, the court must summarize on the record its efforts to obtain a certified interpreter and the reasons for appointing a provisionally qualified or language-skilled interpreter. Moreover, the language-skilled interpreter's experience, knowledge, and training should be stated on the record.



**Additional Resources:**

Foreign Language in Court: Bench Card 3.0

[sc.ohio.gov/JCS/interpreterSvcs/benchcard.pdf](http://sc.ohio.gov/JCS/interpreterSvcs/benchcard.pdf)

Rules of Superintendence for the Court of Ohio 80-89

[sc.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf#Rule80](http://sc.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf#Rule80)

Interpreters for Deaf & Hard of Hearing Persons in the Courtroom

[sc.ohio.gov/Publications/interpreter\\_services/DeafHOHbenchcard.pdf](http://sc.ohio.gov/Publications/interpreter_services/DeafHOHbenchcard.pdf)

For sign language, the court must appoint a Supreme Court-certified sign language interpreter in a case or court function. If a certified sign language interpreter does not exist or is not reasonably available and after considering the gravity of the matter and whether it could be rescheduled to obtain a certified interpreter, the court may appoint a sign language interpreter who holds one of the following certifications:<sup>11</sup>

- National Interpreter Certification (NIC);
- Certification of Interpretation and Certification of Transliteration (CI/CT);
- Comprehensive Skills Certificate (CSC);
- Master Comprehensive Skills Certificate (MCSC);
- Level V Certification from the National Association of the Deaf (NAD);
- Level IV Certification from the National Association of the Deaf (NAD).

If the communication method cannot be adequately established by a sign language interpreter who is hearing, the court shall then bring a deaf person who holds the credential of “Certified Deaf Interpreter” (CDI) to help with the communication. A CDI will act as an intermediary between the deaf party and the sign language hearing interpreter. If the communication method requires silent oral techniques, the court may appoint a certified interpreter who holds an Oral Transliteration Certificate.<sup>12</sup>

It is important to note that if a Supreme Court-certified sign language interpreter is not appointed, the court must summarize on the record its efforts to obtain and reasons for not using a Supreme Court-certified sign language interpreter.

**Are there any restrictions about the appointment of other interpreters?**

The court shall use all reasonable efforts to avoid appointing an individual as a foreign language or sign language interpreter if:<sup>13</sup>

- The interpreter is compensated by a business owned or controlled by a party or a witness;
- The interpreter is a friend or a family or household member of a party or witness;

- The interpreter is a potential witness;
- The interpreter is court personnel employed for a purpose other than interpreting;
- The interpreter is a law enforcement officer or probation department personnel;
- The interpreter has a pecuniary or other interest in the outcome of the case;
- The appointment of the interpreter would not serve to protect a party's rights or ensure the integrity of the proceedings; and/or
- The interpreter does or may have a real or perceived conflict of interest or appearance of impropriety.

**Where do I find these interpreters?**

Certified, provisionally qualified, sign-language Rule-88(E) (2)-eligible and registered interpreters can be found at the [Supreme Court of Ohio Language Services Program web page](#).<sup>14</sup>

Courts also may use telephonic interpreters when appropriate.<sup>15</sup>

Courts also may try local agencies or other resources to find interpreters, but beware of agencies promoting “certified interpreters” who are certified not by the Supreme Court, but by the agency itself.”

A Supreme Court Certified Foreign Language Interpreter is an interpreter who has received certification from the Supreme Court Language Services Program, pursuant to [Sup.R. 81](#). These interpreters have demonstrated their skills by having successfully passed a written and oral exam administered by the Language Services Program and they also have provided a background check showing no convictions of crimes involving moral turpitude. Courts must not accept any other certification to meet the requirements of [Sup.R. 88\(D\)](#).

**What other areas must the court provide language services?**

Under [R.C. 2311.14](#) and [Sup.R. 88](#), courts must provide interpreters in legal proceedings and case and court functions. To ensure equal access to all who come before the court, the Supreme Court adopted a Rule of Superintendence to guide the courts in matters outside the courtroom. Courts now must provide foreign-language communication services to limited-English-proficient individuals in ancillary court services. [Sup.R. 80](#) defines “Ancillary Court Services.”

**What are ancillary court services?**<sup>16</sup>

“Ancillary Court Services” means any activity, other than a case or court function, that includes the exchange of legal or general court-related information with the public or parties in interest and is paid for or provided by the court. Ancillary court services includes, but is not limited to, the following:

- Alternative dispute resolution programs;
- Evaluations;
- Information counters;

- Probation or criminal diversion program functions;
- Pro se clinics;
- Specialized dockets and dedicated-subject-matter dockets; and
- Communications with the clerk's office.

**Sup.R. 89, Use of Communication Services in Ancillary Services.**

(A) Limited English proficient individuals

Courts must provide foreign language communication services to limited English proficient individuals in ancillary court services. Dependent on the significance and complexity of the ancillary court service, the court may provide this service in person, telephonically, or via video:

- (1.) An employee of the court, other than a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter, who has demonstrated proficiency in English and the target language in accordance with standards set by Supreme Court Language Services Program and who the program has determined is qualified to conduct communication services directly with a limited English-proficient individual in the target language;
- (2.) A Supreme Court certified foreign language interpreter;
- (3.) A provisionally qualified foreign language interpreter;
- (4.) A registered foreign language interpreter.

(B) Deaf, hard-of-hearing, and deaf-blind individuals

A court shall provide sign language communication services to deaf, hard-of-hearing, and deaf-blind individuals in ancillary court services. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide the communication services in person, telephonically, or via video:

- (1.) A Supreme Court certified sign language interpreter;
- (2.) A sign language interpreter listed in [Sup.R. 88\(E\)\(2\) through \(4\)](#);
- (3.) A sign language interpreter employed by a community center for the deaf.

For more information on resources and guidance, visit the Supreme Court of Ohio Language Services Program. [sc.ohio.gov/JCS/interpreterSvcs](http://sc.ohio.gov/JCS/interpreterSvcs).

## ENDNOTES

- 1 [42 U.S.C. 12131 - 12134](#)
- 2 [28 C.F.R. 35.160\(a\)](#)
- 3 [28 C.F.R. 35.160\(b\)\(1\)](#)

ENDNOTES - *cont.*

- 4 [28 C.F.R. 35.104](#)
- 5 [28 C.F.R. 35.160\(b\)\(2\)](#)
- 6 [28 C.F.R. 35.130\(f\)](#)
- 7 [R.C. 2311.14\(A\)\(1\)](#)
- 8 [Sup.R. 88\(A\)](#)
- 9 [Sup.R. 88\(B\)](#)
- 10 [Sup.R. 88\(D\)](#)
- 11 [Sup.R. 88\(E\)](#)
- 12 [Sup.R. 88\(E\)](#)
- 13 [Sup.R. 88\(C\)](#)
- 14 [sc.ohio.gov/JCS/interpreterSvcs/certification/rosters/default.asp](http://sc.ohio.gov/JCS/interpreterSvcs/certification/rosters/default.asp)
- 15 [Sup.R. 89](#); [Sup.R. Appendix J](#)
- 16 [Sup.R. 80](#)

## X. ACCESS TO RECORDS

### General Overview

Information regarding access to juvenile court records is found in [Sup.R. 44 through 47](#), the [Ohio Rules of Juvenile Procedure](#), and juvenile-related provisions of the [Ohio Revised Code](#). If you have specific questions regarding confidentiality of records in your court, seek the advice of a judicial officer, court administrator, or staff attorney.

### Definitions

“Case file” means the compendium of case documents in a judicial action or proceeding.<sup>1</sup>

“Court record” means both a case document and an administrative document, regardless of physical form or characteristic, manner of creation, or method of storage.<sup>2</sup>

“Case document” means a document and information in a document submitted to a court or filed with a clerk of court in a judicial action or proceeding, including exhibits, pleadings, motions, orders and judgments, and any documentation prepared by the court or clerk in the judicial action or proceeding.<sup>3</sup>

### Accessing Records

#### Are juvenile court records public records?

There are differing degrees of access to juvenile records throughout the state. However, there are rules and laws that protect certain records and require them to be withheld. For example, the following are not public records:

- Juvenile court recordings, including the transcript of any court hearing;<sup>4</sup>
- Records of social, mental, and physical examinations conducted pursuant to court order;<sup>5</sup>
- Records of the juvenile court probation department;<sup>6</sup>
- Records of juveniles held in custody by the Department of Youth Services;<sup>7</sup> and
- Records of abuse, neglect, and dependency cases.<sup>8</sup>

Additionally, [Juv.R. 37\(B\)](#) addresses access to juvenile recording and transcripts:

“No person, including a party to the case, shall use any juvenile court record, including the recording or a transcript of any court hearing, for public use or for any reason other than for purposes of an appeal as authorized by court order or statute.”<sup>9</sup>

If confidential information is kept in a computer, the court should implement procedures to protect the material from unauthorized access.

**Who has the right to inspect juvenile court records?**

The following individuals may inspect the records themselves, or through their attorney of record:

- The child’s parent;
- The child’s guardian;
- The child’s next of kin if the parent would be entitled to inspect but is deceased; and
- Parties to the case and their attorneys of record.<sup>10</sup>
  - Parties may include CSEA, the GAL, self-represented parties, and the Children Services Agency.

If the court is required to provide copies of records pursuant to statute, the court may charge a fee for the copies that does not exceed the cost of supplying them.<sup>11</sup>

**Should filings of confidential documents be docketed?**

Yes, although the documents will not be available to non-parties in hard copy or electronically, the filing of the documents should be docketed.

ENDNOTES

- 1 [Sup.R. 44\(D\)](#)
- 2 [Sup.R. 44\(B\)](#)
- 3 [Sup.R. 44\(C\)\(1\)](#)
- 4 [Juv.R. 37\(B\)](#)
- 5 [Juv.R. 32\(B\)](#)
- 6 [R.C. 2151.14](#)
- 7 [R.C. 5139.05\(D\)](#)
- 8 [Juv.R. 44\(C\)\(2\)](#)
- 9 [Juv.R. 37\(B\)](#) (emphasis added); It should be noted that there has been differing interpretations of this rule. Some courts have read it to only prohibit public use of recording and transcripts, while others include record to mean any document.
- 10 [R.C. 2151.18\(A\)](#)
- 11 [R.C. 2151.14](#); [R.C. 2151.141](#)

## XI. RECORD RETENTION

### What is the clerk's responsibility in maintaining the court's records?

The juvenile court clerk shall be responsible for all records filed with the court pursuant to any section of the [Ohio Revised Code](#) that requires documents to be filed with a juvenile judge or a juvenile court.<sup>1</sup>

The juvenile court shall maintain records of all official cases brought before it, including, but not limited to:

- An appearance docket;
- A journal;
- Arrest and custody records;
- Complaints;
- Journal entries; and
- Hearing summaries.

The court shall maintain a separate docket for traffic cases and shall record all traffic cases on the separate docket instead of on the general appearance docket.<sup>2</sup>

Courts may combine records such as indexes, dockets, journals, and case files.<sup>3</sup> Courts may create, maintain, record, copy or preserve a record on traditional paper media, electronic media, microfilm text or digital images including computer output to microfilm.<sup>4</sup> A court may replace any paper bound books with an electronic medium or microfilm.<sup>5</sup> Paper media may be destroyed after it is converted to other approved media.<sup>6</sup> Records must be maintained in a conveniently accessible and secured facility with provisions for inspection and copying any public record according to applicable statutes and rules.<sup>7</sup>

### What are the procedures pertaining to record checks and copies of records?

No access may be permitted to records sealed by court order,<sup>8</sup> precluded from access by law, nor to those records which require access by court order. Contact the county's local legal director or prosecutor for specific guidance on the release of juvenile court records or review the court's local rule for information specific to your county. Any policy regarding access to records must be addressed in consultation with the judge and/or their legal authority.<sup>9</sup>

When permitted records are requested, courts must make records available at cost and within a reasonable period of time.<sup>10</sup>

### What is the record retention schedule for juvenile courts?

The record retention schedules for juvenile courts should be in accordance with [Sup.R. 26 and 26.03](#). A summary of these retention rules follow, below.

**NOTE: If a record is older than 10 years or was created prior to 1960, written notification to the [Ohio History Connection, State Archives Division](#), is required at least 60 days prior to destruction of the record.<sup>11</sup>**

General, Domestic Relations, and Juvenile Division. [Sup.R. 26.03](#)

Clerk Records and Research	
Index	Permanently
Docket	Permanently
Journal	Permanently
Judge, magistrate, clerk notes, drafts, and research	Discretion of preparer
Juvenile Division Case Files	
Delinquency	Two years after final order or 1 year after issuance of audit report by Auditor of State, whichever is later  50 years after final order if documents within a case file admissible as evidence of a prior conviction in a criminal proceeding
Adult	Two years after final order or 1 year after issuance of audit report by Auditor of State, whichever is later  50 years after final order if documents within a case file admissible as evidence of a prior conviction in a criminal proceeding
Permanent custody	Two years after child who is the subject obtains the age of majority  If post-decree motions filed, 1 year after adjudication of motion or 2 years after child who is the subject obtains the age of majority, whichever is later
Custody	Two years after child who is the subject obtains the age of majority  If post-decree motions filed, 1 year after adjudication of motion or 2 years after child who is the subject obtains the age of majority, whichever is later
Parentage	Two years after child who is the subject obtains the age of majority  If post-decree motions filed, 1 year after adjudication of motion or 2 years after child who is the subject obtains the age of majority, whichever is later
Visitation	Two years after child who is the subject obtains the age of majority  If post-decree motions filed, 1 year after adjudication of motion or 2 years after child who is the subject obtains the age of majority, whichever is later



<b>Juvenile Division Case Files - <i>cont.</i></b>	
Support Enforcement	Two years after child who is the subject obtains the age of majority  If post-decree motions filed, 1 year after adjudication of motion or 2 years after child who is the subject obtains the age of majority, whichever is later
Abuse, Neglect, Dependency	Two years after child who is the subject obtains the age of majority  If post-decree motions filed, 1 year after adjudication of motion or 2 years after child who is the subject obtains the age of majority, whichever is later
URESAs records	Two years after child who is the subject obtains the age of majority  If post-decree motions filed, 1 year after adjudication of motion or 2 years after child who is the subject obtains the age of majority, whichever is later
Search Warrant Records	Search warrant records shall be indexed  Warrants and returns retained in original form for 5 years after date of service or last service attempt
Traffic: Minor Misdemeanor	Five years after final order
Traffic: Misdemeanor	25 years after final order
Traffic: All Other	50 years after final order
Unruly	Two years after final order or 1 year after issuance of audit report by Auditor of State, whichever is later
Marriage Consent	Two years after final order or 1 year after issuance of audit report by Auditor of State, whichever is later
Juvenile By-pass	Two years after final order

### Local Rule

Individual courts may address additional record retention issues by local rule for any records not listed in [Sup.R. 26.01 to 26.05](#). A court also may order the retention period for an individual case file beyond the period of time specified in the rule.<sup>12</sup>

ENDNOTES

- 1 [R.C. 2151.12\(A\)](#)
- 2 [R.C. 2151.18; R.C. 2152.71](#)
- 3 [Sup.R. 26\(C\)](#)
- 4 [Sup.R. 26\(D\)\(1\)](#)
- 5 [Sup.R. 26\(D\)\(2\)](#)
- 6 [Sup.R. 26\(D\)\(2\)\(d\)](#)
- 7 [Sup.R. 26\(D\)\(2\)\(b\)](#)
- 8 [R.C. 2151.355 - 2151.358](#)
- 9 [Sup.R. 44 - 47](#)
- 10 [Sup.R. 45\(B\)](#)
- 11 [Sup.R. 26\(E\)\(2\)](#)
- 12 [Sup.R. 26\(G\) - \(H\)](#)

## XII. REPORTS

### General Overview

Juvenile courts are required by statute and rule to collect data and submit reports to multiple agencies. Collecting data can summarize a court's caseload activity, help improve court practices and caseflow, and help secure court funding. Case management systems assist in this process by pulling the necessary information for the reports. Some of these reports can be submitted electronically, which can further lessen the burden for the court.

#### What reports are required?

Below is a list of reports that are required of each juvenile court. This list is not exhaustive as many grant funders or other sources may require additional reports.

### Supreme Court Reports

#### **Supreme Court Statistical Report, Form D**

- **Rule/statute:** [Sup.R. 37.02](#).
- **Due date:** On or before the 15th day of each month.
- **Contents of report:** Each judge shall prepare a report of the judge's work. The report collects caseload statistics pursuant to [Sup.R. 37.02](#).
- **Form (if applicable):** Supreme Court of Ohio, [Form D](#).
- **Where to send:** The Supreme Court of Ohio, Case Management Section. Submit via [eStats](#).
  - **What is Electronic Statistical Reporting (eStats)?**
    - Each judge, or their authorized staff, will upload Form D using standardized Excel file templates via the [eStats portal](#). Each court is provided with a password and login credentials to the eStats portal.
    - The eStats portal, Excel templates, Statistical reporting instructions, and additional resources can be found on the Supreme Court of Ohio website: [sc.ohio.gov/JCS/casemng/estats](http://sc.ohio.gov/JCS/casemng/estats).

#### **Annual Case Inventory**

- **Rule/statute:** [Sup.R. 38](#).
- **Due date:** On or before the first day October each year.
- **Contents of report:** The inventory must include all pending cases and the judge can decide if the review will include inactive or closed cases as well.

*See New Judge Requirements, Section IV., for additional information.*
- **Form (if applicable):** Report the date of the most recent physical inventory in the box provided on Statistical Report, Form D.
- **Where to send:** The Supreme Court of Ohio, Case Management Section. Submit via [eStats](#) (see Form D, above).

### **Local Rules of Court**

- **Rule/statute:** [Sup.R. 5](#).
- **Due date:** On or before the 1st day of February each year.
- **Contents of report:** Each court shall do one of the following:
  - File a complete copy of all local rules of the court in effect; or
  - Certify that there were no changes in the immediately preceding calendar year to the local rules.
- **Form (if applicable):** None specified.
- **Where to send:** Submit rules to the clerk of the Ohio Supreme Court at: [LocalRules@sc.ohio.gov](mailto:LocalRules@sc.ohio.gov).

### Ohio Public Defender and Legal Aid Reports

#### **Ohio Public Defender Clerk of Court Indigent Application Fee Report**

- **Rule/statute:** [R.C. 120.36\(E\)](#).
- **Due date:** On or before the 20th day of each month.
- **Contents of report:** Data for the previous month including:
  - Number of persons who requested or were provided a public defender, or other appointed counsel;
  - Number of persons for whom the court waived the \$25.00 application fee;
  - Dollar value of the application fees assessed;
  - Amount of assessed application fees; and
  - Balance of unpaid assessed application fees at the open and close of the previous month.
- **Form (if applicable):** [OPD Clerk of Court Indigent Application Fee Report](#).
- **Where to send:** [Office of the Ohio Public Defender](#).

#### **Reparations Reporting Form**

- **Due date:** On or before the 20th day of each month.
- **Contents of report:** Each court is required to submit information regarding applicable case types and payments required by the Reparations Reporting Form.
- **Form (if applicable):** [Reparations Rotary Reporting For Courts Form](#).
- **Where to send:** Forms and online payment options can be obtained from the Treasurer of State's website at: <https://payments.tos.ohio.gov/ReparationsRotary>.

## Agency Reports

### **Bureau of Motor Vehicles (BMV) Records and Abstracts**

- **Rule/statute:** [R.C. 4510.03](#), [4510.032\(C\)](#), [4510.036\(B\)](#).
- **Due date:** Within 7 days of adjudication/conviction (unless otherwise stated).
- **Contents of report:** Juvenile courts are required to maintain and forward to the BMV:
  - A full record of every case in which a person is charged with any violation of a traffic law or of any other law or ordinance regulating the operation of vehicles.
  - Within 7 days after the juvenile is found delinquent of a traffic offense, the court shall send the BMV a certified abstract of the court record.
    - This also includes aggravated vehicular homicide, vehicular homicide, or any felony in the commission of which a vehicle was used.<sup>1</sup>
  - Within 10 days after a juvenile has been adjudicated for committing a drug abuse offense, any offense involving alcohol and disorderly conduct (under [R.C. 2917.11\(B\)](#)), or any OVI-related offense (under [R.C. 4511.19](#)), the court must send the BMV a certified abstract of the court record.<sup>2</sup>
    - If the court requires the child to attend a drug abuse or alcohol abuse education, intervention, or treatment program, the abstract also shall include the name and address of the operator of the program and the date that the child entered the program.
    - If the child satisfactorily completes the program, the court shall send an updated abstract that contains the date on which the child completed the program.
- Each certified abstract shall be made upon a form approved and furnished by the BMV and shall include:
  - Name and address of the person charged;
  - Number of the person's driver's license, probationary driver's license, or temporary instruction permit;
  - Registration number of the vehicle involved;
  - Nature and date of the offense;
  - Date of hearing; and
  - The plea, the judgment, or whether bail was forfeited.
- Each abstract also must include the number of points chargeable for the offense.<sup>3</sup>

- **Form (if applicable):** The BMV maintains the authority to determine the method by which the abstracts are submitted. The prescribed method to submit reports is via electronic submission.
- **Where to send:** [BMV](#).

#### **Bureau of Criminal Identification and Investigation (BCI) Report**

- **Rule/statute:** [R.C. 2152.71\(A\)\(2\)](#) pursuant to [R.C. 109.57](#).
- **Due date:** Weekly.
- **Contents of report:** A weekly “Disposition Report” containing a summary of each case that has come before it that involves the disposition of a child who is a delinquent child for committing an act that would be a felony or an offense of violence<sup>4</sup> if committed by an adult.<sup>5</sup> The summary also must be provided for cases where a child was alleged to be a delinquent child for committing a felony or an offense of violence.<sup>6</sup>
  - When there is probable cause to believe that a child may have committed a felony or an offense of violence, fingerprints,<sup>7</sup> photographs, and other descriptive information also must be provided to BCI.<sup>8</sup>
  - The court should send dispositions with an ITN number from the arresting agency. Even if the case was adjudicated to a lesser, non-reportable offense or was dismissed, the disposition must be sent to BCI.
  - The summary must be written on the standard forms provided by BCI, and shall include:
    - Incident tracking number;
    - Case type and case number;
    - Date of arrest, offense, summons, or arraignment;
    - Date child was adjudicated delinquent (or found not to be a delinquent child), or the date of any other determination that constitutes final resolution of the case;
    - The original charge, including the applicable O.R.C. section; and
    - The disposition (if the child was adjudicated a delinquent child).<sup>9</sup>
- **Form (if applicable):** BCI 2-71 Form (Final Disposition Report Form) and other standard forms provided by the Superintendent of BCI (BCI shall provide the forms to every clerk of court).<sup>10</sup>
- **Where to send:** The Disposition Report may be sent by mail or submitted electronically.<sup>11</sup> The court may pick one (or more) of three options:
  - Send BCI 2-71 Form via mail to BCI;
  - Send electronically via FTP automated process (a copy of specifications and instructions may be requested from ITS Support at [ITSSupport@Ohioattorneygeneral.gov](mailto:ITSSupport@Ohioattorneygeneral.gov);

**NOTE:** Modifications and corrections to dispositions can be mailed, or faxed to 740.845.2633, on court letterhead. Courts reporting by FTP may make modifications/corrections electronically if the system has the capability. All modifications/corrections must include the ITN number, date of arrest, and person's name and date of birth. A journal entry also is acceptable.

*See Section XXXVII., Sealing and Expunging, regarding what information must be sent to BCI in order to seal or expunge a case.*

## Annual Reports Required Pursuant to the Ohio Revised Code

### Annual Statistical Summary

- **Rule/statute:** [R.C. 2152.71\(B\) and \(C\)](#).
- **Due date:** Annually.
- **Contents of report:** The clerk of the court shall maintain a statistical record that includes the number of complaints filed that allege a child committed a delinquent act where the victim was 65 years of age or older or permanently and totally disabled at the time of the alleged commission of the act.
  - Of these complaints, the report must specify the number of complaints:
    - That result in the child being adjudicated delinquent;
    - In which the act upon which the delinquent adjudication is based caused property damage or would be a theft offense;
    - That result in the delinquent child being required to make restitution for all or part of the property damage caused by the act or theft offense;
    - In which the act upon which the delinquent adjudication is based would have been an offense of violence if committed by an adult;
    - That result in the delinquent child being committed as an order of disposition to any facility for delinquent children; and
    - That result in the case being transferred to adult court for criminal prosecution.
- The clerk also shall compile an annual summary showing all of the information contained in the statistical record (described above). Neither the statistical record nor the annual summary shall include the identity of any party to a case.
- **Where to send:** The statistical record and annual summary shall be public records open for inspection.

### **Annual Report**

- **Rule/statute:** [R.C. 2152.71\(D\)](#); [R.C. 2151.18\(B\)](#).
- **Due date:** No later than June 30th each year.
- **Contents of report:** An annual report covering the preceding year, including:
  - The number and kinds of cases that have come before the court;
  - The disposition of the cases; and
  - Any other data pertaining to the work of the court that the juvenile judge directs.
  - Pursuant to H.B. 410 (effective April 4, 2017), courts must report:
    - The number of children placed in alternatives to adjudication under [\(R.C. 2151.27\(G\)\)](#);
    - The number of children who successfully completed alternatives to adjudication; and
    - The number of children who failed to complete alternatives to adjudication and were adjudicated unruly.
    - While not required by [R.C. 2151.18\(B\)](#), courts are strongly encouraged to report two additional data elements:
      - The total number of habitual truant complaints filed during the year; and
      - The number of truants handled informally, including those who were diverted prior to filing a habitual truant complaint.
        - This additional information will provide readers of the annual reports with not only the number of children undergoing habitual truant adjudication alternatives, but insight into the extent to which courts are diverting habitual truants.
- **Where to send:** The court shall file copies with:
  - The board of county commissioners; and
    - With the approval of the board, the court may print copies for distribution to persons and agencies.
  - The Ohio Supreme Court, Case Management Section.
    - Annual reports may be emailed to the Supreme Court of Ohio's Case Management Section at [casemgmt@sc.ohio.gov](mailto:casemgmt@sc.ohio.gov) or mailed to 65 South Front Street, Columbus, Ohio 43215-3431, ATTN: Case Management Section.



## Department of Youth Services (DYS) Reporting Requirements

### **DYS Data Reporting**

The current RECLAIM reporting requirements, forms, and instructions can be found on the DYS website at: [dys.ohio.gov/Community-Programs/RECLAIM/RECLAIM-Resources](https://dys.ohio.gov/Community-Programs/RECLAIM/RECLAIM-Resources). The forms and instructions related to data reporting are located in the Grant/Subsidy Forms and Documents folder.

### ENDNOTES

- 1 [R.C. 4510.03](#)
- 2 [R.C. 4510.032\(C\)](#)
- 3 [R.C. 4510.036\(B\)](#)
- 4 “Offenses of violence” and additional reportable offenses are listed in [R.C. 2901.01\(A\)\(9\)\(a\) & \(d\)](#).
- 5 [R.C. 2152.71\(A\)\(2\)](#)
- 6 [R.C. 109.57\(A\)](#)
- 7 [R.C. 109.60\(A\)\(2\)](#) requires every court to inquire as to whether the child has been fingerprinted for the current incident. If not, the court shall order the child to appear before law enforcement within 24 hours to have fingerprints taken.
- 8 [R.C. 109.57\(A\)\(1\)](#)
- 9 [R.C. 109.57\(A\)\(2\)](#)
- 10 [R.C. 109.57\(B\)](#)
- 11 [R.C. 109.57\(B\)](#)

REPORT QUICK GUIDE

REPORT TYPE	RULE/ STATUTE	DATE DUE	FORM (IF APPLICABLE)	WHERE TO SEND
Supreme Court Statistical Report	<a href="#">Sup.R. 37.02</a>	On or before the 15th of each month	<a href="#">Form D</a>	The Supreme Court of Ohio, Case Management Section. Submit via <a href="#">eStats</a>
Annual Case Inventory	<a href="#">Sup.R. 38</a>	On or before the 1st day of October each year	<a href="#">Form D</a>	The Supreme Court of Ohio, Case Management Section. Submit via <a href="#">eStats</a>
Local Rules of Court	<a href="#">Sup.R. 5</a>	On or before the 1st day of February each year	None Specified	Clerk of the Ohio Supreme Court at: <a href="mailto:LocalRules@sc.ohio.gov">LocalRules@sc.ohio.gov</a>
Ohio Public Defender Clerk of Court Indigent Application Fee Report	<a href="#">R.C. 120.36(E)</a>	On or before the 20th day of each month	<a href="#">OPD Clerk of Court Indigent Application Fee Report</a>	<a href="#">Office of the Ohio Public Defender</a> , 250 East Broad Street, Suite 1400, Columbus, Ohio 43215
Reparations Reporting Form		On or before the 20th day of each month	<a href="#">Reparations Rotary Reporting For Courts Form</a>	Forms and online payment options can be obtained from the Treasurer of State's website at: <a href="https://payments.tos.ohio.gov/ReparationsRotary">https://payments.tos.ohio.gov/ReparationsRotary</a> .
BMV Report	<a href="#">R.C. 4510.03</a> , <a href="#">4510.032(C)</a> , <a href="#">4510.036(B)</a>	Within 7 days of adjudication	Check with <a href="#">BMV</a>	<a href="#">BMV</a>
BCI Report	<a href="#">R.C. 2152.71(A)</a> and <a href="#">R.C. 109.57</a>	Weekly	BCI 2-71 (Final Disposition Report Form)	Send to BCI by mail or electronically by FTP-automated process.
Annual Statistical Summary	<a href="#">R.C. 2152.71(B)</a> & <a href="#">(C)</a>	Annually	None Specified	Maintained by the clerk; shall be public record open for inspection.
Annual Report	<a href="#">R.C. 2152.71(D)</a>	No later than June 30th of each year	None Specified	File copies with the board of county commissioners and the Ohio Supreme Court, Case Management Section <i>See note re: H.B. 410, above.</i>
DYS RECLAIM Reports			Forms located on the <a href="#">DYS website</a> .	Check the <a href="#">DYS website</a> for requirements, instructions and forms.

### XIII. DATA ENTRY AND ASSIGNMENT OF CASE NUMBERS

#### When should a case be initiated?

Although there are no statutory requirements that govern the time limit for entering information into the system after filing, each court should implement time guidelines that facilitate the timely disposition of cases. It is recommended that juvenile courts complete data entry within 1 business day of the filing.

#### How should cases be categorized and numbered?

[Sup.R. 43](#) specifies the case numbering system that is to be used for municipal and county court filings. Although juvenile courts are a division of the courts of common pleas (except Hamilton County) and are not directly governed by [Sup.R. 43](#), the requirements of [Sup.R. 43](#) are considered best practices for juvenile court filings and numbering cases.

1. **Category:** All cases should be categorized (such as, delinquency, traffic, or abuse, neglect, and dependency, etc.) and all cases should be serially numbered within a category on an annual basis.<sup>1</sup>
2. **Numbering:** All cases also should be identified by the year they were filed and broken down further into case type categories. A best practice for internal designation of case type is to identify cases by the Supreme Court Form D prefixes (below).

An example of this case numbering would be as follows:

[County Number and Court Number] [Case Type] [Four Digit Year] [Any series of up to twelve locally assigned letters and numbers to uniquely identify the case in accordance with the local rules of court.]

Example: 5703 A 2005-012345 01, identifies:

Montgomery County (57) Juvenile Court (03), Delinquency (A),  
Year (2005), Case Number (012345), (Count) 1.

**NOTE:** If your court's case management system is more detailed, additional information may be included.

#### What case categories does the Supreme Court of Ohio use for statistical reporting purposes?

Each juvenile court judge responsible for the disposition of cases is required to complete Form D for statistical reporting purposes.<sup>2</sup> A best practice for internal case designation is to identify cases by the following categories used for Form D:

- A – Delinquency
- B – Traffic
- C – Dependency, Neglect, Abuse
- D – Unruly
- E – Adult
- F – Permanent Custody

G – Custody, Change of Custody, Visitation (Parenting Time)

H – Support Enforcement/ Modification

I – Parentage

J – UIFSA

K – All Others (juvenile protection orders, grandparent POA/caretaker authorization, applications for consent to marry, abortion bypass)

**How should multiple charges for the same defendant be assigned case numbers?**

If a defendant is charged with felonies and misdemeanors, arising from the same act or transaction, or series of acts or transactions, pursuant to the Supreme Court of Ohio Statistical Reporting Instructions, a court shall assign all delinquency offenses a single case number. If unruly also is charged, it is not to be assigned a separate unruly case number, but will be included in the case number assigned to the delinquency charges. Because a Uniform Traffic Ticket must be used as the complaint for a traffic offense,<sup>3</sup> traffic offenses must be assigned a separate case number.

**How are AND cases assigned case numbers?**

In AND cases, [Sup.R. 2\(A\)](#) states that each child should be assigned his or her own case number. Although multiple siblings may be listed on a complaint, each child should be assigned an individual case number.

ENDNOTES

- 1 [Sup.R. 43\(A\)](#)
- 2 Form D is found in Appendix A, Statistical Reporting Forms, Rules of Superintendence for the Courts of Ohio.
- 3 [Juv.R. 10\(C\)](#)

## XIV. COMPLAINTS

### General Overview

All cases are initiated with the filing of a complaint. Who can file a complaint, where a complaint can be filed, and what a complaint must contain in order to be filed is set forth in [Juv.R. 10](#). Additional information and requirements may be provided by local rule.

Commonly filed complaints include traffic, delinquency, and unruly complaints. Complaints can be filed against parents, which can include failure to send, abuse, neglect, and dependency, parentage, custody, support, visitation, and various criminal charges.

#### **What information must be included in a complaint?**<sup>1</sup>

The general form of a complaint must satisfy all of the following requirements:

- State in ordinary and concise language the essential facts that bring the proceeding within the jurisdiction of the court;
  - In juvenile traffic offense and delinquency proceedings, the complaint must contain the numerical designation of the statute or ordinance that is alleged to have been violated.
- Contain the name and address of the parent, guardian, or custodian of the child, or if that information is unknown, it must state that it is unknown; and
- Be made under oath.

A Uniform Traffic Ticket shall be used as a complaint in juvenile traffic offense proceedings.<sup>2</sup>

#### **Where should a complaint be filed?**<sup>3</sup>

Complaints should be filed in the court of the county where the juvenile resides or in which the offense occurred.

#### **Who can file a complaint?**<sup>4</sup>

Any person having knowledge of a child who appears to have committed a traffic or delinquency offense, or to be abused, neglected, dependent, or unruly may file a complaint. Law enforcement, the prosecuting attorney, children services agency, school, and self-represented litigants often file the complaints.

#### **Special considerations for custody complaints**

Any person may file a complaint to have the custody of a child determined. The child must not be a ward of another court in the state.

Complaints concerning custody shall be filed in the county where the child is found or was last known to be.

**Complaints transferred from another court**

When a case is transferred or certified to from another court, the certification from the court that transferred the case is considered the complaint.

ENDNOTES

- 1 [Juv.R. 10\(B\)](#)
- 2 [Juv.R. 10\(C\)](#)
- 3 [Juv.R. 10\(A\)](#)
- 4 [Juv.R. 10\(A\)](#)

## XV. MOTIONS

### General Overview

A motion is an application to the court requesting an order on a pending case.<sup>1</sup> The court also may issue an order in a pending case on the court's own motion, without any request from the parties. For example, a judge could continue the case to a new date "upon the court's own motion."

A motion may be filed in writing or made orally during a court hearing.<sup>2</sup>

### **Memorandum of Support**

A written motion must be supported by a memorandum containing citations of authority, known as a Memorandum in Support.<sup>3</sup> The memorandum may either be a part of the body of the motion or filed as a separate pleading. The purpose of the Memorandum in Support is to further explain why the petitioner is requesting the court to grant the motion; it may include citations of case law or references to previous orders of the court.

### **Service**

The petitioner must serve opposing counsel and/or parties with a copy of the motion, and any supporting affidavits, and indicate at the bottom of the motion when and how parties were served. This is referred to as certificate of service.<sup>4</sup>

### **Hearing**

Any time a motion is filed, the court may set a motion for hearing, determine the motion at an already scheduled hearing, or bypass a hearing and respond by a written order granting or denying the motion. However the motion is considered by the court, the results of the court's decision to either grant or deny the motion should be entered into the record by a written order or entry.

A legal custodian of a child, who has been unlawfully deprived of custody of the child, may file a complaint seeking a writ of habeas corpus (a court order that requires the person with unlawful custody of a child to return the child to the person with lawful custody). If a complaint for writ of habeas corpus involving the custody of a child is based on a lawful court order, a certified copy of the order must be attached to the complaint).

### **Timeline**

All motions must be ruled upon within 120 days from the date the motion was filed, except as otherwise noted on the report forms.<sup>5</sup> The time period begins to run on the day the motion is filed or made orally.<sup>6</sup>

## ENDNOTES

1 [Juv.R. 19](#)

2 [Juv.R. 19](#); [Civ.R. 7\(B\)\(1\)](#)

ENDNOTES - *cont.*

- 3 [Juv.R. 19; Civ.R. 7\(B\)\(1\)](#)
- 4 [Civ.R. 7\(B\)\(1\); Civ.R. 5](#)
- 5 [Sup.R. 40\(A\)\(3\)](#)
- 6 [Sup.R. 40\(A\)\(3\)](#)



## XVI. HEARINGS: TYPE AND TIME GUIDELINES

There are several types of juvenile hearings and each hearing type can have a different timeline for scheduling. It is important to have an understanding of the different hearing types and its corresponding time guideline.

### General Overview<sup>1</sup>

Hearings conducted in juvenile courts can generally be held in an informal manner. Adult cases must be held separately from children's cases, except for chronic or habitual truancy hearings. Cases involving children will be heard and determined without a jury, with the exception of serious youthful offender proceedings. With the court's permission, hearings are able to be postponed or moved to a different time.

Delinquency hearings are neither presumed to be open nor closed. The court can exclude the general public from any hearing if the court holds a separate hearing to determine whether exclusion is appropriate.<sup>2</sup> However the court cannot exclude persons with a direct interest in the case or a right to be present. Adult rules about public access apply in serious youth offender (SYO) proceedings; SYO proceedings must be open to the general public.<sup>3</sup> Abuse, Neglect and Dependency (AND) hearings are confidential and closed.<sup>4</sup> The Ohio Supreme Court has provided guidelines for closure.<sup>5</sup>

*[See Section XXXIX., Media Access, for additional information.](#)*

### **Ex Parte Emergency custody hearings<sup>6</sup>**

- When a child alleged to be abused, neglected or dependent is to be taken into custody, the court may grant an ex parte emergency order to take the child into custody.
  - Ex parte hearings involve the court conducting a hearing without all parties to the case being present.
  - An ex parte hearing can only be conducted when there are emergency circumstances involved and reasonable efforts have been made to notify all parties that the hearing is to be conducted.
  - The ex parte hearing may be done by telephone or another manner.
- Following an ex parte emergency order, a complaint must be filed by the end of the next business day.
- When a child is taken into custody pursuant to an ex parte emergency order, a probable cause hearing shall be held before the end of the next business day, and no later than 72 hours after the issuance of the emergency order.

### **Adjudicatory hearings<sup>7</sup>**

- Hearings are scheduled once the complaint is filed or as soon as possible after, but no later than 72 hours.

- If the child who is the subject of the complaint is in detention or shelter care, the hearing must be held no later than 15 days after the complaint has been filed.
- If the complaint involves abuse, neglect, or dependency, the hearing shall be held no later than 30 days after the complaint is filed. However this deadline can be extended for 10 days to allow any party to obtain counsel. It also can be extended for a reasonable period of time to obtain service on all parties or to complete necessary evaluations.
- With good cause, the court may continue any adjudicatory hearing and extend detention or shelter care. However, the adjudicatory hearing must be held within 60 days of the filing of the complaint.
- If the adjudicatory hearing is not held within these time periods, it does not affect the ability of the court to issue any order, unless otherwise stated in a rule or statute. It also does not provide basis for contesting the jurisdiction of the court or the validity of any court order.

**Dispositional hearings**<sup>8</sup>

- If a child is adjudicated in a delinquency, unruly or juvenile traffic offense, the dispositional hearing can be held immediately.
- If a child is adjudicated abused, neglected or dependent, the dispositional hearing must be scheduled at least 1 day, but not more than 30 days, after the adjudication hearing. The dispositional hearing can be held immediately after adjudication only if all parties consent.
- In an Abuse, Neglect, and Dependency (AND) case, the dispositional hearing may be held immediately following the adjudication only if all parties were served prior to the adjudication hearing with all of the documents necessary for disposition and parties are in agreement with holding the disposition immediately following the adjudication.
- In an AND case, the dispositional hearing cannot be held more than 90 days after the date on which the complaint was filed.
- The dispositional hearing in all cases should be heard by the judge or magistrate who presided at the adjudicatory hearing, if possible.
- The judgment shall be entered within 7 days of the conclusion of the hearing. A copy of the judgement shall be provided to any party requesting it.
- At dispositional hearings in an AND case, the court shall journalize a case plan for the child. All parts of the case plan are to be completed within 30 days of the adjudicatory hearing or the date of the dispositional hearing, whichever is earlier. The court shall journalize the case plan as a part of the dispositional order.

- In an AND case, any party, other than a parent who has permanently lost parental rights, can make a motion to modify or terminate a dispositional order. The court shall hold a hearing on the motion as if it were the original dispositional hearing.

**Review hearings**<sup>9</sup>

- In an AND case, a dispositional review hearing must be held 1 year after the date the complaint was filed or the date the child was first placed in shelter care, whichever is earlier.
- The 1 year dispositional review must be scheduled at the dispositional hearing.
- A dispositional review hearing can be held any time after the dispositional hearing to review a child's placement, custody arrangement, case plan, and the actions of the agency implementing the plan.
- A review hearing must be held every 12 months after the initial review until the child is returned to a parent, is adopted, or the court terminates the child's placement or custody arrangements.
- The next review hearing must be scheduled at the conclusion of each review hearing.

**Detention and/or Shelter Care hearings**<sup>10</sup>

- Detention or shelter care hearings shall be held no more than 72 hours or the next court day, whichever is earlier, after the child is placed in detention or shelter care.
- Reasonable notice, oral or written, of the time, place, and purpose of the detention hearing shall be given to the child, parent, guardian, or custodian, if they can be found.
- If a parent, guardian or custodian did not receive notice and did not attend the initial hearing, the court shall rehear the matter.
- If a motion is filed requesting the child to be released, a hearing must be scheduled within 72 hours.

**Out-of-county removal hearings**<sup>11</sup>

- Held when a complaint is filed to remove a child from the jurisdiction of another court and to send all information to the court requesting the removal.
- When an out of county removal action is filed, the court in which the complaint is filed shall immediately contact the court that issued the original dispositional order for information necessary for service and issuance of notice of the removal hearing.
- The court that issued the original dispositional order shall respond within 5 days after receiving the request.

- Notice of the removal hearing must be sent by first class mail, to the following, at least 5 days before the hearing:
  - The court issuing the dispositional order;
  - The guardian ad litem for the child;
  - Counsel for the child;
  - The placing entity;
  - The custodial entity;
  - The complainant;
  - The guardian ad litem and counsel presently representing the child in the court that issued the original dispositional order; and
  - Any other persons the court determines to be appropriate.
- The removal hearing must be held within 30 days after service of summons is obtained.
- If the court grants relief in favor of the complainant, the court shall send written notice to the juvenile court that issued the original dispositional order.

**Permanent custody hearings**<sup>12</sup>

- A permanent custody hearing shall be held no later than 120 days after the agency files the motion for permanent custody. With good cause, the court may continue the hearing for a reasonable period of time. The court shall issue an order that grants, denies, or otherwise disposes of the motion for permanent custody, and journalize the order, not later than 200 days after the agency files the motion.
- In the event permanent custody is requested at the time of the filing of the initial complaint (versus a permanent custody motion filed subsequent to the initial complaint), the normal deadlines for adjudication and disposition hearings apply.
- The failure of the court to comply with the time periods does not affect the authority of the court to issue any order and does not provide any basis for attacking the jurisdiction of the court or the validity of any order of the court.

**Additional commonly held hearings include:**

- **Arraignment or Preliminary Hearing:** To introduce a new complaint/motion and explain parties' rights.
- **Pretrial Hearings, Attorney Conferences and Status Conferences:** To determine outstanding issues regarding discovery and/or procedure and allow the parties to negotiate potential resolutions.
- **Motion Hearing:** To hear oral arguments and/or evidence as it relates to any pending motions.
- **Mental Health Competency Hearing:** To determine in a delinquency proceeding whether a child is competent to stand trial.

- **Probable Cause:** In delinquency cases in which the state seeks to try a juvenile as an adult, a hearing to determine if there is probable cause to believe the alleged delinquent committed the offense and qualifies to be transferred to adult court.
- **Amenability Hearing:** In delinquency cases in which the state seeks to try a juvenile as an adult, after probable cause is found, a hearing to determine whether the child is amenable to juvenile court services or whether the child should be transferred to the adult court for further prosecution.
- **Show Cause Hearing/Contempt:** Hearings to determine whether an individual has failed to abide by a court order or otherwise conducted himself/herself before the court in a disobedient or disrespectful manner.

**Supreme Court of Ohio Time Guidelines<sup>13</sup>**

In general, hearings are scheduled at the discretion of the court. However, it is a best practice to dispose of cases within the time allowed by the Supreme Court of Ohio’s Time Guidelines, as found on Form D. For purposes of calculating the time a case has been pending, use the chart below.

Form D Case Type	Time Starts	Time Ends
Civil	Upon the filing of the complaint or other initial pleading	Upon the journalization of the judgment entry or transfer to another court or referral to private judge
Delinquency, Traffic, Unruly, and Adult Cases	Upon arraignment or waiver of arraignment	Upon the journalization of sentencing entry or transfer to another court

Refer to Form D for each case type’s time standard when scheduling hearings. Form D’s Time Guidelines are listed below.

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

*[See Section XVIII., Controlling the Docket.](#)*

ENDNOTES

- 1 [Juv.R. 27](#); [R.C. 2151.35](#)
- 2 [R.C. 2151.35\(A\)\(1\)](#)
- 3 [Juv.R. 27](#); [R.C. 2151.35\(A\)](#)
- 4 [Sup.R.44](#)
- 5 [Dispatch v. Loudon, 2001-Ohio-268](#)
- 6 [Juv.R. 6](#); [R.C. 2151.31\(D\)](#)
- 7 [Juv.R. 29](#); [R.C. 2151.28](#)
- 8 [Juv.R. 34](#)
- 9 [Juv.R. 36](#)
- 10 [Juv.R. 7](#); [R.C. 2151.314](#)
- 11 [Juv.R. 39](#)
- 12 [R.C. 2151.414](#)
- 13 Form D is found in Appendix A, Statistical Reporting Forms, of the Rules of Superintendence for the Courts of Ohio.

## XVII. COMPUTATION OF TIME

### General Overview

Information regarding computation of time for the many actions taken by a court and court clerks can be found in [Juv.R. 18](#), [Civ.R. 6](#), and [Crim.R. 45](#). If you have specific questions regarding computation of time, it is recommended you review your court's local rules and seek the advice of a judicial officer, court administrator, prosecutor, or staff attorney.

### Summary of Computation

#### What rules govern computation of time?

The [Civil](#), [Criminal](#), and [Juvenile](#) Rules of Procedure define the amount of time allowed for different situations.<sup>1</sup>

#### Generally, how is time/number of days calculated?

In counting the number of days for legal purposes, the date of the act or event (i.e., filing date) shall not be included. The last day of the period (i.e., timestamp date) shall be included unless it is a Saturday, Sunday, or a legal holiday. If the last day is a Saturday, Sunday, or legal holiday, these days are not included for calculating time.<sup>2</sup>

#### Exceptions

The civil rules of procedure state that when a public office is closed for an entire day or closes before its usual closing time on a day that is the last day for an act to be performed, then the act may be performed on the next succeeding day that is not a Saturday, Sunday, or legal holiday.<sup>3</sup>

An exception to the computation that is especially worth noting is when the period of time allowed is less than 7 days. In most of those cases, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.<sup>4</sup>

However, this does not apply to probable cause, shelter care or detention hearings. These situations include Saturdays, Sundays, and legal holidays.<sup>5</sup>

### Examples

A clerk is required to enter a judgment entry in the journal of the court and serve it on all parties within 3 days.<sup>6</sup> If a clerk processed a judgment entry filed on a Thursday, then Friday is the first day counted. Because the time allowed is less than 7 days, Saturday and Sunday are not counted, allowing the clerk until the end of the day on Tuesday to complete the necessary action.

Clerks also have timeframes for preparing and submitting a case to the court of appeals.<sup>7</sup> In the submission of the record from the lower court, the court must submit the record as soon as possible but no more than 40 days from the date of filing. In this situation, because the timeframe exceeds 7 days, Saturdays and Sundays would be counted.

When a child has been admitted to shelter care, a shelter-care hearing shall be held promptly, not later than 72 hours after the child is placed in shelter care or the next court day, whichever is earlier.<sup>8</sup> If a clerk receives a motion for shelter care on a Friday, the hearing to determine whether shelter care is required must be held on Monday since the court only has 72 hours after the child is placed in shelter care to hold the hearing. However, if a clerk receives a motion for shelter care on a Thursday, the hearing must be held the next day, on Friday, since the hearing must be held the next court day when possible.

## ENDNOTES

- 1 [Juv.R. 18](#); [Civ.R. 6](#); [Crim.R. 45](#)
- 2 [Juv.R. 18\(A\)](#)
- 3 [Civ.R. 6\(A\)](#)
- 4 [Juv.R. 18 \(A\)](#); [Civ.R. 6\(A\)](#); [Crim.R. 45\(A\)](#)
- 5 [Juv.R. 18\(A\)](#)
- 6 [Civ.R. 58\(B\)](#)
- 7 [App.R. 10](#)
- 8 [Juv.R. 7\(F\)](#)



## XVIII. CONTROLLING THE DOCKET

### General Overview

Every court has its own unique approach to managing the docket. The judge or magistrate may schedule their own docket or they may utilize the bailiff or clerks to manage the docket schedule. Some courts have an electronic docketing system which allows for greater efficiency as court hearings may be scheduled prior to the parties leaving the court. How a court handles the docket can directly affect the court's efficiency. There are several types of practices for scheduling hearings.

### Definitions

#### **Time-Certain Docketing**

Time-certain docketing is considered the best practice for scheduling hearings. Time-certain docketing requires the court to determine how long different hearings types take on average and set up the docket accordingly. The court must allow time for emergency hearings, as they occupy time on the docket, as well. A court may provide a block of time for emergency hearings or try to schedule them in open time slots on the calendar.

For example, the court day can be broken up into half-hour time frames and parties are given an exact time for their court hearing (e.g., 10:30 a.m.). The time can be increased or decreased in individual hearings based upon the complexity of the hearing, number of witnesses, and other factors.

Time-certain docketing reduces the wait time for all parties and witness. It also sets an expectation in the court that events will occur as scheduled. This type of docketing can best be implemented when the court sets the expectation that continuances will not be granted without good cause.<sup>1</sup>

**Best Practice: Time-certain docketing.**

#### **Block-Time Docketing**

Hearings are assigned by groups and scheduled in a certain block of time. Each block should be dedicated to one type of hearing. All parties to the hearings are assigned to the time that the block starts. With this type of docketing, the parties may have to wait, but the length of wait will be no longer than the block. Different types of hearings should be given different lengths of time. If a particular hearing will take a lot of time, the hearing should be assigned to the entire day instead of placed within a block.

For example, a court can determine that AND-review hearings take 30 minutes. In a 90-minute block, three AND-review hearings would be scheduled.

### **How does a court use a combination of block time and time certain docketing?**

Courts set blocks of time for certain types of hearings, and within the block set a specific time for a particular hearing. When all segments within the time block are filled, hearings are scheduled to be heard during the next available blocks for that type of hearing.

For example, a court may determine that review hearings are held on Tuesdays and Thursdays from 11:00 a.m. – 1:00 p.m. Each hearing during that block is scheduled at a specific time (e.g., 11:30 a.m.).

To make sure that all times are filled, the clerk should schedule the hearing for the first available date and time for that type of hearing. Clerks also must be aware of service timeframes when setting hearing as a precautionary measure. Additionally, if there are multiple judicial officers hearing the same case type, it may be best to schedule different case types on different days to avoid overlap in attorneys, probation officers, and agency caseworkers who may need to be present at the same time for different hearings.

### **Cattle-Call Docketing**

Cattle-call docketing is not considered a best practice because it is not an efficient way to manage the docket. All cases are assigned the same time and all parties for all cases are expected to be present and ready while they wait for their case to be heard at some point during that day. Some courts may assign all cases the same morning time (i.e., 8:30 a.m.) or break the schedule into a morning and an afternoon block. This docket-management system means that many people, including attorneys, GALs/CASA, agency case workers, and family members may be required to wait several hours for the case to be heard. This type of scheduling does not encourage the participation of the youth or parents in the hearing as it may require them to miss an entire day of school or work and can make scheduling transportation difficult. It also may lead to continuances or delays if required parties are not present when the case is called. If cattle call is to be used, it would be recommended to use it in combination with block-time scheduling.

### **Direct Calendaring or Individual Calendars**

The term “direct calendaring” or “individual calendars” is used to describe a court in which a family is assigned to one judicial officer throughout the entirety of their court experience.<sup>2</sup> Direct calendaring gives judicial officers a sense of ownership in each case. It enables judicial officers to create a working relationship with the parties and become thoroughly familiar with the complexities of the family’s situation and the efforts made to address their case. It also provides families with a sense of control as they learn the court’s expectations and know that a new judge will not interpret the case differently at different stages.<sup>3</sup> The opposite of direct calendaring is called “master calendaring,” where courts assign a different judicial officer at each stage of the case.

## Tips for Controlling the Docket

### **Using the case management system**

A case management system can offer multiple services that lead to greater efficiency in the court, particularly for the clerks. At a minimum, the court's case management system should be capable of tracking caseloads and measuring court process in caseflow management systems. The information system should maintain statistics on the length of time from case filing to case closure. The system also should monitor the length of crucial steps in the litigation process, such as petition of adjudication, petition to disposition, and termination of parental rights to final written findings of fact and conclusions of law. These statistics should be periodically reported and used to evaluate the effectiveness in case flow management systems. New or upgrades to a current case management system are required to be capable of sending case data to the Ohio Courts Network.<sup>4</sup>

### **Reducing continuances and caseflow time standards for the Juvenile Court**

Juvenile courts are held to time standards for different case types, as outlined on the Juvenile Division Form D, below row 17, Time Guidelines (months).<sup>5</sup> Continuances delay the court process, increase the number of cases on the court calendar, and often result in cases taking longer than time standards allow. For example, for a child in an AND case, continuances can mean more time in out of home placement and delays in permanency. Due to these delays, continuances are only to be granted when necessary to assure fair treatment of the parties.<sup>6</sup>

### **Distributing timely, meaningful court orders**

Parties are more likely to be prepared and present if they are provided a specific time for the next hearing. With technological advances, courts can schedule the next hearing and distribute the order(s) prior to the parties leaving the court. Orders should specify the actions required by all parties, in plain language, so that parents and non-lawyers understand what needs to be done prior to the next hearing. This not only saves the court time and money from sending notices, it also gives the parties extra time to prepare for the next hearing.<sup>7</sup>

### **Early appointment of counsel**

The early appointment of counsel or other appointments (GALs, etc.) also can decrease the number of continuances. Although each court may assign counsel differently, one approach is to assign counsel at the time of filing. The assigned counsel is provided a copy of the petition, supporting documents and the name of the youth or parent they will represent.<sup>8</sup>

### **Use of the “one family-one judge” model**

The [National Council of Juvenile and Family Court Judges](#) recommends that the judicial officer initially assigned to the case be assigned on all subsequent hearings for every member of the family, regardless of case type. The judge or magistrate initially assigned to the case has the most information and is most familiar with the case so he/she can make the most informed decision. Orders will be more consistent as the goal and expectations remain constant and accountability of all parties increases.

## ENDNOTES

- 1 Gatowski, S. Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: *Improving court practice in child abuse and neglect cases*. Reno, NV: National Council of Juvenile and Family Court Judges.
- 2 Gatowski, S. Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: *Improving court practice in child abuse and neglect cases*. Reno, NV: National Council of Juvenile and Family Court Judges.
- 3 Gatowski, S. Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: *Improving court practice in child abuse and neglect cases*. Reno, NV: National Council of Juvenile and Family Court Judges.
- 4 [Sup.R. 34](#)
- 5 Form D is available at [sc.ohio.gov/JCS/casemng/statisticalReporting/Form\\_D.pdf](http://sc.ohio.gov/JCS/casemng/statisticalReporting/Form_D.pdf).
- 6 [Juv.R. 23](#)
- 7 Gatowski, S. Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: *Improving court practice in child abuse and neglect cases*. Reno, NV: National Council of Juvenile and Family Court Judges.
- 8 Gatowski, S. Miller, N., Rubin, S., Escher, P., & Maze, C. (2016) Enhanced resource guidelines: *Improving court practice in child abuse and neglect cases*. Reno, NV: National Council of Juvenile and Family Court Judges.

## **XIX. SERVICE**

### **When must a summons be issued?<sup>1</sup>**

Upon the filing of a complaint, the clerk shall issue a summons upon the child, the parents, guardian, custodian, and any other persons who appear to be proper or necessary parties. If the summons is issued for a child who is under 14 years of age and alleged to be delinquent, unruly or a juvenile traffic offender, it shall be served upon the child's parent, guardian, custodian or other person with whom the child lives. If the person who has physical custody of the child or with whom the child resides is not the parent or guardian, then the parent or guardian also must be summoned.

### **What information must be included on a summons?**

The summons shall contain:<sup>2</sup>

- The name of the party or person with whom the child may be;
- A summary statement of the complaint and the numerical designation of the applicable statute or ordinance;
- A statement that any party is entitled to be represented by an attorney and that the court will appoint an attorney upon request of an indigent party;
- An order to the party to appear at a stated place and time with a warning of sanctions or loss of rights if the party fails to appear;
- An order to the parent, guardian or other person having care of the child alleged to be an unruly or delinquent child, to appear personally at the hearing and bring the child to the hearing, with a warning that if the child fails to appear the parent or guardian may be subject to court sanction;
- A statement that if a child is found to be abused, neglected, or dependent, the parent could be divested of some or all parental rights and the specific disposition being sought;
- A statement in a removal action of the specific disposition being sought; and
- The name and telephone number of the court employee designated by the court to arrange for the prompt appointment of counsel for indigent persons.

A copy of the complaint shall be sent with the summons.<sup>3</sup>

The summons may be signed by the court with an order directed to the parents, guardian, or other person with whom the child may be, to appear personally before the court and to bring the child to the hearing.<sup>4</sup>

### **Who may be served?**

Service of process (except service by publication) shall be made upon:<sup>5</sup>

- An individual, other than a person under 16 years of age or an incompetent person, by serving the individual; or

- A person under 16 years of age by serving either the person's guardian or any one of the following persons with whom the person resides:
  - A parent or the individual having the care of the person; or
  - The person if the person neither has a guardian nor lives nor resides with a parent or a person having his or her care.

A complete list of persons who may be served is found in [Civ.R. 4.2](#).

Service of summons may be waived in writing by any person entitled to service of process who is at least 18 years of age and not under disability.<sup>6</sup>

#### **What happens if a warrant is issued?**

If the court determines that a summons will be ineffectual or the welfare of the child requires that the child be brought to the court, a warrant may be issued against the child.<sup>7</sup>

The warrant shall contain:

- The name of the child;
- A summary statement of the complaint; and
- The applicable statute or ordinance.

The warrant shall command that the child be taken into custody and be brought before the court without unnecessary delay. A copy of the complaint shall accompany the warrant.<sup>8</sup>

#### **What are the methods of service available?**

##### **Service by Mail**

All process may be served anywhere in this state and, when authorized by law or these rules, may be served outside this state.<sup>9</sup>

- **Service by U.S. certified or express mail:** The clerk shall deliver a copy of the summons and complaint or other document to be served to the United States Postal Service for mailing at the address set forth in the caption or written instructions to the clerk as certified or express mail. Return receipt must be requested showing to whom the mail was delivered along with the date and address of delivery.<sup>10</sup> When service is by certified mail, the time to appear shall not be less than 7 days after the date of mailing.<sup>11</sup>
- **Service by commercial carrier service:** The clerk may make service by a commercial carrier service (e.g., UPS, FedEx) utilizing any form of delivery requiring a signed receipt, unless instructed otherwise. The clerk shall deliver a copy of the summons and complaint or other document to be served to a commercial carrier service for delivery at the address set forth in the caption or at the address stated in written instructions provided to the clerk. Instructions must be provided to the carrier to return a signed receipt showing to whom the mail was delivered along with the date and address of delivery.<sup>12</sup>

The clerk shall enter the delivery for mailing on the docket and make a similar entry when the return receipt is received.<sup>13</sup> All postage and commercial carrier service fees shall be charged to costs.<sup>14</sup>

**What if service by mail or commercial carrier is refused or unclaimed?**<sup>15</sup>

If an envelope attempting service is returned as “Refused” or “Unclaimed,” the clerk shall:

- Notify the attorney of record or, if there is no attorney of record, the party requesting service; and
- Enter the fact and method of notification on the appearance docket.

The clerk can send by U.S. ordinary mail a copy of the summons and complaint to the address set forth in the caption.

- The mailing shall be evidenced by a certificate of mailing, which shall be completed and filed by the clerk.
- Service shall be deemed complete when the mailing is entered on the record providing that the ordinary mail envelope is not returned by postal authorities showing failure of delivery.

**Personal Service**<sup>16</sup>

The court may order a party to be personally served with a copy of the summons and complaint. Personal service may be made by any person who is at least 18 years old, who is not a party to the case, and who has been designated by the court order. The person serving process shall provide a copy of the documents to the person to be served, sign the process, and return it to the clerk. The clerk shall enter proof of service on the docket.

**What happens upon failure of personal service?**<sup>17</sup>

When the person serving process is unable to serve a copy of the process within 28 days, the person shall endorse the failure of service, and the reasons for it, on the process and return all documents (and copies thereof) to the clerk. The clerk must make an appropriate entry on the appearance docket. The clerk shall follow the same notification procedure set forth above (the process used for refused or unclaimed service by mail or commercial carrier). Failure to make service within the 28 days and failure to make proof of service do not affect the validity of the service.

**Service by Publication**

When the residence of a party is unknown and cannot be ascertained by reasonable diligence, service shall be made by publication. Before service by publication can be made, an affidavit of a party or party’s counsel, must be filed with the court. The affidavit shall state 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.<sup>18</sup>

Service by publication upon a non-custodial parent is not required in delinquent or unruly cases when the person with legal custody of the child has been served with summons, but the court may not enter any order or judgment against any person who has not been served unless that person appears.<sup>19</sup>

**What types of notice can be used for service by publication?**<sup>20</sup>

Service by publication shall be made by newspaper publication, by posting and mail, or by a combination of methods. The court should determine which methods should be used by local rule.

**Newspaper publication:** Upon the filing of the affidavit, the clerk shall service notice by publication in a newspaper of general circulation in the county in which the complaint is filed. If no newspaper is published in the county, then publication shall be made in a newspaper published in an adjoining county.

- The notice shall be published once and services shall be complete on the date of publication.
- After publication, the publisher shall file with the court an affidavit showing proof of publication and a copy of the notice. The affidavit and copy of notice shall constitute proof of service.
- The publication shall contain:
  - Name and address of the court;
  - Case number;
  - Name of the first party on each side;
  - The last known address, if any, of the person(s) whose residence is unknown;
  - A summary statement of the object of the complaint; and
  - Notification to the person that they are required to appear at the time and place stated.
    - The time stated shall not be less than 7 days after the date of publication.

**Posting and Mail:** Upon the filing of the affidavit, the clerk shall post a notice in a conspicuous place in the division of the courthouse with jurisdiction over the complaint and in additional public places in the county that have been designated by local rule for posting of notices. The number of additional public places 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. The notice shall contain the same information required in a newspaper publication (above). The notice shall be posted in the required locations for 7 consecutive days.



- In addition to posting, the clerk also shall send a summons and accompanying pleadings by ordinary mail, address correction requested, to the last known address of the party to be served, evidenced by a certificate of mailing from the U.S.P.S. If the clerk is notified of a corrected or forwarding address of the party within the 7-day period, the clerk shall mail the documents to the corrected or forwarding address. The clerk shall note the name, address and date of each mailing in the docket.
- After the 7 days of posting, the clerk shall note on the docket where and when the notice was posted. Service shall be complete upon the entry of posting.

## ENDNOTES

- 1 [Juv.R. 15\(A\)](#)
- 2 [Juv.R. 15\(B\)](#)
- 3 [Juv.R. 15\(A\)](#)
- 4 [Juv.R. 15\(C\)](#)
- 5 [Civ.R. 4.2](#)
- 6 [Civ.R. 4\(D\)](#)
- 7 [Juv.R. 15\(D\)](#)
- 8 [Juv.R. 15\(E\)](#)
- 9 [Civ.R. 4.6\(A\)](#)
- 10 [Civ.R. 4.1\(A\)\(1\)\(a\)](#)
- 11 [Juv.R. 16\(A\)](#)
- 12 [Civ.R. 4.1\(A\)\(1\)\(b\)](#)
- 13 [Civ.R. 4.1\(A\)\(2\)](#)
- 14 [Civ.R. 4.1\(A\)\(3\)](#)
- 15 [Civ.R. 4.6\(C\)](#)
- 16 [Civ.R. 4.1\(B\)](#)
- 17 [Civ.R. 4.1\(B\)](#)
- 18 [Juv.R. 16\(A\)](#)
- 19 [Juv.R. 16\(A\)](#)
- 20 [Juv.R. 16\(A\)](#); [Civ.R. 4.4](#)



## XX. SUBPOENAS

### General Overview

A subpoena is a document commanding the recipient to either personally appear as a witness to testify in court on a certain date and time and/or to produce records, documents, or information for a court hearing or deposition. Failure to comply with the instructions on the subpoena can result in a penalty.

#### What is the purpose of a subpoena?<sup>1</sup>

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

- Attend and give testimony at a trial, hearing, proceeding, or deposition;
- Produce documents or tangible things at a trial, hearing, proceeding or deposition;
- Produce and permit inspection and copying of any designated documents that are in the possession, custody, or control of the person; and/or
- Produce and permit inspection and copying, testing, or sampling of any things that are in the possession, custody, or control of the person.

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

#### What information is required on every subpoena?<sup>2</sup>

The subpoena must state the name of the court from which it is issued, the title of the action, the command, and the case number.

#### Who has the authority to issue a subpoena?<sup>3</sup>

The clerk shall issue a blank, signed subpoena to any party or party's attorney, requesting it. If the issuing attorney modifies the subpoena in any way, the issuing attorney shall give prompt notice of the modifications to all other parties.

#### Are witnesses able to get reimbursed for money spent responding to a subpoena?<sup>4</sup>

The subpoenaed witness may request payment for 1 day's attendance and mileage allowed by law. If the witness being subpoenaed resides outside the county in which the court is located, the fees for 1 day's attendance and mileage shall be tendered without demand. The return may be forwarded through the postal service or otherwise.

#### Who pays the witness fees?<sup>5</sup>

If the party shows that a witness is necessary but the party is financially unable to pay the witness fees, the court shall order the issuance of the subpoena. If the court orders the subpoena to be issued, the costs incurred by the process and the fees of the witness shall be paid as court costs (as if it was a witness subpoenaed on behalf of the state in a criminal prosecution).

**Who has the authority to serve a subpoena?<sup>6</sup>**

A subpoena may be served by a sheriff, bailiff, coroner, clerk of court, constable, probation officer, or a deputy of any of the above, 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 18 years of age.

**How must a subpoena be delivered?<sup>7</sup>**

Service of a 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. The person serving the subpoena shall file a return of the subpoena with the clerk.

**What protections does a person subject to a subpoena have?<sup>8</sup>**

- A party or 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.
- A person who is commanded to produce documents or other things is not required to appear in person unless that person also is commanded to attend and give testimony at a trial, hearing, proceeding, or deposition.
- A person commanded to produce may serve upon the party or attorney designated in the subpoena written objections to production.
  - The objections must be served within 14 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.

**Can the court overrule a subpoena?<sup>9</sup>**

On timely motion, the court shall quash or modify the subpoena, or order appearance or production only if the subpoena does any of the following:

- Fails to allow reasonable time to comply;
- Requires disclosure of privileged or otherwise protected matter and no exception or waiver applies;
- 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; and/or
- Subjects a person to undue burden.

If a person who is requested to produce documents or other tangible things is subjected to undue burden, that person may file a motion, but that person must have attempted to resolve any claim of undue burden first. The motion must be supported by an affidavit of the subpoenaed person or certificate of the subpoenaed person's attorney that efforts were made to resolve the claim of undue burden.

**What are the sanctions for failure to comply with a subpoena?<sup>10</sup>**

Failure by any person without adequate excuse to obey a subpoena may be found in contempt of the court. A subpoenaed person or that person's attorney who frivolously resists discovery may be required by the court to pay the reasonable expenses, including reasonable attorney's fees, of the party seeking the discovery. The court may impose upon a party or attorney in breach of the duty an appropriate sanction that may include, but is not limited to, lost earnings and reasonable attorney's fees.

**What is the timeframe for resolving issues pertaining to subpoenas?<sup>11</sup>**

All issues concerning subpoenas shall be resolved prior to the time otherwise set for hearing or trial.

ENDNOTES

- 1 [Juv.R. 17](#); [Civ.R. 45](#); [Crim.R. 17](#)
- 2 [Juv.R. 17](#); [Civ.R. 45](#); [Crim.R. 17](#)
- 3 [Juv.R. 17\(A\)](#)
- 4 [Juv.R. 17\(C\)](#); [Crim.R. 17\(D\)](#)
- 5 [Juv.R. 17](#); [Crim.R. 17](#)
- 6 [Juv.R.17](#); [Civ.R. 45](#); [Crim.R. 17](#)
- 7 [Juv.R. 17\(C\)](#); [R.C. 2151.29](#)
- 8 [Juv.R. 17\(D\)](#); [Civ.R. 45\(C\)](#)
- 9 [Juv.R. 17\(D\)](#)
- 10 [Juv.R. 17\(F\)](#)
- 11 [Juv.R. 17\(H\)](#)



## XXI. COURT APPOINTMENTS

### General Overview<sup>1</sup>

Every party has the right to be represented by counsel and every child, parent, custodian, or other person in loco parentis has the right to appointed counsel if indigent. These rights arise when a person becomes a party to a juvenile court proceeding. The court may continue the case to enable a party to obtain counsel, to be represented by the county public defender or the joint county public defender, or to be appointed counsel upon request.

### What happens if a party appears without counsel?<sup>2</sup>

If a party appears without counsel, the court shall inquire whether the party knows of their right to counsel and the right to appointed counsel if indigent. If a child faces potential loss of liberty, the child must be informed, on the record, of the right to counsel and the disadvantages of self-representation.

There are circumstances where a child may not waive counsel:

- At a transfer hearing (bindover) pursuant to [Juv.R. 30](#);
- When an SYO dispositional sentence has been requested;
- 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; or
- If a child is charged with a felony offense, the child may not waive counsel unless the child has met privately with an attorney to discuss the right to counsel and the disadvantages of self-representation.

A child's waiver of the right to counsel must be made in open court, recorded, and in writing.

### Are there special responsibilities placed on the court to assist with requests for counsel in shelter care or detention hearings?<sup>3</sup>

In shelter care and detention hearings, each juvenile court shall designate at least one court employee to assist persons who are indigent in obtaining appointed counsel. The court shall include in each notice of the right to counsel and in each summons served upon a party, the contact information for the designated employee in order to arrange for prompt appointment of counsel for indigent persons.

### What is the process for appointing counsel?<sup>4</sup>

Each court must adopt a local rule governing court appointments. The local rule must include:

- A procedure for selecting appointees from a list maintained by the court. The procedure must ensure an equitable distribution of appointments among persons on the list;
- A procedure by which all appointments are reviewed periodically to ensure the equitable distribution of appointments; and

- The compensation appointees receive for services rendered and expenses incurred, including a fee schedule, if applicable.

The local rule also may include:

- Qualifications established by the court for attorneys to be included on the list;
- The process by which attorneys are added to or removed from the appointment list; or
- Other provisions considered appropriate by the court.

**To qualify for reimbursement, attorneys appointed by the juvenile court must meet the following requirements:<sup>5</sup>**

- Counsel appointed in unruly, truancy, violations of a court order, and misdemeanor cases must have completed one of the following:
  - At least 6 hours of continuing legal education (CLE) in juvenile delinquency practice and procedure. All CLE courses must be certified by the Ohio Supreme Court.
  - A clinical education program focusing on juvenile law; or
  - At least 1 year of experience as an attorney.
- Counsel appointed in OVI cases must have completed a minimum of 6 hours of CLE focused on OVI practice and procedure.
- Counsel appointed for all felony cases, must have completed, within 2 years prior to the appointment, at least 12 hours of CLE in criminal practice and procedure, at least 6 of which must be in the area of juvenile delinquency practice and procedure.
  - Counsel appointed in felonies of the third, fourth, and fifth degree also must have at least 1 year of experience as an attorney practicing in the area of juvenile delinquency law.
  - Counsel appointed in felonies of the first and second degree must have:
    - At least 2 years of experience as an attorney practicing in the area of juvenile delinquency law; and
    - Within 10 years preceding the appointment, prior experience as:
      - Lead trial counsel in at least two bench trials in juvenile court, at least one of which involved a felony; or
      - Lead counsel in one felony bench trial and as co-counsel in two additional bench trials.
- Counsel appointed in bindover and SYO proceedings must have:
  - The requisite experience (above) to be appointed to a juvenile case based upon the highest degree of the charge in the case; and
  - The requisite experience (above) to be appointed to an adult case based upon the highest degree felony charged; or



- Co-counsel who meets the adult-case training and experience requirements also must be appointed.
- Counsel appointed in murder cases must have:
  - At least 3 years of experience as an attorney practicing in the area of juvenile delinquency law; and
  - Within 10 years preceding the appointment, prior experience as:
    - Lead trial counsel in at least four bench trials in juvenile court, at least three of which involved a felony; or
    - Lead counsel in three bench trials, two of which involved a felony, and as co-counsel in three additional bench trials.

**How does the court determine whether a party is indigent (and thus eligible for appointed counsel)?<sup>6</sup>**

A child is presumed indigent and thus entitled to the appointment of counsel at state expense. A party requesting a state, county or joint public defender or any other counsel appointed by the court, must file a “Financial Disclosure” or “Affidavit of Indigency” with the court. If the court determines the party is financially eligible to receive an appointment, the court will appoint counsel at no initial cost to the party.

- For purposes of the calculation of eligibility for appointed counsel, only the juvenile’s income may be used. The parent’s income may not be used.
- Appointed counsel can only be compensated by the court on cases where a Financial Disclosure or Affidavit of Indigency form is filed by the indigent party requesting counsel.

**What happens once the court determines a party is indigent?<sup>7</sup>**

There is a non-refundable \$25.00 application fee per case paid to the clerk of court at the time the party files their Affidavit of Indigency or a Financial Disclosure, or within 7 days of that date.

- The court may waive or reduce the \$25.00 fee based on a finding that the person lacks financial resources, or that payment of the fee would result in an undue hardship.
- If a person fails or refuses to pay the application fee, it does not disqualify them from having legal representation. In that situation, the fee will be added as court costs at the final disposition of the case.
- The court shall not assess the application fee against a child if the court appoints a guardian ad litem (GAL) for the child or the court appoints an attorney to represent the child at the request of a GAL.

The court shall remit all funds received to the county treasury. The county shall retain 80 percent of the collected fees collected to offset the cost of providing representation to indigent persons. The remaining 20 percent shall be forwarded to the state public defender.

**How does an attorney enter an appearance on a case?**<sup>8</sup>

An attorney enters an appearance either by filing written notice with the court or by appearing personally at a court hearing and informing the court of representation.

An attorney (or GAL) may withdraw only with the consent of the court upon good cause shown.

**How does the court compensate appointed counsel?**<sup>9</sup>

Compensation for the services provided by appointed counsel and GALs may be set by the court and taxed as part of the court costs assessed against the party (the child, parent, custodian or other person in loco parentis of such child).

At least once every 5 years, the court shall review the compensation paid to court appointees to determine the compensation's adequacy and effect upon the availability of court appointments. The court shall provide the report to all of the court's funding authorities.

**What information (regarding appointed counsel) must the clerk provide to the Office of the Ohio Public Defender?**<sup>10</sup>

The clerk of court must provide a report to the state public defender on or before the 20th day of each month. The report must include:

- The number of persons in the previous month who requested or were provided a state public defender, county or joint county public defender, or other counsel appointed by the court;
- The number of persons in the previous month for whom the court waived the \$25.00 application fee;
- The dollar value of the application fees assessed in the previous month;
- The amount of assessed application fees collected in the previous month; and
- The balance of unpaid assessed application fees at the open and close of the previous month.

**Guardian ad Litem (GAL) and CASA appointments**

Appointment of GAL shall be in accordance with [Sup.R. 48](#) and any local rules on appointment.

**When must the court appoint a GAL?**<sup>11</sup>

The court must appoint a GAL to protect the interests of a child or incompetent adult when:

- The child has no parents, guardian, or legal custodian;
- The interests of the child and the interests of the parent conflict;
- The parent is under 18 years of age or appears to be mentally incompetent;
- The court believes that the parent is not capable of representing the best interests of the child;

- The proceeding involves allegations of abuse or neglect, voluntary surrender of permanent custody, termination of parental rights, or a removal action;
- There is an agreement for the voluntary surrender of temporary custody, and, thereafter, there is a request for extension of the voluntary agreement; or
- Appointment is otherwise necessary to meet the requirements of a fair hearing.

**Can an attorney serve as counsel and GAL to a ward?**<sup>12</sup>

When the GAL is an attorney, the GAL also may serve as counsel to the ward if no conflict between the roles exist. If a person is serving as both GAL and an 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 GAL, the court shall appoint another person as GAL for the ward.

When the complaint alleges that a child is an abused child, the court must appoint an attorney to represent the interests of the child.<sup>13</sup>

**What must the Order of Appointment include?**<sup>14</sup>

Each court appointing a GAL shall enter an Order of Appointment which shall include:

- A statement regarding whether a person is being appointed as a GAL only or as a GAL and attorney for the child;
- A statement that the appointment shall remain in effect until discharged by order of the court, by the court filing a final order in the case or by court rule;
- A statement that the GAL shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices and other documents filed in the case; and
- Provisions for fees and expenses.

Whenever feasible, the same guardian ad litem shall be reappointed for a specific child in any subsequent case in any court relating to the best interest of the child.

**What are the responsibilities of the court regarding appointment of GALs?**<sup>15</sup>

In order to ensure that only qualified individuals perform the duties of GALs, each court appointing GALs shall do all of the following:

- Maintain a public list of approved GALs;
  - Privacy under [Sup.R. 44 through 47](#) must be maintained.
- Establish criteria for appointment and removal of GALs and procedures to ensure an equitable distribution of the work load among the GALs on the list;
- Appoint a person to coordinate the application and appointment process, keep the files and records required by [Sup.R. 48](#), maintain information

regarding training opportunities, receive written comments and complaints regarding the performance of GALs, and perform other duties as assigned by the court;

- Maintain files for all applicants and individuals approved for appointment as GAL;
  - The files shall contain all records and information required by [Sup.R. 48](#) and by local rules for the selection and service of GAL, including a certificate or other proof of compliance with training requirements.
- Require all applicants to submit a resume or information sheet with the applicant's training, experience and expertise;
- Conduct a criminal and civil background check and investigation of information for each GAL;
- Conduct an annual review of the appointment list to ensure that all individuals are in compliance with the training and education requirements and that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve;
- Require all individuals on its list to certify annually they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended; and
- Develop a process or local rule and appoint a person for accepting written comments and complaints regarding the performance of GALs.
  - A copy of comments and complaints shall be provided to the GAL who is the subject of the complaint or comment.
  - Comments and complaints may be forwarded to the administrative judge for consideration and appropriate action.
  - The court shall maintain a written record in the GAL's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject GAL of the disposition.

**Notice**<sup>16</sup>

The GAL shall be given notice of all hearings, administrative reviews, and other proceedings in the same manner as notice is given to parties to the action.

**Court Appointed Special Advocates (CASA)**<sup>17</sup>

A CASA is a trained community volunteer who is appointed by the court to advocate for the best interests of abused, neglected, or dependent children in court proceedings. CASA volunteers are assigned to a child for the duration of a case; they serve in the place of or in conjunction with a GAL. They follow the same guidelines as GALs, but require additional training or certification to act as advocates. Training and certification typically occurs through a county CASA program.

## ENDNOTES

- 1 [Juv.R. 4\(A\)](#); [R.C. 2151.352](#); *In re Gault*, 387 U.S. 1 (1967) (Holding that children, like adults, are entitled to due process and fair treatment.)
- 2 [R.C. 2151.352](#); [Juv.R. 3](#); [Juv.R. 29\(B\)](#)
- 3 [R.C. 2151.314\(D\)](#)
- 4 [Sup.R. 8\(B\)](#)
- 5 [Ohio Adm.Code 120-1-10\(J\)](#)
- 6 [Ohio Adm.Code 120-1-03](#)
- 7 [R.C. 120.36\(A\) - \(D\)](#)
- 8 [Juv.R. 4\(D\) & \(F\)](#)
- 9 [Juv.R. 4\(G\)](#); [Sup.R. 8\(C\)](#)
- 10 [R.C. 120.36\(E\)](#)
- 11 [Juv.R. 4\(B\)](#); [R.C. 2151.281](#)
- 12 [Juv.R. 4\(C\)](#)
- 13 [Juv.R. 4\(A\)](#)
- 14 [Sup.R. 48\(C\)](#)
- 15 [Sup.R. 48\(G\)](#)
- 16 [Juv.R. 4\(E\)](#); [R.C. 2151.281\(I\)](#)
- 17 Ohio Court Appointed Special Advocates, <https://www.ohiocasa.org/about-casa>

## ATTORNEY QUALIFICATIONS FOR COUNTY REIMBURSEMENT, JUVENILE APPEALS

Pursuant to [Ohio Administrative Code section 120-1-10](#), appointed counsel must meet these requirements in order to qualify for state reimbursement. The state public defender may refuse to reimburse the county for cases on which appointed counsel do not meet these requirements.

Juvenile Cases	Training*	Experience**
Unruly, truancy, violation of court order, misdemeanor, and 3rd, 4th, and 5th degree felonies	Minimum nine hours CLE in appellate practice and procedure and juvenile delinquency practice & procedure  OR  Successful completion of clinical education program focusing on appellate practice and procedure AND minimum six hours CLE in juvenile delinquency practice & procedure  OR  Successful completion of clinical education program focused on juvenile delinquency practice and procedure AND minimum six hours CLE in appellate practice and procedure	
1st and 2nd degree felonies	Within 2 years immediately prior to appointment, minimum 12 hours CLE, at least six of which in delinquency practice and at least six of which in appellate practice	At least 2 years' experience as attorney in juvenile delinquency and appellate law  AND  Within 6 years preceding appointment, filed appeals in three juvenile delinquency cases
Bindover and serious youthful offender cases	Requisite training required to handle the appeal of a juvenile case based upon the highest degree of felony charged	Requisite experience to handle the appeal of a juvenile case based upon the highest degree of felony charged  AND  Requisite experience to handle the appeal of an adult case based upon the highest degree of felony charged  OR  Co-counsel who meets the adult-case training and experience requirements must also be appointed

\*CLE hours must be certified by the Ohio Supreme Court Commission on Continuing Legal Education.

\*\*A case in which an Anders brief was filed may not be counted as prior experience.

## ATTORNEY QUALIFICATIONS FOR COUNTY REIMBURSEMENT, JUVENILE CASES

Pursuant to [Ohio Administrative Code section 120-1-10](#), appointed counsel must meet these requirements in order to qualify for state reimbursement. The state public defender may refuse to reimburse the county for cases on which appointed counsel do not meet these requirements.

Juvenile Cases	Training*	Experience**
Unruly, truancy, violation of court order, and misdemeanors	Minimum six hours CLE in juvenile delinquency practice and procedure  OR  Successful completion of clinical education program on juvenile law	In lieu of required training, 1 year of experience as an attorney
Misdemeanor OVI	Minimum six hours CLE focused on OVI practice and procedure	
3rd-, 4th-, and 5th-degree felonies	Within 2 years prior to appointment, minimum 12 hours CLE in criminal practice and procedure, at least six of which must be in juvenile delinquency practice and procedure	At least 1 year experience as attorney practicing in juvenile delinquency law
1st- and 2nd-degree felonies	Within 2 years prior to appointment, minimum 12 hours CLE in criminal practice and procedure, at least six of which must be in juvenile delinquency practice and procedure	At least 2 years' experience as attorney practicing in juvenile delinquency law  AND  Within 10 years preceding the appointment, prior experience as lead trial counsel in at least two bench trials in juvenile court, at least one of which involved a felony-level charge OR as lead counsel in one felony bench trial AND co-counsel in two additional bench trials
Bindover and serious youthful offender cases	Within 2 years prior to appointment, minimum 12 hours CLE in criminal practice and procedure, at least six of which must be in juvenile delinquency practice and procedure	Requisite experience to be appointed to a juvenile case based upon the highest degree of charge in the case AND requisite experience to be appointed to an adult case based upon the highest degree felony charged  OR  Co-counsel who meets the adult-case training and experience requirements also must be appointed

## ATTORNEY QUALIFICATIONS FOR COUNTY REIMBURSEMENT, JUVENILE CASES

Pursuant to [Ohio Administrative Code section 120-1-10](#), appointed counsel must meet these requirements in order to qualify for state reimbursement. The state public defender may refuse to reimburse the county for cases on which appointed counsel do not meet these requirements.

Juvenile Cases	Training*	Experience**
Murder and aggravated murder cases	Within 2 years prior to appointment, minimum 12 hours CLE in criminal practice and procedure, at least six of which must be in juvenile delinquency practice and procedure	At least 3 years' experience as attorney practicing in juvenile delinquency law  AND  Within 10 years preceding appointment, prior experience as lead trial counsel in at least four bench trials in juvenile court, at least three of which involved a felony-level charge OR as lead counsel in three bench trials, two of which involved a felony-level charge AND as co-counsel in three additional bench trials

\*CLE hours must be certified by the Ohio Supreme Court Commission on Continuing Legal Education.

\*\*A case in which an Anders brief was filed may not be counted as prior experience.



## XXII. SELF-REPRESENTED LITIGANTS<sup>1</sup>

### General Overview

One of our most critical duties is to ensure that all people brought into the court system receives the protections guaranteed to them by the U.S. and Ohio Constitutions. We have a responsibility to ensure that all parties can participate in a meaningful way in the courts. Clerks are the face of the justice system. It is crucial that clerks provide impartial and neutral service to everyone concerned. Clerks are obligated to explain court processes and procedures to ensure equitable access to justice. At the same time, clerks cannot provide legal advice, but can refer litigants to various agencies and legal services available to them if they need representation.

As an employee of the court, clerks want to provide the best service possible. The clerks are an extension of the elected judge or judges, and operate under the [Ohio Code of Judicial Conduct Rule 2.12](#), which states, “A judge shall require court staff, court officials, and others subject to the judge’s direction and control to act in a manner consistent with the judge’s obligations under this code.” This means that clerks need to maintain neutrality and should take no part or side in a dispute, nor should they recommend a course of action. Clerks also need to uphold the impartiality of the court by treating all court users equally in an unbiased manner. Therefore, clerks must be very careful when providing information to ensure that they do not inadvertently provide legal advice.

### What is a self-represented litigant?

The term self-represented litigant is used in the court system to refer to a person representing himself/herself without the assistance of an attorney. Another term commonly used to describe a self-represented litigant is *pro se*, which means “for oneself” or “on one’s own behalf.”

### What factors have contributed to the increasing number of self-represented litigants?

The economic crisis of 2007 caused a dramatic increase in the number of self-represented litigants. Many courts also are seeing increased numbers of middle-class persons voluntarily coming to court without attorneys. Access to legal information through the Internet and other media also has an impact. Courts may employ several different strategies to assist self-represented litigants, whether voluntarily unrepresented or unable to afford counsel.

### What are strategies for assisting self-represented litigants?

Clerks should be familiar with what resources, if any, the court provides to self-represented litigants and the degree to which the resources can be used to assist parties. If the court does not have resources for self-represented litigants, or the ones that exist don’t seem to be helpful, staff might offer to inquire about what other juvenile courts around the state are doing.

Successful strategies include, but are not limited to:

- **Simplifying court forms:** Many courts have form banks, either in the courthouse, online, or both, to assist self-represented litigants in the filing of actions. The Supreme Court of Ohio has [Domestic Relations & Juvenile Standardized Forms](#) that are accepted by all of Ohio's courts. It is recommended that courts make these forms available on the court website;
- **Providing one-on-one assistance:** Some courts have designated staff to provide assistance to self-represented litigants;
- **Developing guides, handouts and instructions:** As an enhancement to standardized forms, courts have created pamphlets, guides to self-representation, and/or instructions for completing and filing court forms;
- **Offering court-sponsored legal advice:** Some courts have attorneys on staff to review or assist self-represented litigants in the completion of forms;
- **Court-based self-help centers:** Some of Ohio's courts utilize self-help kiosks in the clerk's office;
- **Collaboration with libraries and legal services:** Some public and law libraries may offer assistance and guidance to self-represented litigants in finding the information they need. In addition, some courts or counties work in conjunction with their local bar association to provide self-represented clients for person representing themselves in court.

### Legal Advice vs. Legal Information

One of the biggest challenges for clerks when dealing with self-represented litigants is distinguishing between legal information and legal advice. As court employees, clerks have an implicit amount of authority and are expected to provide responses to inquiries concerning court procedures. However, a court employee should not give legal advice or engage in the unauthorized practice of law. The unauthorized practice of law is not just representing clients in the courtroom, but encompasses any activities where staff could potentially give advice, prepare pleadings, manage actions, or offer legal opinions. The judge and supervisors should provide the standards for the court.

**Legal information** is generic information possessed by government workers and clerks of court.

**Legal advice** involves the application of legal information to a particular legal problem, affects the rights and obligations of individuals under the law, and are usually irreversible actions based on the advice given.

### What information may a clerk provide to self-represented litigants?

**Forms & Instructions:** One of the important services clerks provide for self-represented litigants is access to forms and instructions. However, there is a danger when clerks provide forms that he/she may be giving legal advice. For instance:

If a self-represented litigant identifies what they want to file and a clerk gives them a form that pertains to that subject matter, then the clerk is likely giving legal information. However, if the clerk listens to their concern and tells them to “use this form,” the clerk could be practicing law and giving legal advice.

**BEST PRACTICE:** Refer self-represented parties to an attorney and, if handing out forms, use generalized forms or packets so the client is responsible for telling the court what they want.

Clerks also need to be careful when providing explanations on filling out forms. If a self-represented litigant asks a clerk, “Have I filled out this form correctly?” the clerk may review it for completeness and identify any missing information. However, clerks should make it clear to the client that they cannot fill out the forms for them or tell them what words to use. They should write in their own words what they want the court to do. If no missing information is identified or they have questions about the kind of remedies available to them, clerks may suggest that they consult an attorney or volunteer lawyer in their community. There may even be a pro se clinic available where lawyers answer questions for self-represented filers.

**Process & Procedure:** Clerks are obligated to explain court processes and procedures so litigants can bring their problems to the court for resolution. Clerks should explain applicable state and local rules, such as how to file a lawsuit or request a hearing. Clerks can even explain requirements for documents and supply sample forms and packets to attorneys and self-represented litigants. This is all an important part of the service clerks provide.

General information about policies and procedures normally constitutes legal information. However, some information is restricted because it could be used inappropriately to affect the status or outcome of a case. Instances include:

- Case assignment procedures;
- Adjournment policies; and
- Scheduling practices.

**PRACTICE TIP:** As a rule, clerks can provide information on how to do something, but not when the question involves the disclosure of confidential or restricted information that would provide an unfair advantage to one party.

**EXAMPLE:** If a self-represented litigant wants to know what is going to happen at pre-trial/preliminary conference, it is acceptable to give them legal information in the form of a definition such as, “It is an initial hearing where the matter before the court will be detailed (charges read, petition subject(s) announced), and any plea, agreement, etc. may be given to the court, or interim or final orders could be issued.” However, clerks should never look at a person’s specific case and make any determination about the facts because this constitutes legal advice.

Some clients may try to press clerks to be more specific or feel that the information that was provided was not entirely helpful for their situation. If they are willing to listen, explain to them that an essential part of a clerk’s job is not to take sides in a dispute and that they would not want court staff to provide the kind of information they are asking for to the opposing party. Reassure them that a clerk’s job requires that they treat all parties fairly and impartially.

Another important service that clerks provide is explaining the various procedural options that are available to them and what the differences are between these options. Often clients are unaware of what their options are and this ensures that they have better access to the court.

**EXAMPLE:** Explaining to a litigant that they must file for sealing before asking for a case to be expunged is an example of legal information. This information is not case-specific since any case must be sealed before it can be expunged and clerks are simply explaining statutory requirements.

Make sure clerks advise litigants of all appropriate options so that the explanation doesn’t indirectly influence their options by limiting their choices. However, if the client asks which option court the clerk recommends or which they think is their best choice, he/she should refrain from providing an opinion. Clerks always can refer them to the free legal-assistance resources available to them.

**General Public Information v. Confidential Information:** Clerks may provide general public information to clients such as whether a continuance has been granted and it is documented by a journalized entry and order. This is an example of legal information. However, clerks may have access to operational information that would benefit one side or another if revealed, such as case assignment procedures. Court staff are obligated to keep these matters confidential so that they remain neutral and impartial to all parties.

Confidential information from private or protected records contain highly personal information about parties and it is inappropriate for clerks to read or share these records unless required for their work, such as un-finalized adoptions, custody evaluations, and home studies.

Sealed records may not be opened without permission from the court, even by clerks, since access is restricted to the judge. Clerks may acknowledge the existence of a case and the case number since this is public information, but nothing more.

Sometimes there is a concern for safety where there is a protection order, a party has been detained, or there is a threat of violence or harm. In these cases, clerks should not release any information without the approval of the administrative judge, judge assigned to the specific case, or per the protocol of the court.

**Explanation of Legal Terms:** Another important service clerks provide as a court employee is explaining the often unfamiliar legal terms found in court procedures and public files. However, clerks need to be careful not to provide a legal interpretation of the terms.

**EXAMPLE:** If a litigant wants to know what a traffic restriction is, a clerk may provide general information that “spells out” what the law says. The information will not change whomever the clerk gives that information to and is not case-based – that is not legal advice. However, if they ask how to get the restriction lifted due to their personal circumstances, they may be seeking legal advice and clerks should not provide any recommendations. Let them know that clerks only can provide general information on legal terms and cannot address the particulars of any specific case.

### Ensuring Access to Justice

One of the most important things clerks can do is to ensure people have access to the courts. Clerks can help them by providing information on court calendar settings and tell them how to get matters placed on the calendar. Clerks also can direct them to any applicable website that gives them access to the court calendar they are interested in viewing.

However, when clerks provide assistance with court deadlines, things can get complicated. Clerks can help them calculate routine filing deadlines associated with most court hearings, but should not attempt to explain the statute of limitations. Because these rules are often complicated, it would be easy to give incorrect or misleading information.

Even simple answers can result in unfortunate consequences. In one case, a deputy clerk was asked by a defendant how much time he had to file an appeal. The clerk told him 10 business days when the deadline was actually 10 calendar days. As a result, the litigant missed his appeal deadline and the clerk was suspended from work for 3 days. Remember, the court speaks through its orders. Clerks should refer litigants to the entry and not offer any interpretations.

### Resources:

- [Report and Recommendations of the Supreme Court of Ohio Task Force on Pro Se & Indigent Litigants](#), 2006, available on the [Ohio Supreme Court website](#)
- Ohio Judicial Conference’s [Representing Yourself in Court pamphlet](#), available on the [Judicial Conference’s website](#)
- National Center for State Courts’ [Self-Representation Resource Guide](#), available on the [NCSC website](#)

- [Step-By-Step Guide to Pro Se Litigation or How to Represent Yourself in Court](#) available on the Lucas County Juvenile Court website
- [Representing Yourself in Court \(Pro Se\)](#) available on the Seneca County Juvenile Court website
- [Clermont County Juvenile Court Forms](#)
- [Delaware County Juvenile Court Forms](#)
- [Franklin County Juvenile Court Forms](#)

#### ENDNOTE

- 1 The information contained in this section is adapted from: Legal Advice vs. Legal Information Transcript, Judicial College, Supreme Court of Ohio 2016. This online course is available to all court employees through the Judicial College's OhioCourtEDU portal. To access this educational opportunity, log in to [sc.ohio.gov/Boards/judCollege](http://sc.ohio.gov/Boards/judCollege).

## XXIII. JURY TRIALS

### How should the court prepare for jury trials?<sup>1</sup>

Each division of the court shall adopt a case management plan for the purposes of ensuring readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases. The court also must adopt a jury management plan for purposes of ensuring the efficient and effective use and management of jury resources. The plan shall address the provisions of the Ohio Trial Court Jury Use and Management Standards. It recommended that each court partners with the local Jury Commissioner's office or general division jurists to establish an understanding of how to best handle juries.

### Who is eligible for a jury trial in juvenile court?

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.

**Adults:** Any adult arrested or charged under any provision of [R.C. Chapter 2152](#) may demand a trial by jury, or the juvenile judge upon the judge's own motion may call a jury.<sup>2</sup>

- Adults have no right to a trial by jury in truancy cases or in Abuse, Neglect, Dependency cases.<sup>3</sup>

**Juveniles:** All cases shall be determined without a jury, except for the adjudication of a serious youthful offender (SYO) case in which trial by jury has not been waived.<sup>4</sup>

### Can a magistrate preside over a jury trial in juvenile court?<sup>5</sup>

Magistrates may not preside over a jury trial in juvenile court. 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 provision for jury trials under [Juv.R. 40](#) was eliminated.

### How is a jury trial requested?<sup>6</sup>

In misdemeanor cases where there is a right to trial by jury, the defendant shall be tried by the court unless he demands a jury. Failure to demand a jury trial is a complete waiver of the right.

The defendant or their attorney must file a written request, known as a "Jury Demand" with the clerk of court. Under [R.C. 2152.67](#) (Jury Trial for Adults), a demand for a jury trial shall be made in writing in not less than 3 days before the date set for trial, or within 3 days after counsel has been retained, whichever is later.

**PRACTICE TIP:** Once a jury demand is filed, the judge may wish to have a pretrial or attorney conference to discuss any pre-trial issues before the court and determine how many days the court should set aside for trial.

**How does the court notify and summons a potential juror to jury duty?**<sup>7</sup>

The clerk of court, sheriff, or commissioners of jurors shall summon each juror to attend a specified date(s) by serving the juror at least 6 days before the date the juror is requested. The juror must be served a summons stating the juror has been drawn and is required to attend court on the date(s) on the notice. The summons must be served by mail or by leaving it at the juror's residence or usual place of business.

**How many jurors make up the jury?**<sup>8</sup>

The size of the jury is determined by case type. In misdemeanor cases in juvenile court (such as child endangering and contributing to the delinquency of a minor), juries shall consist of eight jurors. In felony cases, such as SYO proceedings, juries shall consist of 12 jurors.

**Who is eligible to serve as a juror?**

Every qualified citizen has an obligation to serve on a jury when summoned by the court unless the person is excused by the court pursuant to [Revised Code Chapter 2313](#).<sup>9</sup> A person is qualified to serve as a juror if the person:

- Is at least 18 years of age;
- Is a resident of the county;
- Is an elector or would be an elector if the person were registered to vote (regardless of whether they are actually registered to vote);
- Has not been convicted of a felony (without their civil rights restored); and
- Is able to communicate in the English language.<sup>10</sup>

**Exceptions**

A court may only excuse a person who is liable to serve as a juror, drawn and notified, if it is shown to the satisfaction of the judge that the juror:

- Has a spouse or a near relative has recently died or is dangerously ill;
- Has a mental or physical condition that causes them to be incapable of jury service;
- Or a person under their care would be caused undue or extreme physical or financial hardship;
- Is over 75 years old and requests to be excused;
- Is a cloistered member of a religious organization;
- Is an active member of a recognized Amish sect and requests to be excused because of their belief that they cannot pass judgment in a judicial matter; or
- The interests of the public will be materially injured by the juror's attendance.<sup>11</sup>



### How are jurors excused after being summoned to court?

#### **Before voir dire**

The prosecuting attorney and attorney for the defendant may challenge the array of jurors on the ground that it was not selected, drawn, or summoned in accordance with law. This challenge shall be made before the examination of the jurors (voir dire) and shall be tried to the court.<sup>12</sup>

#### **Voir dire**

Any person called as a juror shall be examined under oath as to the person's qualifications as a juror.<sup>13</sup> After allowing each party to examine prospective jurors under oath (voir dire), the court must permit the attorney for the defendant, or the defendant if appearing pro se, and the prosecuting attorney to:

- Excuse jurors for cause (if appropriate),<sup>14</sup> and
- Use up to three peremptory challenges (excusing a juror without stating a cause) each in misdemeanor cases and up to four each in felony cases.<sup>15</sup>

Except by agreement, neither the prosecutor nor the defendant shall be required to exercise any peremptory challenge until 12 jurors have been passed for cause and are in the panel.<sup>16</sup>

### For what causes may the court discharge a jury (dismiss the jury before rendering a verdict)?<sup>17</sup>

When a jury has been sworn and charged, the general rule is that it may only be discharged under specific circumstances. The court may discharge a jury without prejudice to the prosecution:

- For the sickness or corruption of a juror or other accident or calamity;
- Because there is no probability of such jurors agreeing;
- If it appears after the jury has been sworn that one of the jurors is a witness in the case; and
- By the consent of the prosecuting attorney and the defendant.

The reason for such discharge shall be entered on the journal.

### How many jurors may be requested to sit as alternate jurors?<sup>18</sup>

The court may direct that not more than six jurors to be called and impaneled to sit as alternate jurors. Alternate jurors shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. The court may retain alternate jurors after the jury retires to deliberate. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew.

### May the court allow jurors to take notes?<sup>19</sup>

After providing appropriate instructions, the court may permit jurors who wish to do so to take notes during a trial and to take notes into deliberations. All juror notes are to be collected and destroyed promptly after the jury renders a verdict (notes are to be confidential).

**How are jurors compensated?**

The compensation of jurors and costs of the clerk and sheriff shall be taxed and paid in the same manner as in criminal cases in the court of common pleas.<sup>20</sup>

The board of the county commissioners shall fix the compensation of each juror payable out of the county treasury.<sup>21</sup>

ENDNOTES

- 1 [Sup.R. 5\(B\)](#)
- 2 [R.C. 2152.67](#)
- 3 [R.C. 2945.17\(C\)](#)
- 4 [Juv.R. 27\(a\)\(3\); R.C. 2151.35\(A\)](#)
- 5 [Juv.R. 40\(C\)](#)
- 6 [Crim.R. 23\(A\)](#)
- 7 [R.C. 2313.10\(D\)](#)
- 8 [Crim.R. 23\(B\)](#)
- 9 [R.C. 2313.12](#)
- 10 [R.C. 2313.17\(A\); R.C. 2313.06; R.C. 2961.01](#)
- 11 [R.C. 2313.14\(A\)](#)
- 12 [Crim.R. 24\(F\)](#)
- 13 [R.C. 2313.17\(A\)](#)
- 14 [Crim.R. 24\(C\)](#)
- 15 [Crim.R. 24\(D\)](#)
- 16 [R.C. 2945.23](#)
- 17 [R.C. 2945.36](#)
- 18 [Crim.R. 24\(G\)](#)
- 19 [Crim.R. 24\(I\)](#)
- 20 [R.C. 2152.67](#)
- 21 [R.C. 2313.22\(A\)](#)

## XXIV. EXHIBITS/EVIDENCE & RECORDING OF PROCEEDINGS

### What are exhibits and evidence?

During the course of a trial, courts often receive a variety of items, referred to as exhibits or evidence, that are submitted to the court by a party in a case to aid the judge or magistrate in the resolution of the matter before the court. The party submitting these items may or may not own these items. Common items may include paperwork, photographs, weapons, and stolen objects – anything that will support a party in its arguments before the court.

### What is the policy regarding exhibits in the court's possession?

Each court must establish a process by which items are received, logged, retained, and eventually returned or destroyed. In establishing the process, juvenile courts should request a legal opinion from the prosecutor's office regarding the legalities to consider. The court also may consider contacting local adult court(s) to see if they have procedures in place that could be adopted.

When items are submitted as evidence to the court, the judicial officer, court reporter, or bailiff should mark the items with:

- An identifying number;
- The name of the party that submitted the item (such as plaintiff, defendant, petitioner, respondent); and
- The date the item was submitted.

While the trial is pending and during subsequent appeal time, exhibits/evidence submitted to the court should be logged in and secured in a safe place, such as a locked cabinet or storage closet.

In the normal course of proceedings, the exhibits/evidence should be returned to the party who submitted them when the matter is concluded and the time for an appeal has run. However, if a court finds reason, the exhibits may be returned to another party or the destruction of the exhibits may be ordered by the court.<sup>1</sup> At the conclusion of the trial, a court or custodian of exhibits may destroy the exhibits if certain conditions are satisfied, including providing written notice to the party that tendered the exhibit.<sup>2</sup>

### What happens to exhibits when a case is appealed?<sup>3</sup>

If an appeal is filed in a case that has received exhibits, paper exhibits and a list of the other physical evidence submitted to the court should be included with the transcript of the appeal. Although rare, an appellate court can review a trial court's physical evidence if it is crucial in the review of the case. Physical exhibits other than documents shall not be transmitted by the clerk unless the clerk is directed to do so by a party or by the clerk of the court of appeals.

**What court proceedings must be recorded?**<sup>4</sup>

In juvenile court, all adjudicatory and dispositional proceedings in abuse, neglect, dependent, unruly, delinquency, and permanent custody cases shall be recorded. Additionally, all proceedings before magistrates must be recorded. In all other proceedings in juvenile court, a record shall be made upon request of a party or upon motion of the court.

**How should court proceedings be recorded?**

Various recording devices can be used to record court proceedings and provide an accurate base from which to create a transcript of proceedings that is required for an appeal.<sup>5</sup>

The court may order the use of any method of recording authorized, including: shorthand; stenotype; or any other adequate mechanical, electronic, or video recording device.<sup>6</sup>

**What is a transcript?**

The transcript of proceedings is the part of the record that reflects the events in the trial that were not represented by original papers. The transcript is essentially the testimony of witnesses and the oral participation of counsel and of the trial judge, as recorded, and required for the purposes of appeal. The transcript is the end product of whatever medium is used to record the proceedings.<sup>7</sup>

**How is a transcript used by the court?**

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. The transcript shall only be used in the course of an appeal or as authorized by order of the court or by statute.<sup>8</sup>

When a transcript is required for appeal, the appellant shall order a transcript in writing and shall file a copy of the transcript order with the clerk of the trial court. Thereafter, a written transcript shall be prepared by a reporter.<sup>9</sup> It is the responsibility of the trial court to maintain electronically recorded proceedings.<sup>10</sup>

**Other considerations pursuant to Sup.R. 11**

- A party or their counsel may request to view or hear the transcript of proceedings on file.
- The expense of copies, viewing, or hearing of electronically recorded transcripts of proceedings are to be borne by the requesting party or as provided by law. All other expenses of an electronically recorded transcript of proceedings shall be assessed as costs in the action.
  - The expense of electronically recorded proceedings may be made up of different items, including the costs of the videotape or CD used, a fee for personnel and equipment to make the recording, and a fee for renting equipment.

- An official shorthand reporter's services generally are paid for on an annual salary basis, or if the appointment is for less than 1 year, on a per diem fixed by the court per [R.C. 2301.22](#). Also, [R.C. 2301.21](#) provides that a \$25.00 per diem fee may be taxed as costs in each reported case and paid into the county general fund.

## ENDNOTES

- 1 [Sup.R. 26\(F\)](#)
- 2 [Sup.R. 26\(F\)](#)
- 3 [App.R. 10\(B\)](#)
- 4 [Juv.R. 37\(A\)](#); [R.C. 2301.20](#)
- 5 [Sup.R. 11\(A\)](#)
- 6 [Juv.R. 37\(A\)](#); [Sup.R. 11\(A\)](#)
- 7 [Sup.R. 11, Commentary](#)
- 8 [Juv.R. 37\(B\)](#)
- 9 [App.R. 9\(B\)](#)
- 10 [Sup.R. 11\(C\)](#)



## XXV. ENTRIES AND ORDERS

### General Overview

A court speaks through its orders. An order is a formal decision issued by a judge or magistrate requiring or authorizing a party to do or not do something. Court orders can be issued orally in open court or in writing.

Once the court announces a decision, the court shall promptly cause the entry to be prepared, sign it, and require the clerk to enter it upon the journal. A judgment is effective only when entered by the clerk upon the journal.<sup>1</sup> After the dispositional hearing, the court shall enter an appropriate judgment within 7 days. A copy of the judgment shall be given to any party requesting a copy.<sup>2</sup>

Different headings found on court orders include:

- Magistrate's Order;
  - A Magistrate's Order is typically a short order or a temporary order.<sup>3</sup>
- Magistrate's Decision;
  - A Magistrate's Decision is usually dispositional and closes the case.<sup>4</sup>
- Judgment Entry; or
- Order.

### **Service of an order**

When the court signs a judgment, the court shall order the clerk to serve all parties notice of the judgment and its date of entry upon the journal. Within 3 days of entering the judgment upon the journal, the clerk shall serve the parties in accordance with [Civ.R. 5\(B\)](#) and note the service in the appearance docket. Service is complete upon serving the notice and noting the service in the docket.<sup>5</sup>

The clerk of courts is to serve all orders by U.S. mail, personal service, and other methods listed in [Section 19 of this guide](#).

### ENDNOTES

- 1 [Civ.R. 58\(A\)](#)
- 2 [Juv.R. 34\(C\)](#)
- 3 [Juv.R. 40\(D\)](#)
- 4 [Juv.R. 40\(D\)](#)
- 5 [Civ.R. 58\(B\)](#)





## XXVI. DELINQUENCY AND UNRULY CASES

### General Overview

The juvenile court has jurisdiction over a person who violates the law prior to turning 18 years of age, irrespective of that person's age at the time the complaint is filed or the hearing is held. Once the child is adjudicated delinquent, the court maintains jurisdiction until the child attains 21 years of age.<sup>1</sup>

#### What is a delinquency case?<sup>2</sup>

A delinquency case includes any case involving a child who violates:

- A law or ordinance that would be an offense if committed by an adult;
- An order of the court made under [Chapters 2151 \(Juvenile Court\)](#) or [2152 \(Delinquent Children\)](#) of the Revised Code; or
- [R.C. 2907.39\(C\)](#) (falsification), [R.C. 2923.211](#) (purchase of a firearm), or commits certain offenses regarding pseudoephedrine products (Sudafed) under [R.C. 2925.55\(C\) \(1\) or \(D\)](#).

A delinquency case does not include juvenile traffic offenses or violations of Ohio's tobacco law.

#### What is an unruly case?<sup>3</sup>

An unruly case includes any case involving a minor who:

- Does not submit to the reasonable control of the child's parents, teachers, guardian, or custodian, by being disobedient;
- Is an habitual truant from school;
- Behaves in a way as to injure or endanger the child's own health or morals or the health or morals of others; or
- Violates a law that applies only to minors and would not be a crime if committed by an adult (curfew and truancy).

#### How is a delinquency case initiated?

**Complaint:** A complaint is the legal document that sets forth the allegations that form the basis for juvenile court jurisdiction.<sup>4</sup> Delinquency cases are initiated by the filing of a complaint. A complaint may be made upon information or belief, but must include:

- Essential facts that bring the proceeding within the jurisdiction of the court;
- Numerical designation of the statute or ordinance alleged to have been violated;
- Name and address of the parent, guardian, or custodian of the child or state that the name or address is unknown; and
- Each complaint must be made under oath.<sup>5</sup>

**Service:** After the filing of the complaint, a summons shall be issued. If the court feels that the summons will be ineffectual, a warrant may be issued against the child. A copy of the complaint shall be attached to the summons or warrant.<sup>6</sup>

*See Section XIX., Service, for additional information.*

**What types of hearings may occur in a delinquency case?**

**Preliminary hearing/initial appearance/arraignment:** At the initial appearance, the court shall advise the child of the formal charges, the right to counsel, and to appointed counsel if indigent, and the child's right to remain silent with respect to any allegation.<sup>7</sup>

- The child is provided an opportunity to admit or deny the charges alleged in the complaint.
- The state will provide any evidence regarding the complaint to determine the path which the case shall take; the court may refer the case to mediation or diversion.
- The court may establish the need for detention, alternative placement, or conditions of release pending the next court date.
- A hearing date will be scheduled.

**Detention hearing:** If the child is placed in detention, the child's first hearing may be a detention hearing. At this hearing, the court will determine whether detention is necessary prior to or pending execution of a final dispositional order.<sup>8</sup>

- This initial appearance shall occur on the next court day, but not later than 72 hours after confinement.
- 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.
- At the detention hearing, the court may consider any evidence that it considers appropriate without regards to the formal rules of evidence.<sup>9</sup>

**Competency hearing:** Any child who is 14 or older who is not found to be mentally ill, intellectually disabled, or developmentally disabled is presumed competent.<sup>10</sup> If there is reasonable basis for a competency evaluation (or by agreement of the parties), the court must order an evaluation and appoint an evaluator.

- Timeline for hearing:
  - The hearing to determine competency must be held within 15 to 30 business days after receipt of the competency evaluation.<sup>11</sup>
  - The competency determination must be made within 15 business days of the completion of the hearing.<sup>12</sup>

**Adjudicatory hearing (trial):** The adjudicatory hearing is a fact finding hearing. It is held to determine whether a child is a juvenile traffic offender, delinquent, unruly, abused, neglected, or dependent or otherwise within the jurisdiction of the court.<sup>13</sup>

- The court shall request each party named in the complaint to admit or deny the allegations.<sup>14</sup>
- If the child denies the allegations in the complaint, evidence will be presented in support of the allegations in the complaint and the court will determine the issues by proof beyond a reasonable doubt.<sup>15</sup>
- Timeline for adjudicatory hearing:
  - The date for the adjudicatory hearing shall be set (scheduled) not later than 72 hours after the complaint is filed;<sup>16</sup> and
  - The hearing shall be held not later than 15 days after the filing of the complaint, as long as the complaint does not request a serious youthful offender sentence, and the child is in detention or shelter care.<sup>17</sup>
- At adjudication, the court shall:
  - Determine whether notice requirements have been complied with;
  - Inform the parties of the substance of the complaint, the purpose of the hearing, and possible consequences of the hearing;
  - Inform unrepresented parties of their right to counsel and appoint counsel for any unrepresented party who does not waive the right to counsel; and
  - 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.<sup>18</sup>

**Dispositional hearing (sentencing):** Disposition occurs after adjudication and is the formal resolution of a case by the court. A dispositional hearing is held to determine what action shall be taken concerning a child. Disposition is at the discretion of the court and is based on qualifying factors such as age, prior court contact, and type of offense. The purpose of disposition in juvenile court is to provide for the care, protection, and mental and physical development of children, protect the public interest and safety, hold the child accountable, restore the victim, and rehabilitate the child.<sup>19</sup>

- If the allegations of the complaint are not admitted or proven, the court may dismiss the complaint.

For Supreme Court reporting purposes, delinquency cases should be reported under “Delinquency” – Column A, on Form D.

Unruly cases should be reported under “Unruly” – Column D, on Form D.

- If the allegations in the complaint are admitted or proven the court may proceed with disposition or continue the matter for disposition for not more than 6 months. The court also may dismiss the complaint if dismissal is in the best interest of the child and the community.<sup>20</sup>
- At the conclusion of the hearing:
  - The court shall enter an appropriate judgment within 7 days; and
  - A copy of the judgment shall be given to any party requesting a copy.<sup>21</sup>

**Probation violation hearing (revocation hearing):** If a child violates the terms or conditions of probation, the court may only revoke probation after a hearing is held advising the child of the grounds on which revocation is proposed. Probation may only be revoked upon a finding that the child has violated a condition of probation of which the child had been notified.<sup>22</sup>

**Violation of a court order hearing:** If a child violates an order of the court, the continuing jurisdiction of the court may be invoked by a motion filed in the original proceeding. Notice must be served on the child.<sup>23</sup>

**Bindover:** Children ages 14 and older can be bound over – or transferred – to the adult court system. The juvenile court’s bindover proceedings determine the case’s jurisdiction and whether it remains in juvenile court or is transferred to adult court, not the merits of the case.<sup>24</sup> The bindover process can either be mandatory or discretionary. A discretionary transfer is permitted, but not required, by statute, whereas a mandatory transfer to adult court is required by statute upon a finding of probable cause.<sup>25</sup>

*See Section XXVII., Bindover, for additional information.*

*See Section XVI., Hearings: Type and Time Guidelines, for additional hearing types.*

#### Who has a right to counsel in a delinquency case?<sup>26</sup>

Every party has the right to be represented by counsel and every child, parent, custodian, or other person in loco parentis has the right to appointed counsel if indigent. These rights arise when a person becomes a party to a juvenile court proceeding. The court may continue the case to enable a party to obtain counsel, to be represented by the county public defender or the joint county public defender, or to be appointed counsel upon request. For purposes of the calculation of eligibility for appointed counsel, only the juvenile’s income may be used and not the parent’s income.

*See Section XXI., Court Appointments, for additional information regarding appointment of counsel.*

#### For Supreme Court reporting purposes, how are delinquency cases tracked on Form D?

Delinquency cases are reported in Delinquency, Column A. If a child is alleged to be both a delinquent and unruly child, and such allegations arise out of the same act, transaction, or series of acts or transactions, both the delinquency and

unruly charges shall be grouped together as a single “case” and classified under the Delinquency case type. Special considerations for delinquency cases:

- Probation violations filed against a juvenile offender do not constitute a new delinquency case nor cause the reopening of the original delinquency case; and
- Contempt motions (filed against the parent) and cases that are expunged or sealed shall not be reported.

*See the Supreme Court of Ohio’s Juvenile Justice Bench Cards for additional information regarding delinquency and unruly cases.*

## ENDNOTES

- 1 [R.C. 2152.02\(C\)](#)
- 2 [R.C. 2152.02\(E\)](#)
- 3 [R.C. 2151.022](#)
- 4 [Juv.R. 2\(F\)](#)
- 5 [Juv.R. 10\(B\)](#)
- 6 [Juv.R. 15\(A\)](#)
- 7 [Juv.R. 7\(F\)](#)
- 8 [Juv.R. 2\(L\)](#); [R.C. 2151.31\(C\)](#)
- 9 [Juv.R. 7\(F\)](#)
- 10 [R.C. 2152.52\(A\)\(2\)](#)
- 11 [R.C. 2152.58\(A\)](#)
- 12 [R.C. 2152.58\(D\)\(1\)](#)
- 13 [Juv.R. 2\(B\)](#)
- 14 [Juv.R. 29\(C\)](#)
- 15 [Juv.R. 29\(E\)](#)
- 16 [R.C. 2151.28\(A\)](#)
- 17 [Juv.R. 29\(A\)](#)
- 18 [Juv.R. 29\(B\)](#)
- 19 [R.C. 2152.01](#)
- 20 [Juv.R. 29\(F\)](#)
- 21 [Juv.R. 34\(C\)](#)
- 22 [Juv.R. 35\(B\)](#)
- 23 [Juv.R. 35\(A\)](#)
- 24 [Juv.R. 30](#); [R.C. 2152.10](#)
- 25 [Juv.R. 30\(B\) & \(C\)](#)
- 26 [R.C. 2151.352](#)



## XXVII. BINDOVER/TRANSFER/WAIVER OR RELINQUISHMENT OF JURISDICTION PROCEEDING

### What is a juvenile bindover?

Youth ages 14 and up can be bound over – or transferred – to the adult court system. The juvenile court’s bindover proceedings determine the case’s jurisdiction and whether it remains in juvenile court or is transferred to adult court, not the merits of the case.<sup>1</sup> The bindover process in Ohio either can be mandatory or discretionary.<sup>2</sup>

### When is a juvenile eligible to be transferred to adult court?<sup>3</sup>

A juvenile is eligible for bindover if:

- A complaint is filed requesting a transfer of jurisdiction to adult court;
- The child was 14 years of age or older at the time of the act charged; and
- The act charged would be a felony if committed by an adult.

### What is the process for a discretionary transfer to adult court?<sup>4</sup>

The court may bindover the juvenile to adult court, if:

- The juvenile is eligible for bindover (as outlined above);
- There is probable cause to believe that the child committed the act charged; and
- The juvenile is not amenable to care or rehabilitation within the juvenile system, and the safety of the community requires that the child be subject to adult sanctions.

**Probable Cause Hearing:** The court will hold a probable cause 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.

**Amenability Hearing:** Once probable cause is found, the court shall conduct an amenability hearing to determine whether a child is amenable to the care and rehabilitation of the juvenile court. To make this determination, the court must consider whether the factors in favor of transfer outweigh the factors against transfer.<sup>5</sup>

- Upon determining that a child is amenable to the care and rehabilitation of the juvenile system, the court shall issue an order denying the prosecuting attorney’s motion to relinquish jurisdiction; and, the case shall proceed in juvenile court.
- Upon determining that a child is not amenable to the care and rehabilitation of the juvenile court system, the court shall issue an order transferring jurisdiction of the child’s case to criminal court for prosecution.

**What is the process for mandatory transfer to adult court?**

For mandatory bindover the juvenile must fall into one of the mandatory bindover categories (listed below) and the court must hold a probable cause hearing to determine if there is probable cause to believe that the juvenile committed the act charged. An amenability hearing is not necessary under mandatory bindover.<sup>6</sup>

The mandatory bindover process applies when the juvenile meets the criteria for one of the following situations:

- The juvenile is charged with a Category One offense<sup>7</sup> and is either:<sup>8</sup>
  - 16 or older at the time of the act charged; or
  - 14 or 15 years old at the time of the act charged; and
    - Previously adjudicated delinquent for a Category One or Two offense; and
    - Committed to DYS for that adjudication.
- The juvenile is charged with a Category Two offense<sup>9</sup> (excluding kidnapping) and:<sup>10</sup>
  - 16 or older at the time of the act charged; and
  - Meets at least one of the following requirements:
    - Previously adjudicated delinquent for a Category One or Two offense and committed to DYS for that adjudication; or
    - Alleged to have a firearm on person or under control and displayed/brandished/indicated possession or used the firearm.
- Other circumstances that require mandatory transfer include:<sup>11</sup>
  - The juvenile previously has been boundover under [R.C. 2152.12](#) and is convicted of or pleads guilty to a felony in adult court.
  - The juvenile had the adult portion of an SYO sentence invoked (this section does not apply to a reverse waiver youth whose SYO sentence is not invoked).
  - The juvenile is from another state whose laws would require bindover.

**What is a reverse waiver (return bindover)?<sup>12</sup>**

A reverse waiver applies to mandatory bindover juveniles because they were 16 or 17 at the time of the offense and either: 1) charged with a Category-One offense, or 2) charged with a Category-Two offense with a firearm. Under reverse waiver, a juvenile can return to the juvenile court depending on the adult court’s decision. If a juvenile is convicted in adult court of:

- **Non-bindover offense:**<sup>13</sup> The juvenile is returned to juvenile court and adult court records must be expunged. The juvenile will receive a traditional juvenile court disposition;<sup>14</sup>
- **Mandatory bindover offense:** The juvenile remains in adult court;<sup>15</sup>
- **Discretionary bindover offense:** The juvenile is returned to juvenile court, but the juvenile can return to adult court (after prosecutor’s objection and



judicial amenability hearing). If the juvenile remains in juvenile court, he/she must receive an SYO disposition.<sup>16</sup>

Once the adult court determines that a 16- or 17 year-old has been convicted of at least one offense that is subject to mandatory bindover, the adult court shall sentence the juvenile for all convictions in the case. The court may not split the case by sentencing the mandatory bindover offense(s) and sending the remaining charges back to juvenile court.<sup>17</sup>

### Serious Youthful Offender Proceedings

#### What is a Serious Youthful Offender classification?<sup>18</sup>

In Ohio, youth can be given a blended juvenile and adult court sentence under the Serious-Youthful-Offender (SYO) statute. Under SYO, a youth receives a juvenile court disposition, as well as a stayed adult court sentence; this stayed adult court sentence only can be invoked under certain circumstances.

SYO classification depends on age, felony level, and enhancement factors that include crimes of violence, use of a firearm, and prior admission to DYS. An SYO classification may be mandatory or discretionary.

#### How is an SYO disposition initiated?

A prosecutor must initiate the SYO process by:

- Obtaining an SYO indictment; or
- Charging the child in a bill of information as an SYO, if an indictment is waived; or
- Until an indictment or information is obtained, either:
  - Requesting an SYO dispositional sentence in the original complaint; or
  - If the original complaint does not request an SYO dispositional sentence, filing a written notice of intent to seek an SYO sentence within 20 days after the later of the following (unless time is extended for good cause):
    - The first juvenile court hearing on the complaint; or
    - The date the juvenile court determines not to transfer the case.
  - Under these circumstances, the court must hold a preliminary hearing to determine probable cause that the child committed the act charged and is age eligible or required to receive an SYO sentence.<sup>19</sup>

#### What happens after a juvenile is adjudicated an SYO?

The juvenile court must first impose a traditional juvenile disposition (for example, a term in an Ohio DYS facility). The court will then impose a sentence as if the child were an adult at the time of offense. The court will stay the adult portion of the SYO dispositional sentence pending the successful completion of the traditional juvenile disposition imposed.

If the child completes the juvenile disposition without serious incident, that is the end of the sentence. However, if the offender commits certain other offenses and

For Supreme Court reporting purposes, bindovers should be reported under “Delinquency”- Column A and terminated as “Certification/Waiver granted”- Line 10 upon successful transfer to adult court.

NOTE: Line 10 is not used when a motion to transfer is denied.

engages in certain threatening conduct during the juvenile term, the court may invoke the adult sentence after a hearing on the new violation.

Are there any special considerations for SYO proceedings?

A youth subject to an SYO proceeding has the right to:

- A grand jury determination of probable cause for the offense and that the child is eligible for an SYO based on age. The grand jury may be impaneled by the court of common pleas or the juvenile court;
- A transcript of the proceedings;
- An open and speedy jury trial, which begins upon the filing of the indictment or information, the original complaint, or the written notice
- Bail and all rights of adult court, including the right to raise the issue of competency.

## ENDNOTES

- 1 [Juv.R. 30](#); [R.C. 2152.10](#)
- 2 [Juv.R. 30](#)
- 3 [Juv.R. 30](#)
- 4 [R.C. 2152.12\(B\)](#); [Juv.R. 30](#)
- 5 [R.C. 2152.12\(B\)](#)
- 6 [Juv.R. 30\(B\)](#)
- 7 Category-One offenses include: aggravated murder, murder, attempted aggravated murder, and attempted murder.
- 8 [R.C. 2152.12\(A\)\(1\)\(a\)](#)
- 9 Category-Two offenses include: voluntary and involuntary manslaughter, rape, felonious sexual penetration, kidnapping, and aggravated arson/robbery/burglary.
- 10 [R.C. 2152.12\(A\)\(1\)\(b\)](#)
- 11 [R.C. 2152.12\(A\)\(2\) - \(3\)](#)
- 12 [R.C. 2152.121](#)
- 13 This could happen only if the conviction is dropped to a misdemeanor, because any felony is at least eligible as a discretionary bindover.
- 14 [R.C. 2152.121\(B\)\(2\)](#)
- 15 [R.C. 2152.121\(B\)\(1\)](#)
- 16 [R.C. 2152.121\(B\)\(1\)](#)
- 17 [State v. D.B., 150 Ohio St.3d 452, 2017-Ohio-6952.](#)
- 18 [R.C. 2152.13](#)
- 19 [R.C. 2152.13\(B\)](#)

## XXVIII. TRAFFIC CASES

### General Overview<sup>1</sup>

[Ohio Traffic Rules](#) apply to traffic cases that are filed in the juvenile court. A traffic case is any proceeding that involves one or more violations of law governing the operation and use of vehicles, conduct of pedestrians in relation to vehicles, or weight, dimension, loads or equipment, or vehicles drawn or moved on highways and bridges. Traffic cases do not include any proceeding that results in a felony charge, such as felony drunk driving. In traffic cases that arise from a felony complaint, the [Ohio Rules of Juvenile Procedure](#) and other applicable rules apply.

### Establishment of a Bureau & the Clerk's Role

#### **How is a Traffic Violations Bureau Established?**<sup>2</sup>

- Each juvenile court *may* establish a traffic violations bureau for juvenile traffic offenders by local rule. Courts may use a different name for this bureau; however, any juvenile court carrying out the procedures listed below is operating a traffic violations bureau, and must comply with [Traf.R. 13 and 13.1](#).

The violations bureau and clerk are under the direction and control of the court. The court's clerk is to be appointed as violation clerk; if there is no clerk, the court must appoint another appropriate person.<sup>3</sup> When the violations clerk is not on duty, the court must appoint a law enforcement officer as a deputy violations bureau clerk.<sup>4</sup>

#### **What is the authority/jurisdiction of the Traffic Violations Bureau?**

The violations bureau has authority to accept payment of parking infractions which occur within the jurisdiction of the court, and that is not within the jurisdiction of a parking violations bureau or a joint parking violations bureau. Each parking infraction and the enforcement of such shall be handled by the court.<sup>5</sup>

The bureau also has the authority to accept payment on traffic tickets involving first offense traffic violations that did not result in an accident, except traffic offenses specifically listed below.

The juvenile traffic violations bureau cannot dispose of:

1. Second or subsequent moving offenses;
2. An offense that involves an accident;
3. Indictable offenses;
4. Operating a motor vehicle under the influence of alcohol or any drug of abuse;
5. Leaving the scene of an accident;
6. Driving under suspension or revocation of a driver's or commercial driver's license;
7. Driving without a license, except when the license had been expired for 6 months or less;

8. Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a child;
9. Drag racing; and
10. Willfully eluding or fleeing a police officer.<sup>6</sup>

#### What is the clerk's role at the Traffic Violations Bureau?

The violations bureau shall accept appearance, waiver of trial, plea of guilty, and payment of fine and costs for offenses within its authority.<sup>7</sup> The violations clerk shall collect fines and costs, as well as record all cases processed.

- **Fines and Costs:** Fines and costs must be paid to and accounted for by the violations clerk.<sup>8</sup> The court must establish and publish a schedule of fines and costs for all offenses. The schedule must be distributed to law enforcement agencies operating in the jurisdiction of the court and the schedule must be prominently displayed in the violations bureau where violations are paid.<sup>9</sup>
- **Fines and Penalties for Parking Infractions:** The fine and penalties for parking infractions must be collected, retained, and disbursed by the clerk of the court or the violations clerk of the traffic violations bureau if it falls within the court's jurisdiction. The fine and penalties collected must be disbursed by the clerk to the local authority whose ordinance, resolution, or regulation was violated.<sup>10</sup>
- **Records:** All cases processed in the bureau must be numbered and recorded for identification and statistical purposes. In statistical reports required by law, the number of cases disposed of by the bureau must be listed separately from those disposed of in open court.<sup>11</sup>

#### Issuance of Complaint & Summons

##### How are Traffic complaints and summons issued for moving violations?<sup>12</sup>

In traffic cases, the complaint and summons is the "Ohio Uniform Traffic Ticket." The Ohio Uniform Traffic Ticket must be used in all moving traffic cases. More than one alleged violation may be included on a traffic ticket.

##### How should the four sheets of the Ohio Uniform Ticket be used?

The Ohio Uniform Traffic Ticket shall consist of four sheets.

- The first sheet is the court record;
- The second sheet is the abstract of court record for the Bureau of Motor Vehicles;
  - The second sheet may be omitted from the Ticket if the court reports violations to the Bureau by electronic or other means.
- The third sheet is the juvenile traffic offender's copy; and
- The fourth sheet is the enforcement agency record.

**Are electronic traffic tickets permitted?**

Pursuant to local rule, tickets may be produced by electronic means. A ticket produced by computer or other electronic means shall conform to the [Ohio Uniform Traffic Ticket](#). The court record of the ticket shall be filed with the court or may be filed electronically.

**What happens if the original traffic ticket is illegible?**

If the original ticket is illegible or does not state the offense, a new complaint may be completed. The new complaint shall be used for filing and a copy served to the defendant as soon as possible.

Disposing of Traffic Violations

**How does a juvenile dispose a ticket through the Traffic Violations Bureau?<sup>13</sup>**

A juvenile charged with an offense that can be processed by a violations bureau may either:

- Appear at the bureau, sign a plea of guilty and waiver of trial provision of the ticket, and pay fine and costs; or
- Sign the guilty plea and waiver of trial provision of the ticket and mail the ticket and a check (or other approved payment) to the traffic bureau.

PRACTICE TIP: If the juvenile pays the fine and costs to the traffic violations bureau by any means other than personal appearance, this action constitutes a guilty plea and waiver of trial, whether or not the guilty plea and waiver of trial provision of the ticket are signed by the juvenile traffic offender.<sup>14</sup> The bureau may establish procedures for accepting guilty pleas, waivers of trial, and payment of fines and costs by telephone or electronic means.<sup>15</sup>

**What happens when a juvenile admits to committing a parking infraction?<sup>16</sup>**

A juvenile who admits to the commission of a parking infraction shall pay the fine to the violations clerk of the bureau, or to the clerk of the court.

A juvenile who admits to the commission of a parking infraction with explanation may pay the fine arising out of the infraction admitted to the violations clerk of the bureau or to the clerk of the court. The juvenile must submit evidence that explains the circumstances surrounding the parking infraction and the court or bureau shall promptly determine whether the explanation mitigates the fact that the person committed the parking infraction and notify the person, in writing, of its determination.

**What happens when a juvenile denies committing a parking infraction?<sup>17</sup>**

If a juvenile receives a parking ticket or receives notification of a parking infraction and denies committing the infraction, the court must conduct a hearing to determine if the infraction was committed. The bureau or court shall set a date for the hearing and notify the person, in writing, of the date, time, and place of the hearing.

The issuance of a parking ticket, the filing of or failure to file an answer, the payment of any fine, and any other relevant information shall be entered in the records of the bureau or court.

Any person or local authority may appeal the judgment or default judgment to the court by filing notice of appeal with the magistrate of the juvenile court in which the judgment was entered within 15 days of the entry of the judgment and by payment of reasonable fees required by the juvenile judge.<sup>18</sup>

**What happens if a juvenile does not pay a parking infraction?<sup>19</sup>**

If a juvenile receives a parking ticket and fails to answer the charge within the time specified by the local authority, the court or the bureau shall send notification of infraction. A notice will be sent to the operator of the vehicle who was served with the parking ticket. If the operator is not the owner of the vehicle, notification will be sent to the vehicle's owner at the most recent address in the BMV records. Notification shall be sent within 12 months after the expiration of the time for making an answer.

Notification shall be sent by first-class mail, and shall contain all of the following:

- An identification, time and date of the parking infraction, which may be a copy of the parking ticket;
- The amount of the fine, penalties, and costs that are due;
- A warning that the juvenile must answer the parking infraction within 30 days or a default civil judgment in the amount of the fine, penalties, and costs due may be entered against the juvenile;
- A description of the allowable answers that may be made and notification that the juvenile will be afforded a hearing if he/she denies committing the parking infraction;
- The manners in which and the entity to which an answer may be made;
- A warning that if the juvenile fails to appear at a requested hearing, a default civil judgment in the amount of the fine, penalties, and costs due may be entered;
- A warning that the registration of the vehicle involved, if the vehicle is registered in this state, may not be renewed or transferred if a civil judgment or a default civil judgment is entered against the person until the judgment is paid or until it is otherwise finally disposed.

For Supreme Court reporting purposes, traffic cases should be reported under "Traffic"- Column B, on Form D.

NOTE: Non-moving traffic infractions (parking tickets) are not reported under "Traffic" or anywhere else on Form D.

A juvenile shall make an answer within 30 days after the date on which the notification of infraction was mailed. If a juvenile fails to timely answer, it shall be considered an admission that they committed the parking infraction, and a default civil judgment, in the amount of the fine, penalties, and costs due, may be entered against.

**May the court refer traffic cases to be heard by a magistrate?**<sup>20</sup>

The court may refer traffic cases to a magistrate. A juvenile's payment of a fine does not constitute a waiver of the defendant's right to file an objection to the decision of a magistrate.

ENDNOTES

- 1 [Traf.R. 2](#)
- 2 [Traf.R. 13 & 13.1](#)
- 3 [Traf.R. 13\(A\)](#)
- 4 [Traf.R. 13\(F\)](#)
- 5 [R.C. 4521.05\(B\)](#)
- 6 [Traf.R. 13 & 13.1](#)
- 7 [Traf.R. 13\(A\)](#)
- 8 [Traf.R. 13\(A\)](#)
- 9 [Traf.R. 13\(C\)](#)
- 10 [R.C. 4521.05\(B\)](#)
- 11 [Traf.R. 13\(E\)](#)
- 12 [Traf.R. 3](#)
- 13 [Traf.R. 13\(D\)\(1\)](#)
- 14 [Traf.R. 13\(D\)\(3\)](#)
- 15 [Traf.R. 13\(D\)\(2\)](#)
- 16 [R.C. 4521.06](#)
- 17 [R.C. 4521.06](#)
- 18 [R.C. 4521.08\(D\)](#)
- 19 [R.C. 4521.07](#)
- 20 [Traf.R. 14](#)





## XXIX. ABUSE/NEGLECT/DEPENDENCY (AND) CASES

### General Overview

There are multiple sections of the [Ohio Revised Code](#) that can be used to allege a child is abused, neglected, or dependent. The complaint alleging abuse, neglect or, dependency will list the specific code section that pertains to the level of the alleged offense. For example, [R.C. 2151.031\(A\)](#) alleges sexual abuse, whereas, [R.C. 2151.031\(C\)](#) alleges physical or mental abuse.

### **Ex Parte or Emergency Removal of a Child**

[R.C. 2151.31](#) provides that a child may be taken into custody by an order of the court, law of arrest, ex parte emergency order, or a law enforcement officer or authorized officer of the court finding the removal is necessary (e.g. a finding that the child is in danger of immediate or threatened emotional or physical harm). The child protective services agency can request emergency removal of a child and the court must make a determination if appropriate efforts were made.

### **What happens at the time of filing if the agency is requesting emergency removal?**<sup>1</sup>

- The court may issue an ex parte emergency telephone order if there is probable cause to believe the child is in danger of immediate harm.
- The court shall determine whether one of the following applies:
  - Reasonable efforts were made to notify the child's parents, guardian or custodian;
  - There were reasonable grounds to believe that notifying the parent would jeopardize the physical or emotional safety of the child; or
  - Notifying the parent would result in removal of the child from the jurisdiction.
- The agency shall file a complaint alleging abuse, neglect, or dependency along with supporting documents the next business day following the removal.
- The court shall hold a shelter care/probable cause hearing the next business day or within 72 hours.
  - Reasonable notice, oral or written, of the time, place, and purpose of the hearing shall be given.<sup>2</sup>
  - The court must make a Reasonable Efforts<sup>3</sup> finding at the hearing.
- If the court does *not* grant an ex parte order, the court shall hold a shelter care hearing on the motion within 10 days after the motion is filed.<sup>4</sup>
- The court must set the matter for an adjudicatory hearing within 72 hours of receiving the complaint.<sup>5</sup>
  - The adjudicatory hearing must be held within 30 days of the complaint being filed.

PRACTICE TIP: The court may choose to set the dispositional hearing at the same time the adjudicatory hearing is set. This ensures that all parties are aware of the next hearing date and what will be expected of them at the hearing.

**What happens at the time of filing if the agency IS NOT requesting emergency removal?**

- The agency files the complaint alleging abuse, neglect, or dependency along with supporting documents, e.g., instructions for service and personal identifier information sheet.
- The court sets the matter for an adjudicatory hearing within 72 hours of receiving the complaint.<sup>6</sup>

PRACTICE TIP: The court may choose to hold a hearing prior to adjudication in order to review the complaint, inform the parties of their rights and address any other issues as needed. This hearing may be referred to as a “legal rights,” “pre-trial,” “settlement” or “preliminary protective” hearing. Often this hearing is held between 7 to 14 days after the filing of the complaint. Check with your local rules for scheduling of pre-adjudication hearings.

**Timeline of Events after Filing of the Complaint**

- Shelter care hearing held the next business day or within 72 hours.
- Adjudicatory hearing held within 30 days from the date the complaint is filed. May be extended for good cause shown, but no later than 60 days from filing of the complaint.
- Dispositional hearing must be held within 30 days of the adjudicatory hearing, but no later than 90 days from filing of the complaint.

**What happens prior to the Adjudicatory Hearing?**

- The court shall serve the parties (parents and proposed custodians, if any) with notice and summons of the hearing dates.<sup>7</sup>

*See Section XIX., Service, for details.*

- Prior to adjudication, the court can file temporary orders to protect the best interests of the child. These orders can include, but are not limited to, temporary custody, visitation and counseling.<sup>8</sup>
- The child protective services agency must file a case plan with the court prior to the adjudicatory hearing but no later than 30 days after the complaint in the case was filed or the child was first placed into shelter care, whichever is earlier.<sup>9</sup>

- The court shall appoint a CASA/GAL for the child, in accordance with [R.C. 2151.281](#) and local rule.
- The court shall appoint counsel for the child, if appropriate.
- The court shall inform parties of their right to counsel and appoint counsel for each parent, if indigent.

#### What happens at the Adjudicatory Hearing?<sup>10</sup>

- The court shall record the proceeding (hearing).
- The court shall advise any unrepresented parties of their right to counsel.
- The court makes a determination whether a child is abused, neglected, or dependent as alleged. The court also may dismiss the complaint.
- The court makes the determination if the child should remain in or be placed in shelter care until the dispositional hearing.
  - If the court removes the child from the home or continues the removal of a child, the court shall make a Reasonable Efforts finding.
- The court shall journalize the entry within 7 days of the adjudicatory hearing.
- The court shall distribute copies of the entry within 3 days.

#### What happens at the Dispositional Hearing?<sup>11</sup>

- Whenever possible, the same judge or magistrate presiding over the adjudication should preside over the dispositional hearing.
- The court shall record the proceeding (hearing).
- The court shall advise any unrepresented party of their right to counsel.
- The court may order any of the following:
  - Protective Supervision;
  - Temporary custody to the agency, a private child placing agency, either parent, a relative, or any other home approved by the court;
  - Legal custody to either parent, a relative, or any person who filed for custody prior to the dispositional hearing;
  - Permanent Custody (PC) to a public children services agency or a private child placing agency; or
  - Planned Permanent Living Arrangement (PPLA) with a public children services agency or a private child placing agency if the child is 16 years old or older.
- If the court removes the child from the home or continues the removal of a child, the court shall make a Reasonable Efforts finding.
- The court shall address issues pertaining to visitation, child support and restraining orders, if appropriate.

For Supreme Court reporting purposes, AND cases should be reported under “Dependency, Neglect, or Abuse”- Column C, on Form D.

- The court shall make a determination of educational expenses for the child, by separate order, if the child is not returned home.
- The court shall journalize the entry within 7 days of the dispositional hearing.
- The court shall distribute copies of the entry within 3 days.

#### What happens after disposition?

##### **Semiannual Administrative Review (SAR):<sup>14</sup>**

- The agency that prepared the case plan must complete a SAR 6 months after the complaint was filed or the child was placed in shelter care.
- Subsequent reviews are to be completed no later than 6 months after previous review.

##### **Changes to case plan:<sup>15</sup>**

- Any party may propose a change to the case plan. The proposed change shall be filed with the court. All parties and the GAL have 7 days from the date of notice to object to and request a hearing on the proposed change.
- If the court receives a timely request for a hearing, it shall be held no later than 30 days after the request is received.

##### **Dispositional review (permanency) hearing:<sup>16</sup>**

- One year after the complaint was filed or the child was placed in shelter care.
- The court may extend temporary custody up to 6 months if there is reasonable cause to believe the child will be reunited with a parent or otherwise permanently placed within the extension period.
- Subsequent reviews to be held no later than every 12 months.

##### **Review hearings:<sup>17</sup>**

- At any time, the court issuing a dispositional order may review a child's case.
- The court shall determine the appropriateness of the agency's actions, the safety and appropriateness of continuing the child's placement or custody arrangement, and whether any changes should be made.
- Based upon the evidence presented at a hearing held after notice to all parties and the Guardian ad Litem of the child, the court may require any reasonable actions that the court determines is necessary and in the best interest of the child or discontinue any action that it determines is not in the best interest of the child.
- The court may amend a dispositional order at any time upon its own motion or upon the motion of any interested party.

**Permanent Custody:**<sup>18</sup>

- The custodial agency shall file a motion requesting permanent custody of the child when the child has been in temporary custody for 12 or more months of a consecutive 22-month period.<sup>19</sup>
- Once the motion is filed, a hearing shall be scheduled.
  - The hearing must be held not later than 120 days after the motion was filed, but the court may continue the hearing for a reasonable period.
- Notice must be given to all parties and the guardian ad litem.
  - Notice shall contain an explanation that granting permanent custody permanently divests the parents of their parental rights and their right to counsel. Contact information for the court employee who arranges the appointment of counsel also must be included.
- The court order that grants, denies, or otherwise disposes of the motion shall be journalized not later than 200 days after filing of the motion.
- A final permanency decision is required by the court within 24 months of the filing of the complaint or initial shelter care.<sup>20</sup>

**Who should receive notice of hearings?**

- Parent, guardians or custodians.
- Whomever the child resides with or has physical custody of the child, if someone other than the parent. The parent or guardian also must be given notice.<sup>21</sup>
- The child does not have to receive notice, unless the court directs the child to be summoned.

PRACTICE TIP: Research has found that children in foster care want to participate in court, judges learn more about the child when they are in court and GALs, attorneys, and caseworkers have reported positive benefits of children attending hearings.<sup>22</sup> If there are concerns about what may occur in the courtroom, the child may attend only a portion of the hearing to allow their voice in any decisions.

- Guardian ad Litem/CASA.<sup>23</sup>
- Any other interested party.
- If a child has been placed in a certified foster home or is in the custody of a relative of the child, other than a parent of the child, the foster caregiver and relative shall be notified and have a right to present evidence.<sup>24</sup>
- If the child is in the permanent custody of an agency, the prospective adoptive parents shall be notified and have a right to present evidence.<sup>25</sup>

**What does the typical caseflow look like?**

- An ex parte hearing is held if emergency removal of a child is necessary.<sup>26</sup>
- A complaint is filed alleging abuse, neglect, or dependency (this must occur the next business day following removal if there is an ex parte order).<sup>27</sup>
- A shelter care/probable cause hearing is scheduled the next business day or within 72 hours IF emergency removal of the child took place.<sup>28</sup>
- The court appoints a GAL/CASA, if appropriate.<sup>29</sup>
- The court appoints counsel for the child, if appropriate.
- The court informs parties of right to counsel and appoints counsel for the parents, if indigent.
- If, at the shelter care hearing, the court determines continued removal of the child is in the child’s best interest, the court shall schedule the adjudicatory and dispositional hearings.
- The court shall serve the parties (parents and proposed custodian, if any) with notice and summons of all hearing dates, along with a copy of the complaint.<sup>30</sup>
- The review hearing is scheduled at the dispositional hearing, if applicable.<sup>31</sup>
- The entry is journalized within 7 days of the hearing.<sup>32</sup>
- Copies are distributed within 3 days of journalizing the entry.

**Judicial Timeline**

0 days, 72 hours	30 days	90 days	180 days	365 days or 12/22 months	1.5 yrs or 16/22 months	2 years in custody
Initial Custody Shelter Hearing	Adjudicatory Hearing	Dispositional Hearing	Administrative Review	Permanency Hearing	Optional Six-Month Extension Hearing	Permanency Hearing

**Special Considerations in Abuse, Neglect, and Dependency Cases**

**Specialized Dockets**

- There are several specialized dockets that juvenile courts can utilize. One such docket that may assist with abuse, neglect, and dependency cases is the [Family Dependency Treatment Court](#). This specialized docket is specifically for families with substance use identified as a primary risk contributor. Through the participation in this docket, families have greater court oversight, may have earlier access to assessment and treatment, and more support to help them maintain recovery and regain custody of their children.

- For more information on Specialized Dockets, contact the [Supreme Court of Ohio, Specialized Dockets Section](#). You also may reach out to a court with a Family Dependency Treatment Court to learn more about their program. All certified courts are listed on the Specialized Dockets Section website: [sc.ohio.gov/JCS/specDockets/certification/statusSheetDocket.pdf](http://sc.ohio.gov/JCS/specDockets/certification/statusSheetDocket.pdf).

### **Bridges Program**

#### **What is the Bridges Program?**

- In June 2016, Governor John Kasich signed replacement House Bill 50 (HB 50), which authorized the implementation of “Foster care to 21” in Ohio.<sup>33</sup> The resulting program, Bridges, is intended to assist young adults in gaining skills towards self-sufficiency by providing monetary assistance for stable housing, support to complete educational and employment goals, and access to community resources.
- The Bridges program is authorized by the federal government under Title IV-E and must comply with Title IV-E requirements. For the juvenile courts, this includes making a judicial determination that it is in the young adult’s best interest to extend care and placement. The standard Title IV-E annual reasonable efforts requirements that the juvenile court must make continues with this population as well.

#### **Who is eligible for Bridges?**

- The Bridges program is a voluntary program open to young adults ages 18 through 20 who were in the custody of a Public Children Services Agency (PCSA) at the age of 18 and meet eligibility requirements. In order to be eligible, a young adult must meet one of the following criteria: 1) completing his or her secondary education; 2) enrolled in post-secondary or vocational education; 3) participating in a program or activity to promote employment; 4) employed; or 5) incapable of the above due to a medical condition.<sup>34</sup> The Bridges program worker and the [Ohio Department of Job and Family Services](#) (ODJFS) determine if a young adult meets the eligibility criteria for the Bridges program.

#### **Bridges Timeline and Court Hearings**

- The young adult signs the Voluntary Participation Agreement (VPA).
- A Bridges program worker files a motion to continue Bridges program participation.
- Upon receipt of the motion, the court schedules a hearing to make a best-interest finding.
- A Bridges program worker files Bridges Plan with the court at least 14 days prior to the hearing.
- The court holds an Initial/Best Interest Hearing no later than 180 days after VPA is signed.<sup>35</sup>

For Supreme Court reporting purposes, entry into the Bridges program does not constitute a new AND case, nor cause the reopening of the original AND or permanent custody case,



- The court schedules an Annual/Reasonable Efforts Hearing within 12 months of the VPA effective date, and annually thereafter.<sup>36</sup>
- The court is notified by the vendor that the young adult is no longer participating in the program. The court closes the case; the court's jurisdiction is terminated when the young adult turns 21 or the case is transferred to another county.

**BEST PRACTICE:** Although these cases do not need to be reported on Statistical Report Form D, these cases should be monitored through the court's case management system to ensure statutory timelines are met.

### **Indian Child Welfare Act**

#### **What is the Indian Child Welfare Act?**

- In 1978, Congress passed the Indian Child Welfare Act (ICWA) due to research showing that state and private agencies were removing Indian children from their homes at a higher rate than non-Indian children and placing them in non-Indian homes.
- In June 2016, new rules were intended to provide clarification of ICWA in order to increase nationwide consistency and improve outcomes for Indian children.

#### **Who does the Act apply to?**

- ICWA only applies to proceedings involving an "Indian child" based on the statutory definition:
  - A member/citizen of a tribe; or
  - Eligible for membership with a tribe **and** has biological parent who is a member.

#### **What do the courts need to do?**

- The court must inquire at every hearing if any party knows or has a reason to know if the child is an Indian child.
- The court must determine that the child protective services agency used due diligence to identify a tribe and verify if the child is a member or eligible for membership.
- If a child is a member or is eligible for membership in a tribe, ICWA applies, and the court must follow the provisions of the Act.
- If ICWA applies, the parent/custodian or the Tribe may request a transfer to tribal jurisdiction at any stage in the proceeding.
- If the court maintains jurisdiction, proceedings and placement must be held in accordance to the Act.
- For further reference, see the Indian Child Welfare Act, Final Rule: <https://www.gpo.gov/fdsys/pkg/FR-2016-06-14/pdf/2016-13686.pdf>; or contact the Supreme Court of Ohio's Children and Families Section.



ENDNOTES

- 1 [Juv.R. 6; R.C. 2151.31](#)
- 2 [JuvR. 7\(F\); R.C. 2151.314](#)
- 3 [Juv.R. 27\(B\)\(1\); R.C. 2151.419](#)
- 4 [Juv.R. 13\(B\)](#)
- 5 [R.C. 2151.28](#)
- 6 [R.C. 2151.28\(A\)](#)
- 7 [R.C. 2151.28](#)
- 8 [Juv.R 13\(B\)](#)
- 9 [R.C. 2151.412\(D\)](#)
- 10 [Juv.R. 29; R.C. 2151.28](#)
- 11 [Juv.R. 34; Juv.R. 27; R.C. 2151.35; R.C. 2151.353](#)
- 12 [R.C. 2151.33\(E\); R.C. 2151.42](#)
- 13 [R.C. 2151.412\(E\)](#)
- 14 [Juv.R. 36\(C\); R.C. 2151.416](#)
- 15 [R.C. 2151.412\(F\)](#)
- 16 [Juv.R. 36; Juv.R. 38; R.C. 2151.417\(C\)](#)
- 17 [Juv.R. 36\(A\); R.C. 2151.417\(A\) - \(B\)](#)
- 18 [R.C. 2151.414](#)
- 19 [R.C. 2151.413](#)
- 20 [R.C. 2151.415\(D\)](#)
- 21 [R.C. 2151.28\(C\)](#)
- 22 Elstein, S.G., Kelly, K., & Trowbridge, S., [\*Engaging Youth in Court: A National Analysis\*](#) (2015). National Youth Engagement Project, ABA Center on Children and the Law
- 23 [R.C. 2151.281\(I\)](#)
- 24 [R.C. 2151.424\(A\)](#)
- 25 [R.C. 2151.424\(B\)](#)
- 26 [Juv.R. 6; R.C. 2151.31](#)
- 27 [R.C. 2151.31](#)
- 28 [Juv.R. 6; Juv.R. 7; R.C. 2151.31; R.C. 2151.28](#)
- 29 [R.C. 2151.314](#)
- 30 [Juv.R. 29; R.C. 2151.28](#)
- 31 [R.C. 2151.35](#)
- 32 [Juv.R. 34](#)

ENDNOTES - *cont.*

- 33 HB 50 was codified in [R.C. 5101.141 - 5101.1414](#).
- 34 [R.C. 5101.1411](#)
- 35 [R.C. 5101.1412\(B\)](#)
- 36 [R.C. 2151.417\(K\)\(3\)](#)

### XXX. GRANDPARENT POWER OF ATTORNEY/ CARETAKER AUTHORIZATION AFFIDAVIT

A parent, guardian, or custodian of a child may grant certain rights and responsibilities to a grandparent without court proceedings.<sup>1</sup>

#### What rights are provided to a grandparent if approved by the court?<sup>2</sup>

- To care for the child;
- To have physical custody of the child;
- To have the ability to enroll the child in school and to obtain educational/behavioral information about the child;
- To consent to all school-related matters; and
- To consent to medical, dental and psychological treatment of the child.

#### What rights are not provided to a grandparent if approved by the court?<sup>3</sup>

- A grandparent *may not* consent to the marriage of the child; and
- A grandparent *may not* consent to the adoption of the child.

The enforcement of a preexisting administrative child support order or court child support order will not be affected unless an administrative or court order is issued providing otherwise.<sup>4</sup>

#### What is the difference between a Grandparent Power of Attorney and a Caretaker Authorization Affidavit?

A **Grandparent Power of Attorney (GPOA)** is used when one or both of the parents are unable to care for the child and are in agreement with the grandparent having physical custody of the child. The GPOA is signed by the parent(s), guardian or custodian, and the signature(s) is notarized.

A **Caretaker Authorization Affidavit** is used when the child is residing with a grandparent who has made reasonable attempts to locate and contact both parents or the child's guardian or custodian, but has been unable to do so.<sup>5</sup> Since the parents or guardians cannot be located, the filing and signature requirements (below) only apply to GPOA and not Caretaker Authorization Affidavits.

#### What are the requirements to file a GPOA?<sup>6</sup>

A parent, guardian, or custodian may create a GPOA only under the following circumstances:

- The parent, guardian, or custodian of the child is any of the following:
  - Seriously ill, incarcerated, or about to be incarcerated;
  - Temporarily unable to provide financial support or parental guidance to the child;
  - Temporarily unable to provide adequate care and supervision of the child because of the parent's, guardian's or custodian's physical or mental condition;

- Homeless or without a residence because the current residence is destroyed or otherwise uninhabitable; or
- In or about to enter a residential treatment program for substance abuse.
- The parent, guardian, or custodian of the child believes that the power of attorney is in the best interest of the child;
- If the other parent of the child is deceased;
- There is no pending action for:
  - Temporary custody, permanent custody or planned permanent living arrangement by a Children’s Services Agency;
  - The appointment of a guardian for, or the adoption of a child;
  - An ex parte emergency custody order issued by the court; or
  - A proceeding for divorce, dissolution, legal separation, annulment, or allocation of parental rights and responsibilities regarding the child has been filed.

A court may not collect a filing fee for the filing of a GPOA.<sup>7</sup>

**Who must sign a GPOA?<sup>8</sup>**

**Both Parents, if:**

- Married and living as husband and wife;
- The child is the subject of a shared parenting order; or
- The child is the subject of a custody order under [R.C. 3109.04](#).

**In all other cases, a single parent may sign as set forth below:**

- The parent who has been deemed the residential parent by a court or as provided in [R.C. 3109.042](#) may sign alone;
- If parents are married, living separate and apart, and have not initiated court action, then the parent with whom the child resides the majority of the school year may sign alone;
- The residential parent of a custody order under [R.C. 3109.04](#) may sign alone if:
  - The non-residential parent is prohibited from receiving a notice of relocation;
  - The parental rights of the non-residential parent have been terminated by court order;
  - The non-residential parent cannot be located with reasonable efforts.

**What is the duration of a GPOA?<sup>9</sup>**

Indefinitely until one of the following events occurs:

- The GPOA is revoked, in writing, by the person who created it (parent, guardian or custodian)\*;
- The child no longer resides with the grandparent so designated;
- The GPOA is terminated by court order;
- The death of the child; or
- The death of the grandparent.

\*If a GPOA is revoked in writing, the person revoking it must provide a copy to the grandparent and file a copy with the juvenile court within 5 days of revocation. The grandparent is responsible for providing the notice of termination and revocation to interested parties no later than 1 week after the date the GPOA was terminated.<sup>10</sup>

**What is the duration of a Caretaker Authorization Affidavit?<sup>11</sup>**

An executed caretaker authorization affidavit will terminate on the occurrence of whichever of the following comes first:

- The child ceases to reside with the grandparent;
- The parent, guardian, or custodian of the child negates, reverses, or otherwise disapproves an action or decision of the grandparent with respect to the child (in accordance with [R.C. 3109.72](#)), and the grandparent either:
  - Voluntarily returns the child to the physical custody of the parent, guardian, or custodian; or
  - Fails to file a complaint to seek custody within 14 days after written notice;
- The affidavit is terminated by court order;
- The death of the child; or
- The death of the grandparent.

**What forms are needed to file a GPOA or Caretaker Authorization Affidavit?**

The form for a GPOA is found in [R.C. 3109.53](#) and the form for the Caretaker Authorization Affidavit is found in [R.C. 3109.66](#). Both forms also are found on The Supreme Court of Ohio’s [website](#).<sup>12</sup> Check your local rules and court policy to determine whether additional forms are required.

For Supreme Court reporting purposes, grandparent power of attorney and caretaker authorization cases should be reported under “All Others” - Column K, on Form D.

ENDNOTES

1 [R.C. 3109.52](#); [R.C. 3109.65](#)

2 [R.C. 3109.52](#); [R.C. 3109.65](#)

ENDNOTES - *cont.*

- 3 [R.C. 3109.52; R.C. 3109.65](#)
- 4 [R.C. 3109.79](#)
- 5 [R.C. 3109.65\(B\)](#)
- 6 [R.C. 3109.56; R.C. 3109.57; R.C. 3109.58](#)
- 7 [R.C. 3109.74\(D\)](#)
- 8 [R.C. 3109.56](#)
- 9 [R.C. 3109.59](#)
- 10 [R.C. 3109.60](#)
- 11 [R.C. 3109.70](#)
- 12 [sc.ohio.gov/JCS/CFC/DRForms/default.asp](http://sc.ohio.gov/JCS/CFC/DRForms/default.asp)

## XXXI. VOLUNTARY SURRENDER OF CUSTODY ACTIONS

### Voluntary Agreement for Temporary Custody (VATC)<sup>1</sup>

Parents, guardian or other persons having custody of a child may enter into an agreement with a public children services agency (PCSA) or private placing agency (PCPA), whereby the child is placed in the temporary custody of the agency for a period of up to 30 days, *without court approval*. This is known as a VATC.

#### Can the court extend the temporary custody granted under the original VATC?

After the 30-day period, the agency must request an extension from the court for an additional 30-day temporary custody agreement. The court shall determine if the extension is in the child's best interest and if so, sign the agreement granting the agency an initial 30-day extension of the original temporary custody agreement. The agency is required to file a case plan.

At the expiration of the 30-day extension, the agency may request the juvenile court grant an additional 30-day extension of the temporary custody agreement. The court may grant the extension if the court determines the additional extension is in the best interest of the child. The agency is required to file an updated version of the case plan.

At the expiration of the second 30-day extension or the initial extension, if an additional extension was not requested, the agency shall return the child to the parents, guardian, or custodian or file a complaint with the court for temporary or permanent custody. If a complaint is filed, it shall be accompanied by a case plan.

#### What is required of the court at the time of filing for an extension?

- A case plan and shall be filed at the same time the request for an extension is filed; and
- The court shall issue a case number and docket the contents of the agreement;
- At the time of the filing for the second extension, the court shall docket the second extension request and updated case plan in the previously designated case number.

### Voluntary Surrender of Permanent Custody<sup>2</sup>

Just as a parent, guardian or custodian is able to work with the PCSA or a PCPA to place a child in temporary custody, a parent, guardian or custodian also is able to work with an agency to permanently surrender all of their legal rights and give custody to the agency. A PCSA must request approval of the permanent custody agreement prior to taking custody. The court shall make a determination if the custody agreement is in the best interest of the child.

A PCPA may request approval of the custody agreement from the court prior to taking custody of the child. However, the PCPA is required to notify the court of the custody agreement and notify the court of adoption proceeding.

For Supreme Court reporting purposes, Voluntary Agreement of Temporary Custody (VATC) cases should be reported under "Custody" - Column G, on Form D.

For Supreme Court reporting purposes, Voluntary Surrender of Permanent Custody cases should be reported under “Permanent Custody” - Column F, on Form D.

**What is required of the clerk at the time of filing?**

- The court shall file stamp the request for approval of the permanent custody agreement and case plan;
- The court shall issue a case number and docket the contents of the agreement;
- The court shall journalize the notices received from a PCPA regarding the permanent surrender custody agreement and placing the child for adoption.

ENDNOTES

- 1 [Juv.R. 38\(A\); R.C. 5103.15\(A\)](#)
- 2 [Juv.R. 38\(B\); R.C. 5103.15\(B\)](#)



## XXXII. SEX OFFENDER REGISTRATION AND NOTIFICATION

### General Overview

Ohio has statutes relating to Juvenile Sex Offender Registration and Notification (SORN) that apply to juveniles who have been found delinquent for committing certain offenses when they were 14 years of age or older. These statutes address the classification, registration, and community notification regarding juvenile offenders.

#### What offenses are subject to SORN?

Any juvenile who is 14 years of age or older who is adjudicated delinquent for committing a sexually-oriented offense and/or a child-victim oriented offense is eligible to be classified as a juvenile sex offender.<sup>1</sup> Juveniles under 14 at the time of their offense are ineligible for classification.<sup>2</sup>

#### Under what circumstances does the court require a juvenile to register?

The court may choose to classify a juvenile as a sex offender after the court considers the relevant factors outlined in [R.C. 2152.83\(D\)](#), if the juvenile meets all of the following:

- The juvenile is or was adjudicated a delinquent child in a sexually oriented or child-victim-oriented offense;
- The juvenile is age 14 or 15 at the time of the offense; and
- The juvenile is a first-time offender.

The court must classify the juvenile sex offender as a registrant if:

- The juvenile is or was adjudicated a delinquent child in a sexually oriented or child-victim-oriented offense; and
- The juvenile is age 16 or 17 at the time of the offense; or
- The juvenile is age 14 or 15 at the time of the offense and has a prior adjudication of a sexually oriented offense.

#### When is a juvenile initially classified as a juvenile offender registrant?

The court shall issue, as part of the dispositional order, an order that classifies the child as a juvenile offender registrant. The order classifying the child as a registrant shall be issued at the time the judge makes the order of disposition.<sup>3</sup> When the court issues the order, the court shall provide notice and a copy of the order to the delinquent child and to the child's parent, guardian, or custodian.<sup>4</sup>

#### How does the court classify a juvenile as an offender registrant?

Prior to issuing the order requiring the child to register, the court shall conduct a tier classification-hearing. This hearing is to determine whether the child is a tier I, tier II, or tier III offender.<sup>5</sup> If the juvenile is a first time offender and is committed to the Ohio Department of Youth Services or another secure facility, the initial classification hearing must be held prior to the juvenile's release into the community.<sup>6</sup>

Unlike the classification of adults, juvenile courts have discretion to determine a juvenile’s tier level.

**PRACTICE TIP:** No statutory factors are outlined for a court to make this determination.<sup>7</sup> However, the Attorney General has advised that the factors in [R.C. 2152.83\(D\)](#) are equally applicable to the tier determination.<sup>8</sup>

**What are the tier classifications?**

A child who is classified as a juvenile sex offender registrant must register certain information with the county sheriff, or the sheriff’s designee, and must personally verify their registration information at the county sheriff’s office periodically. The length of registration and frequency of verification varies, depending on which tier a child is classified under:<sup>9</sup>

Tier Level	Frequency of Registration	Duration of Registration
Tier I	Annually	10 Years (unless declassified)
Tier II	Every 180 days	20 years (unless declassified or reclassified)
Tier III	Every 90 days	Life (unless declassified or reclassified)

Juveniles may face penalties for failure to register. After a juvenile turns 18, they will be prosecuted as an adult for failure to register.

**Can a juvenile sex offender be reclassified or declassified?**

Juvenile sex offenders have opportunities to be reclassified or declassified.

**Mandatory (end-of-disposition) review hearing:**<sup>10</sup> Upon the child’s completion of disposition, the judge shall conduct a hearing to review the effectiveness of the disposition and treatment, and to determine whether its prior classification of the child should be continued or modified. After this hearing, the judge may:

- Terminate the child’s classification if that child was a discretionary registrant;
- Reclassify the child into a lower tier; or
- Continue the child’s original classification.

The court may not increase a child’s classification level at this hearing. At the conclusion of the hearing, the court must issue an order detailing the child’s classification level and corresponding duties; and must provide copy of the order to the delinquent child, and to the bureau of criminal identification and investigation.<sup>11</sup>

**Petition for reclassification or declassification:**<sup>12</sup> A child may file a petition for reclassification or declassification 3 years after the mandatory review hearing. A child may file another petition 3 years after the first hearing, and every 5 years thereafter. After any of these petitions, the judge may:

- Reclassify the child into a lower tier;

- Terminate the child’s classification; or
- Continue the child’s classification.

The court may not increase a child’s classification level at this hearing. If the court grants the petition to declassify the juvenile offender, the court shall issue an order finding that the child is no longer a juvenile offender registrant and shall provide a copy of the order to the child and to the bureau of criminal identification and investigation.<sup>13</sup>

Regardless of the juvenile sex offender’s age at which time the mandatory review hearing and all hearings for petitions to reclassify or declassify are held, the juvenile sex offender has the right to be represented by counsel at all stages of the proceedings.<sup>14</sup>

## ENDNOTES

- 1 [R.C. 2950.01](#)
- 2 [R.C. 2152.82](#); [R.C. 2152.83](#)
- 3 [R.C. 2152.82](#)
- 4 [R.C. 2152.82\(B\)](#)
- 5 [R.C. 2152.82](#); [R.C. 2152.831](#)
- 6 [R.C. 2152.83](#)
- 7 [R.C. 2152.381](#)
- 8 See pages 11-12 of the [Brief of Amicus Curiae Ohio Attorney General, filed in support of neither party in \*In re D.J.S.\*](#), 130 Ohio St.3d 257, 2011-Ohio-5342, 957 N.E.2d 291.
- 9 [R.C. 2950.041](#); [R.C. 2950.07](#)
- 10 [R.C. 2152.84\(A\)](#)
- 11 [R.C. 2152.84\(B\)](#)
- 12 [R.C. 2152.85](#)
- 13 [R.C. 2152.84\(B\)](#)
- 14 [R.C. 2151.352](#)



## XXXIII. TOBACCO LAW VIOLATIONS

### Ohio's Tobacco Law<sup>1</sup>

Juveniles are generally prohibited from possessing, using, consuming, purchasing or receiving cigarettes or other tobacco or alternative nicotine products.

“Alternative nicotine product” means an electronic cigarette or any other product or device that contains nicotine that can be ingested into the body by any means, including: smoking, chewing, dissolving, absorbing or inhaling.

#### Exceptions

- When a child is accompanied by a parent, legal guardian, or spouse who is at least 18 years of age or older;
- If the child is participating with a law enforcement agency in an inspection or compliance check;
- If in the course of the child’s employment it is within the scope of his/her duties to receive tobacco products as part of his/her duties; or
- If participating in a research protocol if all of the following apply:
  - The parent, guardian or legal custodian of the child has consented in writing to the child participating in the research protocol;
  - An institutional human-subjects protection review board, or an equivalent entity, has approved the research protocol;
  - The child is participating in the research protocol at the facility or location specified in the research protocol.

#### What can the court do?

Tobacco law violations are not “delinquent” or “unruly” offenses and therefore, youth who commit this offense are referred to as “tobacco law offenders.”

If the court finds that a child violated tobacco laws, the court may do either or both of the following:

- Require the child to attend a youth smoking education program or other smoking treatment program approved by the court, if one is available; and/or
- Impose a fine of not more than \$100.00.

If a child disobeys the court order, the court may do any or all of the following:

- Increase the fine imposed upon the child;
- Require the child to perform not more than 24 hours of community service; and/or
- Suspend for a period of 30 days the temporary instruction permit, probationary driver’s license, or driver’s license issued to the child.

A child alleged or found to be a tobacco law offender shall **not** be detained.

#### ENDNOTE

1 [R.C. 2151.87](#)

For Supreme Court reporting purposes, these offenses should be reported under “Unruly”- Column D, on Form D.



## XXXIV. ABORTION CONSENT: UNMARRIED MINORS

### General Overview

An unmarried and unemancipated female, under the age of 18, may have an abortion without the consent of her parent, guardian, or custodian by filing a petition with the court.<sup>1</sup> The petition may be filed in the county in which the female, has a residence or legal settlement or the juvenile court of any county that borders the county in which she has a residence or legal settlement.<sup>2</sup>

### Requirements of the Court & Petitioner

#### What is required of the court at the time of filing?<sup>3</sup>

- Prompt assistance to the minor in a private, confidential setting;
- Oaths and acknowledgments services as necessary;
- No filing fee or court costs may be assessed against the petitioner;
- Form 23.1-A, Petition for Authorization to Consent to an Abortion or for Judicial Consent to an Abortion, shall be filed with the court;
- Hold a record hearing as soon as possible within 5 days of the filing of the petition;
- If the petitioner does not have an attorney, appoint an attorney for the minor at least 24-hours prior to the hearing and who shall be paid by the court without expense to the petitioner; and
- Appoint a Guardian ad Litem (GAL) at court expense for the minor unless the court-appointed attorney is appointed to also serve as GAL.

#### What shall page one of the petition contain?<sup>4</sup>

- Petitioner is pregnant;
- Petitioner is unmarried and unemancipated, and petitioner's age;
- Petitioner wishes to have an abortion and has been fully informed of the risks and consequences of an abortion;
- A verification of either or both of the following:
  - Petitioner is of sound mind and has sufficient intellectual capacity to consent to the abortion; or
  - The court should find by clear and convincing evidence that an abortion is in the petitioner's best interest and give judicial consent to the abortion.
- A statement as to whether the petitioner has an attorney, and if so, the name, address and telephone number of the attorney, and if not, a request the court appoint an attorney at no cost to her.

#### What shall page two of the petition contain?<sup>5</sup>

- The name and address of petitioner's parent, guardian, custodian or, if parents are deceased and no guardian is appointed, any person standing in place of petitioner's parent, guardian, or custodian;

For Supreme Court reporting purposes, these petitions should be reported under “All Others” - Column K, on Form D.

- Affirmation of the minor female or next of friend;
- Sworn to or affirmed signature of the petitioner or next friend;
- Address and telephone number where the court can make contact with the petitioner until an attorney is appointed.

**What must the court do with the petition?<sup>6</sup>**

- The court shall file the first page of the petition and assign it a case number;
- The case shall be filed as, “In re the Petition of Jane Doe”;
- The court shall remove the second page and place it under seal or other secure place;
- The court shall provide a certified copy of the second page to the petitioner.

**What happens next?<sup>7</sup>**

- The court shall hold a hearing that may only be conducted by a judge, not a magistrate;
- Hearings shall be closed to the public;
- The court must issue its decision within 24 hours of the hearing.
- The court must determine by clear and convincing evidence whether:
  - The petitioner is of sufficient maturity and well enough informed to intelligently decide whether to have an abortion without the consent of a parent, guardian or custodian; or
  - The abortion is in the best interest of the petitioner.

**What orders does the court issue?<sup>8</sup>**

- If either sufficient maturity or best interest is found by the court, the court shall issue an order not later than 24 hours after the end of the hearing authorizing the petitioner to consent to the performance of an abortion or give judicial consent to the abortion.
  - If the judgment is entered immediately after the hearing, the court should provide a copy of the judgment to the petitioner and her attorney.
- If the court does not find evidence of maturity or best interest, the court shall issue an order not later than 24 hours after the end of the hearing denying or dismissing the petition.
  - If the court denies or dismissed the petition, the court has to notify the petitioner she has a right to appeal and provide the petitioner and her attorney with a copy of the notice of appeal, Form 23.1-C.



## ENDNOTES

- 1 [R.C. 2919.121; Sup.R. 23.1](#)
- 2 [R.C. 2919.121\(C\)\(1\)](#)
- 3 [R.C. 2919.121\(C\); Sup.R. 23.1](#)
- 4 [Sup.R. 23.1; Form 23.1-A](#)
- 5 [Sup.R. 23.1; Form 23.1-A](#)
- 6 [Sup.R. 23.1\(B\)\(2\)](#)
- 7 [Sup.R. 23.1\(G\) - \(H\)](#)
- 8 [R.C. 2919.121\(C\); Sup.R. 23.1\(H\)](#)



## XXXV. JUVENILE CIVIL PROTECTION ORDER (JCPO)

### General Overview

Juvenile courts are authorized to issue and enforce civil protection orders against juveniles under the age of 18 years of age.<sup>1</sup>

### Definitions

- **Petition:** Civil complaint which alleges the respondent engaged in certain illegal behaviors.
- **Petitioner:** The person who files a petition or on whose behalf a petition is filed.<sup>2</sup>
- **Respondent:** The party, who is under the age of 18 years old, against whom a civil complaint or petition for a civil protection order is filed.<sup>3</sup>

### Who can file a JCPO?<sup>4</sup>

- The person filing the petition can be:
  - An adult or a juvenile who files on his or her own behalf;
  - A parent or adult family or household member who files on behalf of another family or household member; or
  - A person determined appropriate by juvenile court to file on behalf of a minor.

### What are the offenses that are considered for a JCPO?

- Violent Acts - [R.C. 2151.34\(C\)\(2\)\(a\)](#)
- Domestic Violence - [R.C. 3113.31\(A\)](#)

JCPO can be requested and granted based on the following acts: felonious assault, aggravated assault, assault, aggravated menacing, menacing, menacing by stalking, any sexually oriented offense, aggravated trespass, and domestic violence.

Delinquency charges are not required to commence a civil protection order proceeding against a juvenile respondent.

### What relief can be obtained if a JCPO is granted?<sup>5</sup>

The court may order the respondent not to engage in any of the following acts:

- Harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses upon petitioner;
- Enter residence, school, business or place of employment or other specific locations;
- Remove, damage, hide or dispose of property or pets/companion animals;
- Not initiate or have contact with protected person(s);
- Not cause or encourage any other person to do any act prohibited by JCPO;
- Possess, use, carry, or obtain any deadly weapon ; and/or
- Electronic monitoring.

**When can electronic monitoring be granted?**<sup>6</sup>

Electronic monitoring may be granted if there is clear and convincing evidence that the:

- Petitioner reasonably believes that the respondent’s conduct at any time preceding the filing of the petition endangered the health, welfare, or safety of the protected person(s); and
- Respondent presents a continuing danger to the protected person.
- The clear and convincing burden only pertains to the determination of the appropriateness of the electronic monitoring.

The court may direct the sheriff to install a device and monitor the respondent, and the respondent may be required to pay for device. If the respondent is indigent, the monitoring device may be paid from State Crime Victim Reparation Fund.<sup>7</sup>

**Where are the JCPO forms found?**

The Petition and Order are available on the Supreme Court’s [website](#).<sup>8</sup>

**What fees and costs are associated with a JCPO?**<sup>9</sup>

No cost or fee will be charged to the petitioner in connection with filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a JCPO or witness subpoena or for obtaining a certified copy of a JCPO. The court may assess costs to the respondent.

**Who has jurisdiction to issue a JCPO?**<sup>10</sup>

The petition must be filed at the juvenile court in the county of residence of the person to be protected.

**What rules apply to JCPO proceedings?**<sup>11</sup>

JCPO are special statutory proceedings and must follow [Civ.R. 65.1](#).

**What is the burden of proof to issue a JCPO?**

- **Ex parte hearing:** The court may issue an ex parte protection order upon the showing of immediate and present danger.
- **Full hearing:** The petitioner must show by the preponderance of the evidence that the respondent engaged in the alleged conduct.<sup>12</sup>

PRACTICE TIP: If the petitioner requests electronic monitoring of the respondent, the petitioner must show by clear and convincing evidence that the respondent’s conduct has endangered the health, welfare, or safety of the petitioner and respondent presents a continuing danger to the petitioner. This standard (clear and convincing evidence) is solely used for the purpose of determining the appropriateness of ordering electronic monitoring.<sup>13</sup>

**When must an ex parte hearing be scheduled?<sup>14</sup>**

If the petitioner requests an ex parte JCPO, the court must conduct a hearing as soon as possible after petition is filed, but not later than the next day the court is in session. However, if a petitioner has filed a petition for a domestic violence civil protection order, the court must conduct a hearing the same day.

If the petitioner does not request or the court does not grant the ex parte protection order, the court must schedule a full hearing. The court may proceed as in a normal civil action.

**When can continuances be granted?**

Continuances can be granted when:<sup>15</sup>

- There is a lack of service to the respondent;
- The parties agree to continuance;
- A continuance is needed to allow party to obtain counsel; or
- Other good cause is shown.

The ex parte JCPO does not expire because the court grants a continuance.<sup>16</sup>

**What is required for a full hearing?<sup>17</sup>**

The court must schedule a full hearing within 10 court days after the issuance of ex parte protection order. The court must give the respondent notice of the hearing and opportunity to be heard. The full hearing will be held on date scheduled unless the court grants a continuance.

PRACTICE TIP: For multiple reasons, including time to perfect service and hold the full hearing, the court could consider making the ex parte civil protection order valid for at least 6 months.

**Is the appointment of counsel permitted at juvenile civil protection hearings?**

Any party to a JCPO may be represented by counsel. Juvenile court may appoint counsel at its discretion for juvenile respondents.<sup>18</sup> The law does not afford a similar right to court-appointed counsel for the petitioner. However, in all stages of the proceedings, a petitioner may be accompanied by a victim advocate, who may provide support and assistance to the petitioner during court proceedings.<sup>19</sup> The local domestic violence program or the [Ohio Domestic Violence Network](#), 800.934.9840, may provide advocacy information.

**How must service and notice be issued?**

A copy of the petition, notice of hearing, and the ex parte civil protection order, if any, must be served by personal service upon the respondent and his or her parent, guardian, or legal custodians.<sup>20</sup> If service cannot be perfected by personal service, the petitioner may request service by any of the other allowable methods of services, including registered mail or publication.<sup>21</sup>

For Supreme Court reporting purposes, these petitions should be reported under "All Others" - Column K, on Form D.

### What is the duration of a JCPO?<sup>22</sup>

JCPOs are issued for a certain period of time, but cannot be extended beyond 5 years or the respondent's 19th birthday, whichever comes first.

### Are reciprocal JCPOs permitted?<sup>23</sup>

Mutual JCPOs are not allowed. The respondent must file a separate petition and fulfill the same statutory requirements as the petitioner. Notice of this petition must be served upon the petitioner at least 48 hours before the hearing, unless waived by the petitioner. After a full hearing where both parties present evidence, the court may grant respondent the JCPO.

If the petitioner requested an ex parte JCPO, the court cannot delay the hearing on that request to consolidate the hearing on respondent's petition for a JCPO.

### Can a JCPO be renewed, modified or terminated?

The JCPO may be renewed in the same manner as the original order was issued.<sup>24</sup> A domestic violence JCPO may be modified or terminated per [R.C. 3113.31\(E\)\(8\)](#). In contrast, [R.C. 2151.34](#) is silent regarding modification and termination of the JCPO issued per this section.

### Can the terms of a JCPO be altered by mutual agreement of the parties?

The petitioner cannot waive or nullify the terms of a JCPO.<sup>25</sup> Only the court has the authority to amend any term of the order. However, the petitioner's invitation or consent to the respondent's violation may create an affirmative defense to the violation.<sup>26</sup>

### Can a JCPO record be sealed?<sup>27</sup>

Yes. If a JCPO is not issued, all records of proceedings are automatically sealed. If a JCPO was granted and the respondent complied with the terms of the order, all records of the proceeding are automatically sealed when the respondent attains 19 years of age. If there was non-compliance of terms of the JCPO, the court on its own motion or the respondent by motion to the court may request sealing of JCPO records 2 years after the order expired.

The notice and opportunity to respond, within 30 days, must be given to petitioner/petitioner's attorney. A hearing must be held within 30 days after receipt of response. Even without a response, the court has discretion to hold a hearing. If records are sealed, they still may be subject to inspection under certain circumstances.

### What are potential consequences if a respondent violates a JCPO?<sup>28</sup>

Juvenile court retains jurisdiction of adjudicating violations while the order is in effect. If a respondent violates the JCPO, he or she may be subject to prosecution as a delinquent under [R.C. 2919.27](#) and contempt of court. Punishment for contempt of court does not bar prosecution for violating the order, but credit must be given for the punishment imposed upon the adjudication as a delinquent child. A juvenile adjudicated as a delinquent child must not be subsequently punished for contempt of court out of the same activity.

**Additional Resources:**

R.C. 2151.34 *Juvenile Civil Protection Orders Bench Guide for Ohio Courts* created in Cuyahoga County by Kathleen Vogtsberger, M.S.S.A., LSW and Timothy Boehnlein, M.A., Domestic Violence & Child Advocacy Center and Alexandria Ruden, Esq., Legal Aid Society of Cleveland, in collaboration with Bellefaire JCB and Cuyahoga County Juvenile Court; [www.dvcac.org/sites/default/files/Bench%20guide\\_final%20draft\\_7%2025%2013.pdf](http://www.dvcac.org/sites/default/files/Bench%20guide_final%20draft_7%2025%2013.pdf).

The Supreme Court of Ohio, Juvenile Protection Order, Frequently Asked Questions: [sc.ohio.gov/JCS/domesticViolence/protection\\_forms/juvenileForms/FAQ.pdf](http://sc.ohio.gov/JCS/domesticViolence/protection_forms/juvenileForms/FAQ.pdf).

Legal Dictionary: <http://law.yourdictionary.com>.

ENDNOTES

- 1 [R.C. 2151.34\(A\)](#); [R.C. 3113.31\(A\)\(2\)](#)
- 2 [R.C. 2151.34\(A\)\(5\)](#)
- 3 [R.C. 2151.34\(A\)\(6\)](#)
- 4 [R.C. 2151.34\(C\)\(1\)](#)
- 5 [R.C. 2151.34\(E\)\(1\)](#); [R.C. 3113.31\(E\)\(1\)](#). See also [Sup.R. 10.05 Forms 10.05-D & 10.05-E](#)
- 6 [R.C. 2151.34\(E\)\(1\)\(b\)](#)
- 7 [R.C. 2151.34\(N\)](#)
- 8 [sc.ohio.us/JCS/domesticViolence/protection\\_forms/juvenileForms](http://sc.ohio.us/JCS/domesticViolence/protection_forms/juvenileForms)
- 9 [R.C. 2151.34\(J\)](#); [R.C. 3113.31\(E\)\(8\)\(e\) & \(J\)](#)
- 10 [R.C. 2151.34\(A\)\(1\)](#); [R.C. 3113.31\(A\)\(2\)](#)
- 11 [Civ.R. 65.1\(A\)](#)
- 12 [Felton v Felton](#), 79 Ohio St.3d 34 (1997).
- 13 [R.C. 2151.34\(E\)\(1\)\(b\)](#)
- 14 [R.C. 2151.34\(D\)](#); [R.C. 3113.31\(D\)](#)
- 15 [R.C. 2151.34\(D\)\(2\)\(a\)\(i\)-\(iv\)](#); [R.C. 3113.31\(D\)\(2\)\(a\)\(i\) - \(iv\)](#)
- 16 [R.C. 2151.34\(D\)\(2\)\(b\)](#); [R.C. 3113.31\(D\)\(2\)\(b\)](#)
- 17 [R.C. 2151.34\(D\)\(2\)\(a\)](#); [R.C. 3113.31\(D\)\(2\)\(a\)](#)
- 18 [R.C. 2151.34\(O\)](#)
- 19 [R.C. 2151.34\(L\)](#); [R.C. 3113.31\(M\)](#)
- 20 [R.C. 2151.34\(F\)\(1\)](#)

ENDNOTES - *cont.*

- 21 [Civ.R. 65.1\(C\)\(2\)](#)
- 22 [R.C. 2151.34\(E\)\(2\)\(a\)](#); [R.C. 3113.31\(E\)\(3\)\(a\)](#)
- 23 [R.C. 2151.34\(E\)\(3\)\(a\)-\(d\)](#); [R.C. 3113.31\(E\)\(4\)\(a\) - \(d\)](#)
- 24 [R.C. 2151.34\(E\)\(2\)\(b\)](#); [R.C. 3113.31\(E\)\(3\)\(c\)](#)
- 25 [R.C. 2151.34\(E\)\(5\)\(a\)](#); [R.C. 3113.31\(E\)\(7\)\(a\)](#). See also [State v. Lucas, 100 Ohio St.3d 1](#) (2003).
- 26 [R.C. 2151.34\(E\)\(5\)\(b\)](#); [R.C. 3113.31\(E\)\(7\)\(b\)](#)
- 27 [R.C. 2151.358\(D\)](#)
- 28 [R.C. 2151.34\(K\)](#); [R.C. 3113.31\(L\)](#)



## XXXVI. CONSENT TO MARRY PETITION

### Under what circumstances are Consent to Marry Petitions filed in juvenile court?

- When a male under 18 years of age or a female under 16 years of age<sup>1</sup> either has no parent, guardian, or custodian, has been neglected or abandoned by the parent, guardian, or custodian for at least 1 year prior to the filing date of the application, or has a parent who:
  - Resides in a foreign country;
  - Has been adjudged incompetent;
  - Is an inmate of a state mental or correctional institution;
  - Has been permanently deprived of parental rights and responsibilities for the care of the minor by a juvenile court; or
  - Has been deprived of parental rights and responsibilities for the care of the minor by the appointment of a guardian of the minor by the probate court or by another court of competent jurisdiction;<sup>2</sup> or
- The female is pregnant or has already given birth to a child and one or both parents are under the age prescribed by law.<sup>3</sup>

### What happens when parental consent is not required?

When a minor desires to marry 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.<sup>4</sup>

### The application must contain:<sup>5</sup>

- The name and address of the minor;
- The age of the minor;
- The reason why consent of a parent is not required; and
- The name and address of the parent, if known, where the minor alleges that parental consent is unnecessary because the parent has neglected or abandoned the child for at least 1 year.

**What happens where a female is pregnant or delivered a child born out of wedlock?**<sup>6</sup>

Where a female is pregnant or has given birth to a child out of wedlock and the parents of the child seek to marry one-another and one or both of the parents are under the minimum age allowed by law, the parents may file an application. The application shall be filed under oath and in the county where the female resides. This application asks the judge of the juvenile court to give consent to the probate court for the marriage to take place.

**The application must contain:**<sup>7</sup>

- The name and address of the minor;
- The age of the minor;
- An indication of whether the female is pregnant (physician’s verification is the best practice) or has already delivered a baby;
  - If pregnancy is asserted, a certificate from a physician verifying pregnancy shall be attached to the application.
  - If the child has been delivered, the birth certificate of the child must be attached.
- An indication of whether or not the applicant under 18 years of age is already a ward of the court; and
- Any other facts which may assist the court in determining whether to consent to such marriage.

**What actions must the court take upon receiving an application?**

The court must set a date and time for hearing at its earliest convenience. When the female is pregnant or has delivered a child, the court also must direct that an investigation be made into the circumstances surrounding the applicants.<sup>8</sup>

If neglect or abandonment are alleged and the address of the parent is known, the court must send notice of time and date of hearing to the parent.<sup>9</sup>

If the court finds the allegations in the application are true, and the granting of the application is in the best interest of the applicants, the court shall grant the consent.<sup>10</sup> A certified copy of the judgment entry must be transmitted to the probate court.<sup>11</sup> When the juvenile court files a consent to marriage pursuant to the juvenile rules, the probate court may thereupon issue a license.<sup>12</sup>

For Supreme Court reporting purposes, these petitions should be reported under “All Others” - Column K, on Form D.

## ENDNOTES

- 1 [R.C. 3101.01\(A\)](#)
- 2 [Juv.R. 42\(A\)](#); [R.C. 3101.01\(B\)](#)
- 3 [Juv.R. 42\(C\)](#)
- 4 [Juv.R. 42\(A\)](#); [R.C. 3101.01\(B\)](#)
- 5 [Juv.R. 42\(B\)](#)

ENDNOTES - *cont.*

6 [Juv.R. 42\(C\)](#)

7 [Juv.R. 42\(D\)](#)

8 [Juv.R. 42\(E\)](#)

9 [Juv.R. 42\(F\)](#)

10 [Juv.R. 42\(G\)](#)

11 [Juv.R. 42\(H\)](#)

12 [R.C. 3101.04](#)



## XXXVII. SEALING AND EXPUNGING JUVENILE RECORDS

### Definitions

**Seal a record:** To remove a record from the main file of similar records and to secure it in a separate file area that contains only sealed records accessible only to the juvenile court.<sup>1</sup> The sealed record can be inspected in extremely limited circumstances.<sup>2</sup>

**Expunge a record:** To destroy, delete, and erase a record, as appropriate, so that the record is permanently irretrievable. Paper records are physically destroyed and electronic records are irretrievably deleted and cannot be inspected by anyone.

### Sealing

The court shall consider the sealing of records upon the court's own motion or upon the application of a person.<sup>3</sup> There also are certain situations where the court must order the prompt and immediate sealing of records.<sup>4</sup>

The court cannot seal or expunge aggravated murder, murder or rape charges.<sup>5</sup>

### Application to Seal<sup>6</sup>

- A person under 18 may file an application to seal 6 months after:
  - The termination of any order made by the court;
  - The unconditional discharge from the department of youth services; or
  - Upon the court's order that the juvenile is no longer a sex-offender registrant.
- A person over 18 does not need to wait 6 months and may file when the requirements set forth above are met.

### Automatic Sealing<sup>7</sup>

- The juvenile court shall promptly order the immediate sealing of records, without an application, hearing, or prosecutor in certain situations including:
  - Unofficial cases;
  - Certain minor offenses, situations where there was police contact but no complaint was filed against the juvenile and the juvenile was not brought to the court for the commission of the act;
  - Charges involving possession or purchase of alcohol and the person has successfully complete a diversion program;
  - After a trial on the merits of the case, the court dismisses the complaint alleging the person is a delinquent child, an unruly child, or a juvenile traffic offender, or the court finds the person not to be delinquent, unruly or a traffic offender; and
  - When a person adjudicated an unruly child has reached age 18 and is not under the jurisdiction of the court in relation to a complaint alleging the person to be a delinquent child.

Rules for special case types (e.g., when the defendant was a victim of human trafficking or adjudicated for underage possession of alcohol) can be found in [R.C. 2151.356](#) and [R.C. 2151.358](#).

### Expunging

The juvenile court shall expunge all sealed records 5 years after the court issues a sealing order or upon the 23rd birthday of the person who is the subject of the sealing order, whichever date is earlier.

The juvenile, or the court upon its own motion, may apply for an early expungement before the 5-year waiting period. The process is the same as for sealing applications, with notice to the prosecutor and a similar hearing by the court.<sup>8</sup>

PRACTICE TIP: Clerks should use a tickler file or other calendaring method to track sealed records for automatic expungement. Many clerks maintain a calendar to track these cases. Some courts file the records by the date to be expunged so they are easily identified and timely destroyed.

### How is a record sealed and expunged?

- **The sealing and expunging process begins at disposition:**
  - Upon the disposition of the case in which a person has been adjudicated a delinquent child, an unruly child, or a juvenile traffic offender, the court shall provide written notice to the juvenile regarding the sealing and expunging of records. Written notice is mandatory.<sup>9</sup>
- **NOTE:** Courts cannot charge a filing fee for sealing or expunging juvenile records.<sup>10</sup>
- **Sealing and expunging a record is a two-step process:**<sup>11</sup>
  1. When eligible, a juvenile record may be sealed; and
  2. Five years later or at age 23, those sealed records are automatically expunged.
    - **NOTE:** It is possible to expunge records earlier in certain cases.<sup>12</sup>

### What must the written notice include?<sup>13</sup>

- The written notice must:
  - State that the juvenile may apply to the court for an order to seal the record;
  - Explain what sealing a record means;
  - State that the juvenile may apply to the court for an order to expunge the record under [R.C. 2151.358](#); and
  - Explain what expunging a record means.

**PRACTICE TIP:** The court may include the notice in the dispositional entry, provide a separate notice, or include the notice within the probation termination process. **An example of written notice is included at the end of this section.**

### **What is the procedure to determine whether a record should be sealed?**<sup>13</sup>

When determining whether to seal records, the court:

- May require a person filing an application to submit any relevant documentation;
- May cause an investigation to be made to determine if the person has been rehabilitated to a satisfactory degree; and/or
- Shall promptly notify the prosecuting attorney of any proceedings to seal records.<sup>14</sup>
  - The prosecuting attorney may file a response with the court within 30 days of receiving notice of the sealing proceedings;
  - If the prosecuting attorney does not file a response with the court or does not object to the sealing of the records, the court may order the records to be sealed without conducting a hearing;
  - If the prosecuting attorney files a response with the court objecting to the sealing of the records, the court shall conduct a hearing within 30 days after the court receives the response;
    - The court shall give notice of the hearing, by regular mail, to the prosecuting attorney and to the person who is the subject of the records.

After conducting a hearing or after due consideration when a hearing is not conducted, the court may order the records to be sealed if it finds that the person has been rehabilitated to a satisfactory degree.

### **What happens to records once they have been sealed?**<sup>15</sup>

- The court must keep sealed records in a separate file in which only sealed records are maintained.
- The court may retain un-identifying data in an index. Each entry regarding a sealed record in the index shall contain all of the following:
  - The name of the person who is the subject of the sealed record;
  - An identifier relating to the person who is the subject of the sealed record;
  - The word “sealed”; and
  - The name of the court that has custody of the sealed record.
- The court may maintain a manual or computerized index of the sealed records and shall make the index available only for certain purposes, outlined in [R.C. 2151.357\(E\)](#), and listed below.

**Who can access sealed records?**<sup>16</sup>

Sealed records may only be inspected by certain persons including:

- The court;
- Upon application of person subject to the records;
- Law enforcement and prosecutor (if the record is a felony offense of violence, or to determine eligibility for certain diversion);
- Party in a civil action that is based on the case; or
- The attorney general.

**What other actions must a court take once records have been sealed?**<sup>17</sup>

In addition to maintaining sealed records in a separate file, as outlined above, once records have been sealed, the court shall do all of the following:

- Order that the proceedings in a case be deemed never to have occurred;
- Delete all index references to the case and the person so that the references are permanently irretrievable;
- Order that all original records of the case maintained by any office or agency be delivered to the court;<sup>18</sup>
  - Order each agency, upon the delivering of records to the court, to expunge remaining records of the case except fingerprints, DNA specimens, and DNA records;
- Send notice of the order to seal to any office or agency that the court has reason to believe may have a record of the sealed information (e.g., the [Bureau of Criminal Identification and Investigation \(BCI\)](#); and
- Seal all of the records delivered to the court in a separate file in which only sealed records are maintained.

**Notification to BCI:** When the court orders the sealing or expungement of an arrest, or case information previously sent to the superintendent of BCI (pursuant to [R.C. 109.57](#)), the court must complete the BCI form “Re: Sealing and/or Expungements” and attach the form to the court order. The form must be sent to the Identification Section at BCI in order to ensure complete accuracy of records. The court may submit sealing information to BCI via email ([expungement.submissions@ohioattorneygeneral.gov](mailto:expungement.submissions@ohioattorneygeneral.gov)), fax (740.845.2633), or mail.

This form is included at the end of this section.

**NOTE:** Courts must include enough information on the order so that BCI can find the record that is being sealed or expunged at BCI. If the information is incomplete, BCI will not be able to identify the record and the record will not be sealed.



### How are adult cases handled in juvenile court?

Adult cases follow a similar process as outlined above and the same procedural requirements apply (e.g., hearing with notification to prosecutor, all agencies must send their records, person can respond that case never happened, etc.).<sup>19</sup>

- Special considerations for adult cases: Any first-degree misdemeanor (or higher) offense where the victim was a child can never be sealed.
  - Contributing to the delinquency of a minor; child endangerment; and criminal child support convictions are not eligible.<sup>20</sup>
- If convicted of a felony, application to seal records may be made 3 years after the offender’s final discharge
- If convicted of a misdemeanor, application to seal may be made 1 year after the offender’s final discharge.
- If there is a finding of not guilty or the complaint is dismissed, the application to seal may be filed at any time after the finding or dismissal is entered upon the court journal.<sup>21</sup>

Adults still must pay a \$50.00 filing fee for sealing.<sup>22</sup>

### What if the court receives an inquiry about a sealed or expunged record?

If the court orders a record sealed or expunged, the person may, and the court must respond to inquiries that “no record” exists with respect to the person.<sup>23</sup> The court shall order that the proceedings in the case be “deemed never to have occurred.”<sup>24</sup>

## ENDNOTES

- 1 [R.C. 2151.355\(B\)](#)
- 2 [R.C. 2151.357](#)
- 3 [R.C. 2151.355\(A\)](#)
- 4 [R.C. 2151.356\(C\)\(1\)](#)
- 5 [R.C. 2151.356\(A\)](#)
- 6 [R.C. 2151.356\(C\)\(1\)](#)
- 7 [R.C. 2151.356\(B\)](#)
- 8 [R.C. 2151.358\(B\)](#)
- 9 [R.C. 2151.356\(D\)\(2\)](#)
- 10 [R.C. 2151.356\(C\)\(1\)](#)
- 11 [R.C. 2151.358\(A\)](#)
- 12 [R.C. 2151.358\(B\)](#)
- 13 [R.C. 2151.356\(D\)\(2\)](#)
- 14 [Juv.R. 34\(J\)](#)

ENDNOTES - *cont.*

- 15 [R.C. 2151.357\(A\)\(6\) & \(C\)](#)
- 16 [R.C. 2151.357\(E\)](#)
- 17 [R.C. 2151.357\(A\)](#)
- 18 Exceptions: Fingerprints held by a law enforcement agency, DNA specimens collected pursuant to [R.C. 2152.74](#), and DNA records derived from DNA specimens pursuant to [R.C. 109.573](#).
- 19 [R.C. 2953.32\(B\)](#)
- 20 [R.C. 2953.36\(F\)](#)
- 21 [R.C. 2953.52\(A\)](#)
- 22 [R.C. 2953.32\(A\)\(1\)](#)
- 23 [R.C. 2151.357\(A\)](#)
- 24 [R.C. 2151.357](#)

**EXAMPLE: WRITTEN NOTICE REGARDING SEALING AND EXPUNGEMENT OF RECORDS**

See the [Ohio Revised Code, § 2151.356\(D\)\(2\)](#) and [Juvenile Rule 34\(J\)](#)

Because you were charged with an offense as a juvenile, Ohio law allows you to have your juvenile record sealed or expunged. The following is an explanation of the process that you must follow to seal or expunge your record.

1. You may apply to this Juvenile Court for an order to seal your record six months after any order made by the Court has ended. If you have been placed in a juvenile institution or other facility, you may not apply until six months after you have received an unconditional discharge from such institution or facility.
2. “Seal a record” means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records accessible only to the Juvenile Court.
3. Applying to seal your record doesn’t automatically mean that it will be sealed. The Juvenile Court must find that you have been rehabilitated to a satisfactory degree. If your offense was aggravated murder, murder, or rape, your record cannot be sealed.
4. If your record is sealed by the Juvenile Court and someone asks you if you have a record, you may properly reply that no record exists. If asked, the Court will also reply that no record exists.
5. After your record has been sealed, your record will automatically be expunged after a period of 5 years or when you reach age 23, whichever occurs sooner. You may apply to the Juvenile Court to have your sealed record expunged sooner.
6. How is “expunging” a record different from “sealing” a record? “Expunge a record” means to destroy, delete, and erase a record, as appropriate for the record’s physical or electronic form or characteristic. This means that the record is permanently irretrievable.
7. You may obtain an application to either seal or expunge your record from the Juvenile Court Clerk’s Office at \_\_\_\_\_, Anywhere, Ohio. That is also the location to file the application after you have completed filling it out.
8. You may wish to read portions of the Ohio Revised Code, § [2151.355](#); [2151.356](#); [2151.357](#) and [2151.358](#) for further details, available at most libraries and on the internet.



**MIKE DEWINE**

★ OHIO ATTORNEY GENERAL ★



Ohio Bureau of Criminal  
Investigation  
Office 740-845-2100  
Fax 740-845-2020

1560 St. Rt. 56 SW, P.O. Box 365  
London, OH 43140  
www.OhioAttorneyGeneral.gov

**TO ALL POLICE DEPARTMENTS, SHERIFF'S OFFICES & CLERKS OF COURTS**

**RE: SEALING AND/OR EXPUNGEMENTS**

When submitting court orders for Sealing or Expungement of an arrest, BCI requests this form be completed and attached to the court order to assure accuracy of our records.

Defendant's Names: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Arresting Agency: \_\_\_\_\_ Arrest No.: \_\_\_\_\_

Arrest Charge: \_\_\_\_\_ Date of Arrest: \_\_\_\_\_

Felony: \_\_\_\_\_ Misdemeanor: \_\_\_\_\_ ITN: \_\_\_\_\_

DNA Collected: Yes  OR No

Ohio BCI&I No.: \_\_\_\_\_ FBI No.: \_\_\_\_\_

Common Pleas/Juvenile Court Case No.: \_\_\_\_\_

Municipal Court Case No.: \_\_\_\_\_

Conviction  Dismissal  Juvenile

Conviction Charge: \_\_\_\_\_

Final Disposition of Conviction/Adjudication: \_\_\_\_\_

Send to the Attention of:

**Identification Section**

## XXXVIII. APPELLATE PROCEDURES

### General Overview

The appellate courts primary function is to hear appeals from the common pleas, municipal and county courts. Each case is heard and decided by a three-judge panel. The state is divided into twelve appellate districts. Each district is served by a court of appeals that sits in each of the counties in that district.<sup>1</sup>

#### What is an appeal?<sup>2</sup>

An appeal is a request made by a party that has lost on one or more issues for a higher court to review the decision for correctness. The party who appeals a court's decision and seeks to have the decision overturned is called an appellant. The party who opposes an appeal and seeks to have an earlier court decision affirmed is referred to as the appellee.

### Notice of Appeal

The right to appeal is available to the losing party if the party believes that there was an error in the trial procedure, the law that was applied in the case, in the interpretation of the law, or in a decision on the facts of the case. An appeal can be made once a final appealable order or decision has been entered.

#### What is the timeline for filing a notice of appeal?

To begin the appeal process, the appellant must file a notice of appeal with the clerk of the trial court that decided the case.<sup>3</sup> The notice of appeal must be filed within 30 days of the entry of the judgment or order.<sup>4</sup> In a civil case, if the clerk has not completed service of the order within the three-day period<sup>5</sup> the 30-day period begins to run on the date when the clerk completes service.<sup>6</sup> If a notice of appeal is filed after the announcement of an order, but before entry of the judgment or order, the appeal time period is treated as if it was filed immediately after the entry is filed.<sup>7</sup>

There are exceptions to the timeline for appeals (above), including:<sup>8</sup>

- Multiple or cross appeals;
  - If a notice of appeal is timely filed by a party, another party may file a notice of appeal within the normal time period (outlined above) or within 10 days of the filing of the first notice of appeal.
- Civil or juvenile post-judgment motion;
  - These motions include: a motion for judgment, motion for a new trial, objections to a magistrate's decision, a request for findings of fact and conclusions of law, motion for attorney fees, or a motion for prejudgment interest.
    - If one of these motions are filed, the time for filing a notice of appeal from the judgment or final order in question begins to run when the trial court enters an order resolving the last of these post-judgment filings.
- Criminal and traffic post-judgmental motion;

- These motions include: a motion for arrest of judgment, motion for new trial (for a reason other than newly discovered evidence), objections to a magistrate’s decision, or a request for findings of fact and conclusions of law.
  - If one of these motions is filed, the time for filing a notice of appeal from the judgment or final order in question begins to run when the trial court enters an order resolving the last of these post-judgment filings.
- Appeal by prosecution; and
  - The prosecution shall file a notice of appeal within 7 days of entry of the judgment or order appealed.
- Partial final judgement or order.
  - A party may file a notice of appeal within 30 days of entry of the judgment or order appealed or the judgment or order that disposes of the remaining claims.

**What must be included in the notice of appeal?<sup>9</sup>**

The title of the case must be the same as the trial court, with the designation of the appellant added. The notice of appeal must specify:

- The party or parties taking the appeal;
- The judgment, order or part appealed from; and
- Name of the court from which the appeal is taken.

**NOTE:** Local rules may require a submission of a copy of the appealed court order. Check the local rules of the appellate district in which the appeal will be filed for additional requirements and/or forms.

A sample notice from Appendix I of the Rules of Appellate Procedure is included at the end of this section.

**What is a docketing statement and when must it be included with the notice of appeal?<sup>10</sup>**

If the court of appeals has adopted an accelerated calendar (by local rule), the appellant shall file a docketing statement with the clerk of the trial court. The docketing statement shall be filed with the notice of appeal.

The purpose of the docketing statement is to determine whether an appeal will be assigned to the accelerated or regular calendar. A case may be assigned to the accelerated calendar if any of the following apply:

- No transcript is required;
- The length of the transcript is brief, and does not cause a delay;
- An agreed statement is submitted in lieu of the record;
- The record was made in an administrative hearing and filed with the trial court;

- All parties to the appeal agree to the assignment of the appeal to the accelerated calendar; or
- The case has been designated by the local rule for the accelerated calendar.

#### How does the clerk serve notice of the appeal?<sup>11</sup>

The clerk of the trial court shall serve notice of the filing of a notice of appeal and the docketing statement (when required by local rule). A notice may be sent via fax or mail.

The following is a list of requirements for the clerk to complete in order to serve notice:

- Provide copies of the notice to counsel of record of each party (other than the appellant);
  - If parties are not represented by counsel, notices must be sent to the most recent known address;
- Provide a copy of the notice of appeal, docket entries, and all filings by appellant (pursuant to [App.R. 9\(B\)](#)) to the clerk of the court of appeals named in the notice; and
  - Each copy served must note the date on which the notice of appeal was filed;
- Note names of the parties served, the date served, and the means of service in the docket.

#### Can a party amend the notice of appeal?<sup>12</sup>

A party may amend a notice of appeal if the time to appeal has not yet lapsed. If the time has lapsed, the court of appeals has discretion to allow an amendment. If an appellant amends a notice, it shall be filed in both the trial court and the court of appeals.

### Record on Appeal

After filing the notice of appeal the appellant shall comply with the provisions of [App.R. 9\(B\)](#) (below) and shall take any other action reasonably necessary to enable the clerk to assemble and transmit the record.<sup>13</sup>

#### What must the record on appeal include?<sup>14</sup>

The record on appeal must include:

- The original papers and exhibits filed in the trial court;
- The transcripts of proceedings, if any, including exhibits; and
- A certified copy of the docket and journal entries prepared by the clerk of the trial court.

The trial court has the discretion to select the transcriber of the record for the case. However, the court must have a reasonable basis for determining that the transcriber meets the qualifications and training to produce a reliable transcript that conforms to the requirements of [App.R. 9\(B\)\(6\)](#).

The record is complete for the purposes of appeal when the last part of the record is filed with the clerk of the trial court.

**NOTE:** The appellate court may have specific forms to meet the requirements of [App.R. 9\(B\)](#).

**What are the appellant's duties regarding transmission of the record?<sup>15</sup>**

The appellant has a duty to make reasonable arrangements:

- For transcription of the recorded proceedings; and
- To enable the clerk to assemble and transmit the record.

The appellant does not have the ability, and thus does not have the duty, to ensure that the record is transmitted once those reasonable arrangements have been made.

If the appellant fulfilled these duties then he/she is not responsible for any delay or failure to transmit the record.

**What are the appellant's responsibilities regarding the transcript?<sup>16</sup>**

To obtain the record, the appellant must order the transcript in writing and shall file a copy of the transcript order with the clerk of the trial court.

- It is the responsibility of the appellant to ensure that the proceedings for the record are transcribed in the form prescribed by [App.R. 9\(B\)](#).  
*See rule for a complete list of duties and requirements for the transcript.*
- If the appellant does not want the full record, he or she must file a statement with the clerk of court outlining the assignment of error and the portion of the transcript to be used, or a statement in lieu of a transcript.
  - This statement is to be filed with the notice of appeal and the appellant is required to service this statement to the appellee.
  - If the appellee considers a transcript of other parts of the proceedings necessary, the appellee, within 10 days after the service of the statement of the appellant, shall file and serve on the appellant a designation of additional parts to be included. The clerk of the trial court shall forward a copy of this designation to the clerk of the court of appeals.

At the time of ordering the transcript, the ordering party shall arrange for the payment to the transcriber of the cost of the transcript of proceedings.

**When is a record complete (for purposes of appeal)?<sup>17</sup>**

The record is considered to be complete for the purposes of appeal (and ready to be sent to the clerk of court of appeals) under any of the following circumstances:

- The transcript of proceedings is filed with the clerk of the trial court;
- A statement of the evidence or proceedings is settled and approved by the trial court, and filed with the clerk of the trial court;
- An agreed statement in lieu of the record is approved by the trial court, and filed with the clerk of the trial court;



- The appellant designates that no part of the transcript of proceedings is to be included in the record or that no transcript is necessary for appeal;
  - This must occur after expiration of 10 days following service upon appellee, unless appellee filed a designation of additional parts of the transcript to be included in the record;
- Forty days (20 days in an accelerated-calendar case) have elapsed after filing of the last notice of appeal, and there is no extension of time for transmission of the record; or
- The appellant fails to file either the docketing statement or the statement required by [App.R. 9\(B\)](#), within 10 days of filing the notice of appeal.

**What are the clerk’s duties regarding transmission of the record?**<sup>18</sup>

It is the duty of the clerk of the trial court to:

- Prepare the certified copy of the docket and journal entries;
- Assemble the original papers (or the agreed statement of the case if applicable); and
- Transmit the record to the clerk of the court of appeals within the appropriate time frame (40 days, or 20 days for an accelerated-calendar case).
  - To prepare the record for transmission, the clerk must:
    - Number the documents that make up the record; and
    - Provide a list of the documents included in the record. The list must number and identify the documents.
  - Documents of unusual bulk or weight and physical exhibits shall not be transmitted by the clerk *unless* directed to do so by a party or by the clerk of the court of appeals.
    - A party must make advance arrangements with the clerks for the transportation and receipt of such exhibits.

Transmission of the record is official when the clerk of the trial court forwards the record to the clerk of the court of appeals. The clerk of the trial court shall indicate the date upon which it is transmitted to the court of appeals and shall note the transmission on the appearance docket.

*See [App.R. 10](#) for additional details.*

**What is the timeline for transmission of the record?**<sup>19</sup>

The clerk is required to transmit the record, transcript, and exhibits when the record is complete (for purposes of appeal) or within 40 days after the notice of appeal is filed. If the court has an accelerated calendar the record must be transmitted within 20 days. The trial court may extend the time for transmission of the record for cause shown set forth in the order. If an extension is granted, the clerk shall certify the order of extension to the court of appeals.

### Expedited appeals<sup>20</sup>

Appeals in certain actions shall be expedited and given calendar priority over all other cases. The appellate rules, including the rules outlined above, will apply with modifications and exceptions as outlined below.

#### **Abortion-related appeals from juvenile court**<sup>21</sup>

If an appellant files her notice of appeal on the same day as the dismissal of her complaint or petition by the juvenile court, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in 16 calendar days from the time the original complaint or petition was filed. Modifications to processing the appeal include, but are not limited to:

- Immediately after the notice of appeal has been filed, the clerk shall notify the court of appeals;
- Within 4 days after the notice of appeal is filed in juvenile court, the clerk shall deliver a copy of the notice of appeal and the record, except page two of the complaint or petition, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals;
- If the testimony is on audio tape and a transcript cannot be prepared timely, the court of appeals shall accept the audio tape without prior transcription;
- The appellant shall file her brief within 4 days after the appeal is docketed. Unless waived, the oral argument shall be within 5 days after docketing;
- In this section, “days” means calendar days and includes any intervening Saturday, Sunday, or legal holiday to provide full effect to the expedition provision of the statute;
- The court shall enter judgment immediately after conclusion of oral argument or, if oral argument is waived, within 5 days after the appeal is docketed;
- Before any written opinion is released to the public, the appellant must have notice and the opportunity for a hearing as to whether or not the opinion may disclose her identity; or
- Upon request of the appellant or his/her attorney, the clerk shall verify on [Form 25-A](#) (found in the [Rules of Superintendence](#)) the date the appeal was docketed and whether a judgment has been entered within 5 days of that date. The completed form shall include the case number from the juvenile court and the court of appeals, and shall be filed and included as part of the record.

**Adoption and parental rights appeals**<sup>22</sup>

Appeals from orders granting or denying adoption of a minor child or termination of parental rights shall be given priority except abortion-related appeals from juvenile court. Special considerations for adoption and parental rights appeals include:

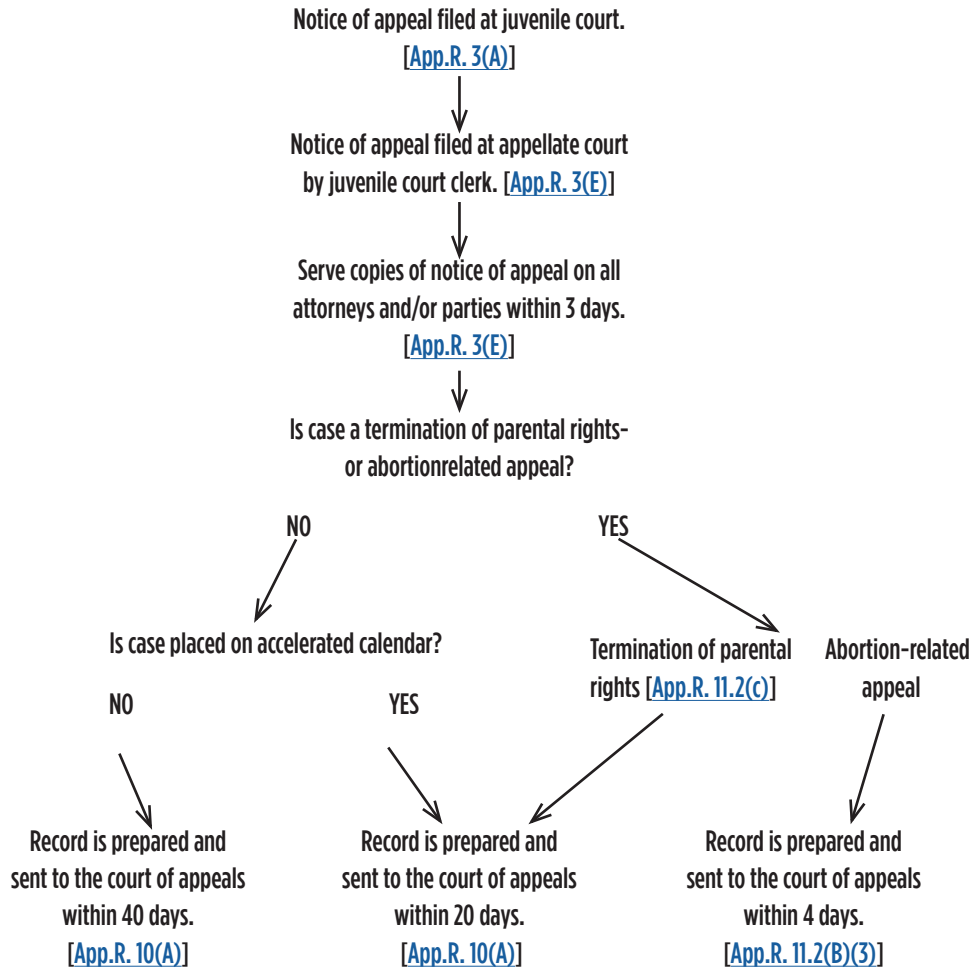
- Preparation of the record shall be given priority over the preparation and transmission of the records in all cases other than abortion-related appeals from juvenile court;
- Extensions of time for filing briefs shall not be granted (except in the most unusual circumstances and only for the most compelling reasons in the interest of justice);
- Oral arguments only will be held if requested or ordered. Otherwise, the case shall be considered submitted for immediate decision after briefs have been filed. If oral argument is held, it must be within 30 days after the briefs have been filed; and
- The court shall enter judgment within 30 days of submission of the briefs, or of the oral argument, whichever is later, unless compelling reasons require a longer time.

**Abuse, neglect or dependency appeals and unruly or delinquent child appeals**<sup>23</sup>

Appeals concerning a dependent, abused, neglected, unruly, or delinquent child shall be expedited and given calendar priority over all cases (except appeals concerning abortions, adoption, or parental rights).

*See Endnotes, p. 184.*

## APPELLATE TIMELINE



COURT OF APPEALS APPELLATE DISTRICTS



District	Number of Judges	Number of Counties	District	Total Population	Population per Juge
First	6	1	First	802,374	133,729
Second	5	6	Second	1,030,621	206,124
Third	4	17	Third	787,269	196,817
Fourth	4	14	Fourth	633,838	158,460
Fifth	6	15	Fifth	1,484,932	247,489
Sixth	5	8	Sixth	886,720	177,344
Seventh	4	8	Seventh	560,760	140,190
Eighth	12	1	Eighth	1,280,122	106,677
Ninth	5	4	Ninth	1,129,989	225,998
Tenth	8	1	Tenth	1,163,414	145,427
Eleventh	5	5	Eleventh	796,658	159,332
Twelfth	5	8	Twelfth	979,807	195,961

## ENDNOTES

- 1 Supreme Court of Ohio website, Ohio Court of Appeals, [sc.ohio.gov/JudSystem/districtCourts](http://sc.ohio.gov/JudSystem/districtCourts)
- 2 Supreme Court of Ohio website, CNO Legal Glossary, [courtnewsOhio.gov/glossary](http://courtnewsOhio.gov/glossary)
- 3 [App.R. 3\(A\)](#)
- 4 [App.R. 4\(A\)\(1\)](#)
- 5 Pursuant to [Civ.R. 58\(B\)](#), the clerk must serve the parties within 3 days of judgment entry.
- 6 [App.R. 4\(A\)\(3\)](#)
- 7 [App.R. 4\(C\)](#)
- 8 [App.R. 4\(B\)](#)
- 9 [App.R. 3\(D\)](#)
- 10 [App.R. 3\(G\)](#)
- 11 [App.R. 3\(E\)](#)
- 12 [App.R. 3\(F\)](#)
- 13 [App.R. 10\(A\)](#)
- 14 [App.R. 9\(A\) - \(B\)](#)
- 15 [App.R. 9\(B\) & 10\(A\)](#)
- 16 [App.R. 9\(B\)](#)
- 17 [App.R. 10\(B\)](#)
- 18 [App.R. 10\(B\)](#)
- 19 [App.R. 10\(A\) & \(C\)](#)
- 20 [App.R. 11.2\(A\)](#)
- 21 [App.R. 11.2 \(B\)](#)
- 22 [App.R. 11.2\(C\)](#)
- 23 [App.R. 11.2\(D\)](#)

## XXXIX. PUBLIC ACCESS TO COURT PROCEEDINGS

### In general, are juvenile proceedings open to the public?

Juvenile hearings shall be open to the public. However, a party may move for a hearing to be closed to the public. If so, that party bears the burden of proof, however juvenile hearings are neither presumed open or closed and a judge may use their discretion to exclude the general public.<sup>1</sup> An exception to this includes serious youthful offender (SYO) proceedings, which are open to the public.<sup>2</sup>

### What is the standard for excluding the public from a juvenile proceeding?

Juvenile proceedings, excluding SYO proceedings, may be closed to the general public if the court holds a separate hearing to determine whether excluding the general public is appropriate in a particular case.<sup>3</sup>

If the court decides that the exclusion of the general public is appropriate, the court may exclude the general public, but specific individuals may still have access if they demonstrate to the judge either of the following:

- They have a direct interest in the case; or
- They have a countervailing right to be present.

**NOTE:** [R.C. 2151.35](#) and [Juv.R. 27](#) allow a judge to exclude the general public from a hearing. However, only [R.C. 2151.35](#) states that a judge must hold a hearing before excluding the general public.

### If a proceeding is open to the public, can the media attend?

The judge shall permit the broadcasting or recording and the taking of photographs in court proceedings that are open to the public as provided by Ohio law.<sup>4</sup> Thus, if the proceedings are open, then the judge must allow the media access. In these proceedings, requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.<sup>5</sup>

Court authorizations are governed by [Sup.R. 12](#), [Juv.R. 27](#), and [R.C. 2151.35](#).

### If the court permits media access, what happens next?

After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.<sup>6</sup>

**Additional considerations regarding media in the courtroom**<sup>7</sup>**Administration**

If the court approves the media's request for access, the court's entry should contain specific conditions that the media will follow. The written order will be made a part of the record.<sup>8</sup>

**Pooling**

Arrangements shall be made between the media for "pooling" of equipment and personnel to cover the court sessions. These arrangements must be made outside of the courtroom and without imposing on the judge or court personnel.<sup>9</sup>

**Equipment and Personnel**

More than one portable television, videotape, movie camera, or photographer may not be used without prior permission of the judge.<sup>10</sup>

**Light and Sound Criteria**

Only professional quality equipment which does not produce distracting sound or light can be used in the courtroom. Where available and suitable, audio should be acquired by already existing devices in the courtroom unless otherwise authorized in advance.<sup>11</sup>

**Location of Equipment and Personnel**

The television, broadcast, and still camera operators shall find a location in the courtroom that does not cause a distraction and their equipment must not be moved until after court adjourns.<sup>12</sup>

**Limitations**

There are limits placed on the filming or recording of conferences between counsel and client and counsel and judge. The judge must advise victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.<sup>13</sup>

If the media's request is granted, there is no prohibition on photographing or recording the juvenile, unless the judge imposes specific restrictions.

**Revocation of Permission**

The judge may revoke the permission to broadcast, photograph, or record the trial or hearing in the event any of the above stipulations have been violated by a media representative.<sup>14</sup>

## ENDNOTES

- 1 [Juv.R. 27\(A\)](#); [R.C. 2151.35\(A\)](#); see also *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.
- 2 [Juv.R. 27\(A\)\(1\)](#)
- 3 [R.C. 2151.35\(A\)\(1\)](#); [Juv.R. 27\(A\)\(1\)](#)



ENDNOTES - *cont.*

- 4 [Sup.R. 12\(A\)](#)
- 5 [Sup.R. 12\(A\)](#)
- 6 [Sup.R. 12\(A\)](#)
- 7 [Sup.R. 12](#)
- 8 [Sup.R. 12\(A\)](#)
- 9 [Sup.R. 12\(B\)\(5\)](#)
- 10 [Sup.R. 12\(B\)\(1\)](#)
- 11 [Sup.R. 12\(B\)\(3\) & \(6\)](#)
- 12 [Sup.R. 12\(B\)\(7\)](#)
- 13 [Sup.R. 12\(C\)\(1\) - \(2\)](#)
- 14 [Sup.R. 12\(D\)](#)



## APPENDIX A. SUPREME COURT OF OHIO WEBSITE RESOURCES

The Supreme Court of Ohio assists Ohio courts with numerous services, including education, technical assistance, court operations analysis, and making recommendations for greater efficiency. These services, as well as resources to better understand statutes and current and emerging justice-related issues, are available to all Ohio court judges and staff. These services and resources are accessible through the Supreme Court of Ohio's [website](#). Below is a list of services and resources available on the website.

### OFFICE OF JUDICIAL SERVICES

The Office of Judicial Services provides leadership and administration of the [Judicial and Education Services Division](#). It also provides oversight of the judges' database and the assignment of visiting judges.

#### **Publications**

- [Court-Ordered Sealing of Criminal Record with Consideration of Indigency](#)
- [Collection of Fines and Court Costs Bench Card](#)

#### **Resources**

- [Judicial Assignment Program](#)

### Judicial College

The [Judicial College](#) provides continuing legal and professional education for judges, magistrates, acting judges, and non-judicial court personnel. The college also offers educational opportunities for guardians ad litem and guardians of adults.

#### **Education Information**

- [OhioCourtEDU](#)
- [Course Calendar](#)
- [Online Self-Study Course Calendar](#)
- [Ohio Probation Officer Training Program](#)
- [Court Security Officer Education](#)
- [Ohio Adult Guardianship Education Program](#)
- [Ohio Guardian ad Litem Education Program](#)
- [Non-Judicial College Related Education and Resources](#)

## OFFICE OF COURT SERVICES

The [Office of Court Services](#) oversees several Sections and Programs that provide traditional and innovative services for the courts and the public. In addition, the office supports the local court roundtables program.

### **Local Court Roundtable Meetings**

- The Case Management Section and the Children and Families Section host local court roundtable meetings for judges, magistrates, clerks, court administrators, chief probation officers, and other court and justice system partners.
  - [Schedule and registration information.](#)

### **Mediation Roundtable Meetings**

- The Dispute Resolution Section hosts mediation roundtables for mediators and professionals who manage mediation services.
  - [Schedule and registration information.](#)

### **Specialized Dockets Roundtable Meetings**


- The Specialized Dockets Section hosts roundtables with peer groups.
  - [Schedule and registration information.](#)

## Case Management Section

The [Case Management Section](#) provides resources, consulting services, and educational instruction to judges and court personnel regarding caseflow management and delay reduction.

- [Advisory Committee on Case Management](#)
- [Caseflow and Operations Management Consulting Services](#)
- [Superintendence Rules Quick Reference Guide](#)
- [Resource Sharing in Ohio Courts](#)

### **Statistical Reporting**

- [eStats Portal](#) (electronic report submission)
- [Answers to Frequently Asked Questions](#)
- General Resources
  - [Recommended Data Quality Checks](#)
  - [Quick Guides](#)
- [Form D](#)
- [Statistical Reporting Instructions \(Form D\)](#)
- Statistical Reporting Instructional Videos
  - For All Courts
    - [Rules of Superintendence Instructions for Preparation of Statistical Report Forms](#) 

- This video presents an overview of the various Rules of Superintendence for the Courts of Ohio that pertain to statistical reporting.

## Children and Families Section

The [Children & Families Section](#) provides technical assistance, training, and policy recommendations to improve court performance in cases involving children and families.

- [Advisory Committee on Children & Families](#)
- [Training Opportunities](#)
  - [Court Café Webinars](#)
- [Domestic Relations and Juvenile Standardized Forms](#)
- [Ohio Guardianship Summit](#)
- [Domestic Relations Summit](#)
- [Ohio Summit on Children](#)

## **Publications**

- [Juvenile Court Trauma-Informed Practices](#)
- [Juvenile Human Trafficking, Ohio Laws & Safe Harbor Response](#)
- [Assessing Allegations of Domestic Violence in Child Abuse Cases](#)
- [Domestic Relations Promising Practices](#)
- [Parenting Coordination Toolkit](#)
- [Planning for Parenting Time: Ohio's Guide for Parents Living Apart](#)
- [Dependency Docket Bench Cards](#)
- [Court Improvement Program Reassessment](#)
- [Desktop Guide for Juvenile Court Clerks](#)
- [Guide for Documentation of Judicial Determination](#)
- [Ohio Family Court Feasibility Study](#)
- Probate Bench Cards
- [Children Families & the Courts: Ohio Bulletin](#)

## **Resources**

- [Foster Youth Rights Handbook](#)
- [Ohio Guardian ad Litem Education Program](#)
- [Ohio Adult Guardianship Education Program](#)
- [Guide to State Court Cases Involving Unaccompanied Immigrant Children](#)
- [National Council of Juvenile and Family Court Judges, Enhanced Resource Guidelines](#)
- [National Child Traumatic Stress Network](#)

- [Sesame Street, Little Children Big Challenges: Divorce Toolkit](#)
- [SAMHSA's National Registry of Evidence-based Programs and Practices](#)
- [Judicial Symposium on Addiction and Child Welfare](#)
- [Related Links](#)

#### **Local Resources**

- [Hamilton County Juvenile Court - Kids in School Rule](#) – A collaborative project in Cincinnati, Ohio promoting school stability and success for students in child protection
- [Ohio Abuse, Neglect, and Dependency Law: A Practice Manual for Attorneys in Hamilton County](#)

#### Dispute Resolution Section

The [Dispute Resolution Section](#) promotes statewide rules and uniform standards concerning dispute resolution programs; sponsors training programs for judges, court personnel, and dispute resolution professionals; and provides mediation for Supreme Court litigants, Court of Claims litigants, and Ohio public officials.

- [Commission on Dispute Resolution](#)
- [Vision](#)
- [Frequently Asked Questions](#)
- [Supreme Court Case Mediation](#)
- [History of Dispute Resolution in Ohio](#)
- [Government Conflict-Resolution Services](#)
- [Dispute Resolution Resources](#)

#### **Training**

- [Dispute Resolution Education Trainings & Roundtables](#)
- [Additional outside trainings approved by the Supreme Court of Ohio](#)

#### Domestic Violence Program

The [Domestic Violence Program](#) assists local courts and justice system partners develop and strengthen effective responses to domestic violence and related cases.

- [Advisory Committee on Domestic Violence](#)
- [Legal Resources](#)
- [Other Resources](#)

#### **Protection Order Forms**

- [Domestic Violence Protection Order Forms](#)
- [Juvenile Civil Protection Order Forms](#)
- [Stalking and Sexually Oriented Offenses Protection Order Forms](#)

### **Special Topics**

- [Domestic Violence Courts](#)
- [Batterer Intervention Program & Selected Research](#)
- [Children Exposed to Domestic Violence](#)
- [Elder Abuse & Domestic Violence](#)
- [Language Barriers & Domestic Violence](#)
- [Lethality Assessment](#)
- [Teen Dating Violence](#)
- [NCIC Mental Health Notice](#)

### **Domestic Violence Program Publications**

- [Assessing Allegations of Domestic Violence in Child Abuse Cases](#)
- [Domestic Violence & Allocation of Parental Rights and Responsibilities Court Guide](#)
- [Guide to Firearms Return in Domestic Violence Cases](#)
- [Protection Orders Overview Card](#)
- [Domestic Relations Resource Guide - Protection Order Chapter](#)
- [Protection Orders: Statutes & Rules Reference Chart](#)
- [Increasing Safety for Victims; Increasing Accountability of Offenders](#)
- [Increasing Victim Safety, Holding Offenders Accountable Executive Summary](#)
- [Domestic Violence & Firearms Prohibition](#)
- [Domestic Violence in Later Life](#)

### Language Services Program

The [Language Services Program](#) provides technical assistance, training, resources and policy recommendations to improve equal access to courts in cases involving limited English proficient, deaf and hard of hearing individuals.

- [Advisory Committee on Language Services](#)
- [Calendar of Events](#)
- [Language Services Program Resources](#)
- [FAQ](#)
- [Legal Requirements for Language Access](#)
- [ELEARNING: The Language of Justice: Ensuring Access to Ohio Courts](#)
- [Court Interpreter Certification Forms](#)
- [Certified and Provisionally Qualified Interpreter Roster](#)
- [General Resources for Court Interpreters](#)
- [Archive](#)

### **Complaint Resolution**

- [Complaint Resolution Process \(7 languages\)](#)
- [Complaint Resolution Poster](#)
- [Complaint Forms \(13 languages\)](#)
- [Working With Your Interpreter: Information for Deaf & Limited-English Litigants \(7 languages\)](#)
- [Information for Attorneys and Their Clients](#)

### **Telephonic Interpretation**

- [Interpretation Services Language Card](#)
- [Language Identification Card](#)
- [How to Access an Interpreter](#)

### **Translated Forms**

- [Domestic Relations and Juvenile Standardized Forms](#)
- [Domestic Violence Protection Order Forms](#)
- [Juvenile Civil Protection Order Forms](#)
- [Stalking and Sexually Oriented Offenses Protection Order Forms](#)
- [Translation Forms Project \(General Forms\)](#)
- [Filing a Grievance \(Against Lawyers and Judges\)](#)

### Specialized Dockets Section

The [Specialized Dockets Section](#) provides technical support to trial courts in analyzing the need for, planning of, and implementation and certification of specialized docket programs.

- [Supreme Court Specialized Docket Certification Procedures](#)
- [Commission on Specialized Dockets](#)

### **The Specialized Dockets**

- [Mental Health Courts](#)
- [Drug Courts](#)
- [OVI/DUI Courts](#)
- [Domestic Violence Courts](#)
- [Child Support Enforcement Courts](#)
- [Re-entry Courts](#)
- [Sex Offender Courts](#)
- [Veterans Courts](#)
- [Family Dependency Treatment Courts](#)



### **Events**

- [Ohio Judicial Symposium on Opiate Addiction](#)
- [Ohio Specialized Dockets Annual Conference](#)
- [Specialized Dockets Trainings](#)
- [Statewide Conferences](#)
- [National Conferences](#)

### **Resources**

- [Ohio Statewide System Reform Program](#)
- [Specialized Dockets Newsletter](#)
- [Funding Opportunities](#)
- [Research](#)
- [Job Opportunities](#)
- [Related Links](#)
- [Handbook Guides Judges in Creating Mental Health Court Dockets - June 17, 2008](#)

## OTHER SUPREME COURT OF OHIO SERVICES

### Court Security Services

The [Office of Court Security](#) is committed to providing professional security services to the courts of Ohio in order to maintain the integrity of the judicial process and ensure the safety of those who work in or visit court facilities.

- [Advisory Committee on Court Security](#)
- Court Security Standards ([Rules of Superintendence](#), [Sup.R. 9](#), and [Appendix C](#))
- [Court Facilities Standards](#) ([Rules of Superintendence](#), [Appendix D](#))
- [Available Equipment](#)
- Listing of security screening equipment available for Ohio courts
- [Frequently Asked Questions](#)
- [Links of Interest](#)
- [Contact Us](#)

### **Services Provided**

The following is a partial list of some of the services that may be provided by the Office of Court Security, upon request.

- Assist county and local courts in conducting comprehensive court security surveys and site surveys
- Assist county and local courts in the development of emergency and security procedures

- Provide assistance in the operational planning and coordination for high-risk or sensitive trials
- Security education for new judges and their families

### Judicial Family Network

The [Judicial Family Network](#) exists to identify the needs and concerns of judicial families in Ohio and to offer a supportive network and educational opportunities to the spouses/partners and their families.

- [Judicial Family Network Brochure](#)
- [Overview & Calendar of Events](#)
- [Operating Guidelines](#)
- [Roster](#)
- [Annual Report](#)
- [Resources](#)
- Websites
  - [Judicial Family Institute](#)
  - [National Center for State Courts](#)

### Public Information Office (PIO)

The [Public Information Office](#) assists local courts with such items as press releases and technical assistance related to media relations. The office also provides news about the courts at [courtnewsOhio.gov](http://courtnewsOhio.gov).

### **Case Information**

- [Case News](#)
- [Supreme Court Opinion Summaries](#)
- [Oral Argument Previews](#)
- [Case Activity Notification Service](#)

### Information Technology Division

- [IT Resources for Courts](#)
- [Commission on Technology and the Courts](#)
- [Ohio Courts Network \(OCN\)](#)
- [Appellate Case Management System \(ACMS\)](#)

## APPENDIX B.

### RECOMMENDED CASEFLOW AND OPERATIONS MANAGEMENT REPORTS

#### A. CASE-LEVEL REPORTS

The following reports constitute a recommended beginning set of case-level management reports that trial courts can employ to monitor and control the pace and activity of individual cases in their dockets. These reports are generally applicable to all case types.<sup>1</sup>

- 1. Case Aging.** This type of case aging report would list active pending cases that have reached some predefined case age that signals the need for further scrutiny on case status. An example would be a case reaching 90 percent of the Supreme Court's time guideline. The report should permit flexibility in the establishment of multiple tiers of time standards. Details for each case should include the case type, the last event, the next scheduled event, the date filed, and the total number of days each case has been pending, not counting any periods of placement on inactive reporting status (e.g., criminal cases in which a *capias* has been issued).
- 2. Overage Cases.** This type of case aging report would only list cases that have exceeded the applicable Supreme Court of Ohio case processing time standard. Details for each case should include the last event, the next scheduled event, the date filed, and the total number of days each case has been pending, not counting any periods of placement on inactive reporting status (e.g., criminal cases in which a *capias* has been issued).
- 3. Pending Motions.** This report would list all pending motions in each active pending case and show for each motion the date it was filed and the time, in days, the motion has been pending for comparison against the 120-day deadline for the court to rule on motions under [Sup.R. 40\(A\)\(3\)](#).
- 4. Cases for Possible Dismissal for Want of Prosecution.** This report would list all active pending cases that have been pending for 6 months without any proceedings which are not otherwise awaiting trial assignment. The report should identify the type and date of the most recent event in the case. *See* [Sup.R. 40\(A\)\(1\)](#).
- 5. Cases with No Next Event Scheduled.** This would list all active pending cases which are not otherwise set for trial that have no further events scheduled.
- 6. Court Trial Cases Awaiting Final Decision.** This report would list all active pending cases which have been fully submitted to the court following a court trial and are awaiting final decision. The report should identify the date of submission and the aging of the case in relation to the 90-day deadline for decision under [Sup.R. 40\(A\)\(2\)](#).

7. **Mediation Aging Status.** This report would show, for a point-in-time, a list of all active pending cases pending in a court-annexed mediation. In addition to basic case record information, the report should include for each case the number of days the case has been pending in mediation.
8. **Specialized Docket Aging Status.** This report would show, for a point-in-time, a list of cases placed on inactive reporting status following assignment to a certified specialized docket. In addition to basic case record information, the report should include for each case the number of days the case has been pending in the specialized docket.

## B. SUMMARY-LEVEL REPORTS

The following reports constitute a recommended beginning set of summary-level management reports that trial courts can employ to monitor and control the pace and activity of their overall dockets. These reports should break down the metrics by individual case type and by aggregated groups of case types, including the case type aggregations specified in [Sup.R. 39.05\(B\)](#). In multi-judge courts, the user should have the option to run the reports against each individual judge's assigned caseload, but also for the court as a whole.

1. **Overall Caseloads.** This report provides counts of active cases pending at a point in time as well as counts over a defined period of new filings, reactivations, transfers-in, cases placed on inactive status, and cases disposed.
2. **Clearance Rates.** This report provides clearance rates, a measure of the effectiveness of the court in keeping pace with the volume of its incoming caseload. They are calculated by dividing the total number of case terminations (dispositions plus placement on inactive status) over a defined time period by the total number of incoming cases (new filings plus reactivated, reopened, and transferred-in cases) over that same time period. The ratio is expressed as a percentage. The target is a clearance rate of 100 percent. Options should include the ability to run the measure against a series of time periods such as over a series of months and over a series of years. This measure is standardized as [CourTools Measure 2](#) within the [CourTools](#) court performance measures developed by the National Center for State Courts.<sup>2</sup>
3. **Age of Active Pending Caseload.** This report provides a point-in-time overview of the age of the court's active pending caseload. The aging of the court's entire active docket is analyzed and presented against a series of 30-day case aging segments showing the number and percentage of cases aging between 1 and 30 days, between 31 and 60 days, and so on, up to 2 times the applicable case-processing time standard. This measure is standardized as [CourTools Measure 4](#) within the [CourTools](#) court performance measures developed by the National Center for State Courts.

4. **Time to Disposition.** This measure gauges how well the court is doing at disposing of its caseload within the Supreme Court’s case processing time standards. The report should display the number and percentage of cases disposed during a defined time period which were, at the time of disposition, aged beyond the applicable primary and secondary time standards under [Sup.R. 39](#). This measure is standardized as [CourTools Measure 3](#) within the [CourTools](#) court performance measures developed by the National Center for State Courts.
5. **Manner of Disposition Details.** This report would provide for each case type counts and percentages of the number of cases disposed over a defined time period through each manner of disposition, including each termination type specified in the applicable Supreme Court statistical report under [Sup.R. 37](#).
6. **Continuances (Summary).** This report would show, for each case type, a summary of the frequency of continuances for each defined major type of case event in each case that reached final disposition over a defined time period. This would only include events which were scheduled but did not go forward upon the request of a party or by sua sponte order of the court.
- 6a. **Continuances (Detail).** This report would provide case-level supporting detail underlying the summary data presented in the “Continuances (Summary)” report, described above. This would only include events which were scheduled but did not go forward upon the request of a party or by sua sponte order of the court. For each case with continuance records, the report would show basic case records along with detail on each continuance including the event type, the identity of the person who requested the continuance (or if the continuance was sua sponte ordered by the court), and the reason for the continuance.
7. **Event Settings (Summary).** This report would show, for each case type, a summary of the number of times each major type of case event was scheduled in each case that reached disposition over a defined time period.
8. **Pro Se (Lookback at Disposition).** This report would provide, by case type, the number of cases with self-represented litigants disposed during a defined period. The report would be a count of all cases disposed in which one or more parties was self-represented at any time during the life of the case.
9. **Pro Se (Event Level).** This report would provide, by case type, counts of the number of events, by event type, in which one or more parties was self-represented. The report should include the party type (e.g., plaintiff/petitioner, defendant/respondent, or both).

- 10. Cases with Interpreters.** This report would provide, by case type, counts and percentages of disposed cases over a defined time period in which at any point during the life of the case one or more parties had a sign language or spoken language interpreter assigned by the court. This would include interpretation services in any or all three modes of interpretation (consecutive interpretation, simultaneous interpretation, and sight translation).

### CourTools

[CourTools](#) provide a way for the judiciary, its justice partners, and the public direct evidence into how well a court is functioning. When implemented, CourTools provide an effective framework for courts to establish performance baselines, diagnose existing problems and plan for specific improvements. A complete list of CourTools can be found at [courtools.org](http://courtools.org).

The Supreme Court of Ohio encourages Ohio's courts to measure their performance using the CourTools. Through the Case Management Section at the Supreme Court of Ohio, specific training on how to implement, interpret, and understand the CourTools is provided directly to the courts.

### ENDNOTES

- 1 The term "case type" used in this document means, at a minimum, the case types specified by the Supreme Court in its statistical reporting framework under [Sup.R. 37](#).
- 2 For more information on CourTools, see [courtools.org](http://courtools.org).

## APPENDIX C. USEFUL WEBSITES

### **State of Ohio Home Page**

[ohio.gov](http://ohio.gov)

Includes links to all state offices and agencies, the Ohio Constitution, State of Ohio telephone directory, and other Ohio sites.

### **Supreme Court of Ohio (SCO)**

[sc.ohio.gov](http://sc.ohio.gov)

Includes links to rules, forms, services, eStats, e-filing and course listings of the Judicial College.

### **LAW Writer® Ohio Laws and Rules**

[codes.ohio.gov](http://codes.ohio.gov)

Provides links to Ohio Revised Code and Administrative Code.

### **Domestic Relations and Juvenile Standardized Forms**

[sc.ohio.gov/JCS/CFC/DRForms](http://sc.ohio.gov/JCS/CFC/DRForms)

Provides links to Uniform Domestic Relations and Juvenile Forms.

### **Ohio General Assembly**

[legislature.ohio.gov](http://legislature.ohio.gov)

Includes pending and enacted legislation; Legislative Service Commission analyses and fiscal notes; links to other legislative information.

### **Ohio Department of Job and Family Services (ODJFS)**

[jfs.ohio.gov/county/cntydir.stm](http://jfs.ohio.gov/county/cntydir.stm)

Includes links to all County Department of Job and Family Services, County Child Support Enforcement Agencies, and County Public Children Services Agencies throughout Ohio.

### **Ohio House of Representatives**

[house.ohio.gov](http://house.ohio.gov)

Official Ohio House of Representatives web page.

### **Ohio Department of Youth Services (DYS)**

[www.dys.ohio.gov](http://www.dys.ohio.gov)

Includes information on DYS staff, facilities, youthful offender statistics, a directory of local courts and links to other useful websites.

**Ohio Senate**

[senate.ohio.gov](http://senate.ohio.gov)

Official Ohio Senate web page.

**Legislative Service Commission**

[lsc.ohio.gov](http://lsc.ohio.gov)

Summaries of pending and enacted legislation and status of pending and enacted bills.

**Ohio Bureau of Motor Vehicles (BMV)**

[bmv.ohio.gov](http://bmv.ohio.gov)

Includes information on all local and online services. Also includes a government section, with access to forms.

**Ohio Attorney General (AG)**

[ohioattorneygeneral.gov](http://ohioattorneygeneral.gov)

Contains links to forms, publications, BCI, and sex offender searches (<http://www.icrimewatch.net/index.php?AgencyID=55149&disc=>).

**Ohio Legislature Live**

[OhioChannel.org](http://OhioChannel.org)

“Real time” broadcasts of voting sessions of the Ohio House of Representatives and Ohio Senate; archived audio and video broadcasts.

**Office of Criminal Justice Services**

[ocjs.ohio.gov](http://ocjs.ohio.gov)

Criminal justice information specific to Ohio, including grant opportunities

**Court News Ohio**

[courtnewsohio.gov](http://courtnewsohio.gov)

Supreme Court of Ohio news; includes articles and videos related to the judicial system.

**Office of the Ohio Public Defender**

[opd.ohio.gov](http://opd.ohio.gov)

Contains links to their services, case law and resources.

**Ohio Department of Education**

[education.ohio.gov](http://education.ohio.gov)

Provides educational resources, links to school report cards, and information on several education related topics.



**Ohio Department of Disabilities**

[dodd.ohio.gov](http://dodd.ohio.gov)

Provides links to local services and providers.

**Ohio Family and Children First Council (FCFC)**

[fcf.ohio.gov](http://fcf.ohio.gov)

Contains links to local FCFC and resources on services provided.

**Ohio Mental Health and Addiction Services (OMHAS)**

[mha.ohio.gov](http://mha.ohio.gov)

Provides links to mental health and addiction treatment and prevention resources.

**Vinelink**

[vinelink.com](http://vinelink.com)

Provides search functionality to determine the status of an offender and to receive notifications of changes to offender status; can search multiple states.

**Ohio Department of Rehabilitation and Corrections (ODRC) Inmate Search**

<https://appgateway.drc.ohio.gov/OffenderSearch>

Provides search functionality to find inmates in Ohio prisons or out on supervision; provides details regarding charges and release date.

**Ohio Judicial Conference**

[ohiojudges.org](http://ohiojudges.org)

Contains links to resources, publications, and legislation affecting the judiciary.

**Ohio Association for Court Administration (OACA)**

[ohiocourtadministration.org](http://ohiocourtadministration.org)

Ohio's professional organization for court managers.

**National Association for Court Management (NACM)**

[nacmnet.org](http://nacmnet.org)

Provides resources for Court Managers and information on NACM events and initiatives.

**National Center for State Courts (NCSC)**

[ncsc.org](http://ncsc.org)

Provides links to court specific resources, publications, and events, and includes information on the Court Management Program (CMP) certification.

**United States Postal Service**

[usps.com](https://usps.com)

Provides the delivery status of a mailing and includes the date, time, and zip code of deliveries.

**National Council for Juvenile and Family Court Judges**

[ncjfcj.org](https://ncjfcj.org)

Provides resources for Juvenile and Family Courts, including publications and events.





THE SUPREME COURT *of* OHIO

---

OFFICE OF COURT SERVICES