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[Existing language unaffected by the amendments is omitted to conserve space]

**(D)** As used in these rules, any option to use live two-way video and audio technology shall not be construed to limit the power of a court to order that a party, attorney, or witness physically appear at a proceeding without the use of live two-way video and audio technology.

10 **RULE 1.1. Definitions**

11  
12 As used in these rules:

13  
14 (A) “Appear,” “appearance,” or “in person” mean the physical or remote presence of an  
15 individual.

16  
17 (B) “Attendance” means the physical or remote presence of an individual.

18  
19 (C) “Open court” includes a court proceeding open to the public in person or by remote  
20 access to the live proceeding.

21  
22 (D) “Personally” means the physical or remote presence of an individual except as  
23 provided by Civ.R. 4.1 through 4.5 and Civ.R. 45.

24  
25 (E) “Remote presence” means the presence of a person who is using live two-way video  
26 and audio technology.

27 **RULE 4.1 Process: Methods of Service**

28  
29 **[Existing language unaffected by the amendments is omitted to conserve space]**

30  
31 **(B) Personal service.** When the plaintiff files a written request with the clerk for  
32 personal service, service of process shall be made by that method.

33  
34 **(1) Civil process server; general.** When process issued from the Supreme  
35 Court, a court of appeals, a court of common pleas, or a county court is to be served  
36 personally under this division, the clerk of the court shall deliver the process and  
37 sufficient copies of the process and complaint, or other document to be served, to  
38 the sheriff of the county in which the party to be served resides or may be found.  
39 When process issues from the municipal court, delivery shall be to the bailiff of the  
40 court for service on all defendants who reside or may be found within the county or  
41 counties in which that court has territorial jurisdiction and to the sheriff of any other  
42 county in this state for service upon a defendant who resides in or may be found in  
43 that other county. In the alternative, process issuing from any of these courts may  
44 be delivered by the clerk to ~~any a person not less than eighteen years of age, who is~~  
45 ~~not a party and who has been~~ designated by court order of the court to make personal  
46 service of serve civil process under this division (E) of this rule.

47  
48 **(2) Civil process server; procedure**

49  
50 **(a)** The person serving process shall locate the person to be served and  
51 shall tender a copy of the process and accompanying documents to the  
52 person to be served. When the copy of the process has been served, the  
53 person serving process shall endorse that fact on the process and return it to  
54 the clerk, who shall make the appropriate entry on the appearance docket.

55  
56 **(b)** When the person serving process is unable to serve a copy of the  
57 process within twenty-eight days, the person shall endorse that fact and the  
58 reasons therefor on the process and return the process and copies to the clerk  
59 who shall make the appropriate entry on the appearance docket. In the event  
60 of failure of service, the clerk shall follow the notification procedure set  
61 forth in division (A)(2) of this rule. Failure to make service within the  
62 twenty-eight-day period and failure to make proof of service do not affect  
63 the validity of the service.

64  
65 **(C) Residence service.** When the plaintiff files a written request with the clerk for  
66 residence service, service of process shall be made by that method.

67  
68 **(1) Civil process server; general.** When process is to be served under this  
69 division, deliver the process and sufficient copies of the process and complaint, or  
70 other document to be served, to the sheriff of the county in which the party to be  
71 served resides or may be found. When process issues from the municipal court,  
72 delivery shall be to the bailiff of the court for service on all defendants who reside

73 or may be found within the county or counties in which that court has territorial  
74 jurisdiction and to the sheriff of any other county in this state for service upon a  
75 defendant who resides in or may be found in that county. In the alternative, process  
76 may be delivered by the clerk to ~~any a person not less than eighteen years of age,~~  
77 ~~who is not a party and who has been~~ designated by court order of the court to make  
78 residence service of serve civil process under this division (E) of this rule.

79  
80 **(2) Civil process server; procedure**

81  
82 (a) The person serving process shall effect service by leaving a copy of  
83 the process and the complaint, or other document to be served, at the usual  
84 place of residence of the person to be served with some person of suitable  
85 age and discretion then residing therein. When the copy of the process has  
86 been served, the person serving process shall endorse that fact on the process  
87 and return it to the clerk, who shall make the appropriate entry on the  
88 appearance docket.

89  
90  
91 (b) When the person serving process is unable to serve a copy of the  
92 process within twenty-eight days, the person shall endorse that fact and the  
93 reasons therefor on the process, and return the process and copies to the  
94 clerk, who shall make the appropriate entry on the appearance docket. In  
95 the event of failure of service, the clerk shall follow the notification  
96 procedure set forth in division (A)(2) of this rule. Failure to make service  
97 within the twenty-eight-day period and failure to make proof of service do  
98 not affect the validity of service.

99  
100 **(D) Civil process server; applicant requirements.** To qualify as a civil process server  
101 for personal or residence service under divisions (B) or (C) of this rule, an applicant shall certify  
102 the applicant satisfies each of the following requirements:

103  
104 (1) Not less than eighteen years of age;

105  
106 (2) Not a party to the proceeding, related to a party to the proceeding, or having  
107 a financial interest in the outcome of the proceeding;

108  
109 (3) A United States citizen or a legal resident of the United States;

110  
111 (4) Hold a valid government-issued identification card, passport, or driver's  
112 license;

113  
114 (5) Not convicted in the last ten years of any felony, offense of violence, or  
115 offense involving dishonesty or false statement, and not currently under community  
116 control sanctions, probation, post-release control, or parole;

117  
118 (6) Not currently a respondent under any civil protection order;

119  
120           (7)     Familiar with the required procedure for service of process;

121  
122           (8)     Will conduct themselves in a professional manner.

123  
124           **(E)     Order for process server.** Upon application and certification by an applicant  
125 under oath or affirmation that the applicant satisfies the requirements of division (D) of this rule,  
126 the court may designate that person by court order to make personal or residence service of process  
127 under divisions (B) or (C) of this rule for a period up to one year. The order shall provide that if  
128 the appointed person fails to satisfy the requirements set forth under division (D) of this rule during  
129 the period of appointment, the authority to serve process under the order shall cease. Continued  
130 appointment beyond one year shall require reapplication as set forth in this rule.

**RULE 4.6 Process: Limits; Amendment; Service Refused; Service Unclaimed**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(D) United States certified or express mail, or commercial carrier service unclaimed.** If a attempted service using United States certified or express mail ~~envelope attempting service or commercial carrier~~ within or outside the state is returned with an endorsement stating that the envelope was unclaimed or a similar endorsement indicating the item was unclaimed, the clerk shall forthwith notify the attorney of record or, if there is no attorney of record, the party at whose instance process was issued and enter the fact and method of notification on the appearance docket. If the attorney, or serving party, after notification by the clerk, files with the clerk a written request for ordinary mail service, the clerk shall send by United States ordinary mail a copy of the summons and complaint or other document to be served to the defendant at the address set forth in the caption, or at the address set forth in written instructions furnished to the clerk. The mailing shall be evidenced by a certificate of mailing which shall be completed and filed by the clerk. Answer day shall be twenty-eight days after the date of mailing as evidenced by the certificate of mailing. The clerk shall endorse this answer date upon the summons which is sent by ordinary mail. Service shall be deemed complete when the fact of mailing is entered of record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery. If the ordinary mail envelope is returned undelivered, the clerk shall forthwith notify the attorney, or serving party.

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 10. Form of Pleadings**

[Existing language unaffected by the amendments is omitted to conserve space]

**(D) Attachments to pleadings.**

[Existing language unaffected by the amendments is omitted to conserve space]

**(2) *Affidavit of merit; medical, dental, optometric, and chiropractic liability claims.***

(a) Except as provided in division (D)(2)(b) of this rule, a complaint that contains a medical claim, dental claim, optometric claim, or chiropractic claim, as defined in R.C. 2305.113, shall be accompanied by one or more affidavits of merit relative to each defendant named in the complaint for whom expert testimony is necessary to establish liability. Affidavits of merit shall be provided by an expert witness meeting the requirements of Evid.R. 702 and, if applicable, also meeting the requirements of Evid.R. 601~~(D)~~(B)(5). Affidavits of merit shall include all of the following:

(i) A statement that the affiant has reviewed all medical records reasonably available to the plaintiff concerning the allegations contained in the complaint;

(ii) A statement that the affiant is familiar with the applicable standard of care;

(iii) The opinion of the affiant that the standard of care was breached by one or more of the defendants to the action and that the breach caused injury to the plaintiff.

[Existing language unaffected by the amendments is omitted to conserve space]

**RULE 26. General Provisions Governing Discovery**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(F) Conference of the Parties; Planning for Discovery.**

(1) Conference Timing. ~~Except these matters~~ Other than in cases excepted under Civ. R. 1(C), or when the court orders otherwise in a specific case, or in categories of cases excepted by local rule in which little or no pretrial discovery is anticipated, the attorneys and unrepresented parties shall confer as soon as practicable—, and in any event no later than ~~21~~ twenty-one days before a scheduling conference is to be held.

(2) Conference Content; Parties' Responsibilities. In conferring, the parties must consider the nature and basis of their claims and defenses and the possibilities for promptly settling or resolving the case; make or arrange for the disclosures required by Civ.-R. 26(B)(3); discuss any issues about preserving discoverable information; and develop a proposed discovery plan. The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan, and for filing with the court within ~~14~~ fourteen days after the conference a written report outlining the plan. The court may order the parties or attorneys to attend the conference in person.

**[Existing language unaffected by the amendments is omitted to conserve space]**



**RULE 30. Depositions ~~upon oral examination~~ Upon Oral Examination**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(B) Notice of Examination; General Requirements; Nonstenographic Recording; Production of Documents and Things; Deposition of Organization; Deposition by Telephone or ~~Other Means~~ Remote Presence.**

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a subpoena duces tecum is to be served on the person to be examined, a designation of the materials to be produced shall be attached to or included in the notice.

(2) If any party shows that when the party was served with notice the party was unable, through the exercise of diligence, to obtain counsel to represent the party at the taking of the deposition, the deposition may not be used against the party.

(3) If a party taking a deposition wishes to have the testimony recorded by other than stenographic means, the notice shall specify the manner of recording, preserving, and filing the deposition. The court may require stenographic taking or make any other order to ensure that the recorded testimony will be accurate and trustworthy. With prior notice to the deponent and other parties, any party may designate another method for recording the testimony in addition to that specified in the original notice. That party bears the expense of the additional record or transcript unless the court orders otherwise.

(4) The notice to a party deponent may be accompanied by a request made in compliance with Civ.R. 34 for the production of documents and tangible things at the taking of the deposition.

(5) ~~A In its notice or subpoena, a party, in the party's notice,~~ may name as the deponent a public or private corporation, a partnership, ~~or an association,~~ a limited liability entity, a governmental agency, or other entity and ~~designate shall describe~~ with reasonable particularity the ~~matters on which for examination is requested.~~ The named organization ~~so named~~ shall ~~choose~~ designate one or more of its ~~proper employees,~~ officers, directors, or managing agents, or designate other persons duly authorized who consent to testify on its behalf; and it may set out the matters on which each person designated will testify. Before or promptly after the notice or subpoena is served, the serving party and the organization shall confer in good faith about the matters for examination. A subpoena shall advise a nonparty organization of its duty to confer with the serving party and to designate each person who will testify. The persons ~~so~~ designated shall testify ~~as to~~ matters about information known or reasonably available to the organization. Division (B)(5) does not preclude ~~taking~~ a deposition by any other procedure ~~authorized in~~ allowed by these rules.

(6) The parties may stipulate or the court may upon motion order that a deposition be taken by telephone or ~~other remote means~~ with one or more participants in remote presence. For

255 purposes of this rule, Civ.R. 28, and Civ.R. 45(C), a deposition taken by telephone or with  
256 participants in remote presence is considered to be taken in the ~~county~~ and at the place where the  
257 ~~deponent answers the questions~~ jurisdiction in which the case is pending.  
258

259 [Existing language unaffected by the amendments is omitted to conserve space]  
260

261 **(E) Submission to witness; changes; signing.** When the testimony is fully transcribed,  
262 the deposition shall be submitted to the witness for examination and shall be read to or by the  
263 witness, unless examination and reading are waived by the witness and by the parties. Any changes  
264 in form or substance that the witness desires to make shall be entered upon the deposition by the  
265 officer with a statement of the reasons given by the witness for making them. The deposition shall  
266 then be signed by the witness by hand or by electronic signature, unless the parties by stipulation  
267 waive the signing or the witness is ill, cannot be found, or refuses to sign. The witness shall have  
268 thirty days from submission of the deposition to the witness to review and sign the deposition. If  
269 the deposition is taken within thirty days of a trial or hearing, the witness shall have seven days  
270 from submission of the deposition to the witness to review and sign the deposition. If the trial or  
271 hearing is scheduled to commence less than seven days before the deposition is submitted to the  
272 witness, the court may establish a deadline for the witness to review and sign the deposition. If  
273 the deposition is not signed by the witness during the period prescribed in this division, the officer  
274 shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness  
275 or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition  
276 may then be used as fully as though signed, unless on a motion to suppress the court holds that the  
277 reasons given for the refusal to sign require rejection of the deposition in whole or in part.  
278

279 [Existing language unaffected by the amendments is omitted to conserve space]

**RULE 33. Interrogatories to Parties**

**(A) Availability; procedures for use.** Any party, without leave of court, may serve upon any other party up to forty written interrogatories to be answered by the party served. ~~The~~ Whenever feasible, the party serving the interrogatories shall serve ~~an electronic copy of the~~ interrogatories ~~them pursuant to Civ.R. 5(B)(2)(f) or (B)(3)~~ on a shareable medium and in an ~~editable format, by electronic mail, or by other means agreed to by the parties.~~ If the party being ~~served is unrepresented by counsel, the serving party also shall provide a paper copy of the~~ interrogatories to the unrepresented party. A party who is unable to ~~provide an electronic copy of~~ serve the interrogatories electronically ~~may seek leave of court to be relieved of this requirement~~ serve them by other means permitted under Civ.R. 5(B)(2). A party shall not propound more than forty interrogatories to any other party without leave of court. Upon motion, and for good cause shown, the court may reduce or extend the number of interrogatories that a party may serve upon another party. For purposes of this rule, any subpart propounded under an interrogatory shall be considered a separate interrogatory.

**[Existing language unaffected by the amendments is omitted to conserve space]**

297 **RULE 36. Requests for Admission**

298

299 **(A) Availability; procedures for use.** A party may serve upon any other party a written  
300 request for the admission, for purposes of the pending action only, of the truth of any matters  
301 within the scope of Civ.R. 26(B) set forth in the request, that relate to statements or opinions of  
302 fact or of the application of law to fact, including the genuineness of any documents described in  
303 the request. Copies of documents shall be served with the request unless they have been or are  
304 otherwise furnished or made available for inspection and copying. The request may, without leave  
305 of court, be served upon the plaintiff after commencement of the action and upon any other party  
306 after service of the summons and complaint upon that party. ~~The~~ Whenever feasible, the party  
307 serving the request for admission shall serve ~~an electronic copy of the request pursuant to Civ.R.~~  
308 5(B)(2)(f) or (B)(3) on a shareable medium and in an editable format, by electronic mail, or by  
309 ~~other means agreed to by the parties.~~ If the party being served is unrepresented by counsel, the  
310 serving party also shall provide a paper copy of the request to the unrepresented party. A party  
311 who is unable to ~~provide an electronic copy of~~ serve a request for admission electronically may  
312 ~~seek leave of court to be relieved of this requirement~~ serve the request by other means permitted  
313 under Civ.R. 5(B)(2).

314 [Existing language unaffected by the amendments is omitted to conserve space]

315

**RULE 37. Failure to Make Discovery, Disclosures, or Participate in Discovery-Related Obligations; Sanctions**

[Existing language unaffected by the amendments is omitted to conserve space]

**(C) Failure Sanctions for failure to disclose, to participate in a Civ.R. 26(F) or Civ.R. 30(B)(5) conference, to supplement an earlier response, or to admit.**

**(1) Failure to disclose or supplement.** If a party fails to provide information or identify a witness in a timely manner as required by Civ.R. 26(A) or (E), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless. In addition to or instead of this sanction, the court, on motion and after giving an opportunity to be heard, may do any of the following:

(a) ~~may order~~ Order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(b) ~~may inform~~ Inform the jury of the party's failure; ~~and~~

(c) ~~may impose~~ Impose other appropriate sanctions, including any of the orders listed in Civ.R. 37(B)(1)(a) through ~~(f)~~(g).

**(2) Failure to participate.** If a party fails to participate in a conference or in drafting a discovery plan required by Civ.R. 26(F), or a party fails to confer in good faith as required by Civ.R. 30(B)(5), the court, on motion and after giving an opportunity to be heard, may do either of the following:

(a) Order payment of the reasonable expenses, including attorney's fees, caused by the failure;

(b) Impose other appropriate sanctions on a party or the party's counsel including any of the orders listed in Civ.R. 37(B)(1)(a) through (g).

**(3) Failure to admit.** If a party fails to admit what is requested under Civ.R. 36, and if the requesting party later proves a document to be genuine or the matter true, the requesting party may move that the party who failed to admit pay the reasonable expenses, including attorney's fees, incurred in making that proof. The court shall so order unless any of the following circumstances apply:

(a) The request was held objectionable under Civ.R. 36(A);

(b) The admission sought was of no substantial importance;

(c) The party failing to admit had a reasonable ground to believe that it might prevail on the matter; ~~or~~

(d) There was other good reason for the failure to admit.



**RULE 39. Trial by Jury or by the Court**

[Existing language unaffected by the amendments is omitted to conserve space]

**(B) By the court.**

(1) Issues not demanded for trial by jury as provided in ~~Rule~~ Civ.R. 38 shall be tried by the court; but, notwithstanding the failure of a party to demand a jury in an action in which such a demand might have been made of right, the court in its discretion upon motion may order a trial by a jury of any or all issues.

(2) No later than the deadline set in a case scheduling order or thirty days before a scheduled trial, a party may request that a trial to the court be conducted using live two-way video and audio conference technology. The requesting party shall indicate in the request whether any special accommodations are anticipated or required.

(3) Upon a party's request under division (B)(2) of this rule, the court may, in its discretion, conduct the trial using live two-way video and audio conference technology. In deciding on the party's request, the court shall consider the views of the parties, the anticipated probative value of the evidence, difficulty and expense of presenting witnesses by physical presence versus remote presence, convenience and efficiency for the parties to the case, and the nature and complexity of the issues to be tried. No trial shall be conducted remotely over the objection of a party to the case unless one of the parties is restricted in physical appearance due to one of the following circumstances, or for other good cause shown:

(a) Active duty in the United States military;

(b) Incarceration;

(c) Medical restrictions;

(d) Significant travel distance from court.

[Existing language unaffected by the amendments is omitted to conserve space]

**RULE 43. Taking Testimony**

**(A) In open court.** At a trial or hearing, the witnesses' testimony shall be taken in open court unless a statute, the Rules of Evidence, these rules, or other rules adopted by the Supreme Court provide otherwise. For good cause ~~in compelling circumstances~~ and with appropriate safeguards, the court may permit testimony in open court by ~~contemporaneous transmission from a different location~~ remote presence.

**(B) Notice.** A request to present testimony remotely shall be discussed among counsel and unrepresented parties and filed with the court no later than the deadline set in the case scheduling order or thirty days before the trial or hearing, unless for good cause the court permits later notice.

**(C) Evidence on a motion.** When a motion relies on facts outside the record, the court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions.

**(D) Oath or Affirmation.**

(1) The oath or affirmation of the witness may be administered in a manner that allows the person authorized to administer it to verify the identity of the witness at the time it is administered.

(2) Every witness testifying remotely, including those outside this state, in a trial or other proceeding in open court in Ohio must affirm on the record that the witness has submitted to the jurisdiction of the Ohio court for the purpose of enforcement of his or her oath or affirmation, including any consideration of perjury charges arising from such testimony.



**RULE 45. Subpoena**

**(A) Form; Issuance; Notice.**

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

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

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

(i) ~~attend~~ Attend and give testimony at a trial or hearing at any place within this state;

(ii) ~~attend~~ Attend and give testimony at a deposition in the county where the deponent resides or is employed or transacts business in person, or at such other convenient place as is fixed by an order of court;

(iii) ~~produce~~ Produce documents, electronically stored information, or tangible things at a trial, hearing, or deposition;

(iv) ~~produce~~ Produce and permit inspection and copying of any designated documents or electronically stored information that are in the possession, custody, or control of the person;

(v) ~~produce~~ Produce and permit inspection and copying, testing, or sampling of any tangible things that are in the possession, custody, or control of the person; ~~or~~

(vi) ~~permit~~ Permit entry upon designated land or other property that is in the possession or control of the person for the purposes described in Civ.R. 34(A)(3).

(c) ~~set~~ Set forth the text of divisions (C) and (D) of this rule.

[Existing language unaffected by the amendments is omitted to conserve space]

**(C) Protection of persons subject to subpoenas.**

[Existing language unaffected by the amendments is omitted to conserve space]

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

476 (a) Fails to allow reasonable time to comply;

477  
478 (b) Requires disclosure of privileged or otherwise protected matter and  
479 no exception or waiver applies;

480  
481 (c) Requires disclosure of a fact known or opinion held by an expert not  
482 retained or specially employed by any party in anticipation of litigation or  
483 preparation for trial as described by Civ.R. 26(B)(5)(7)(h), if the fact or  
484 opinion does not describe specific events or occurrences in dispute and  
485 results from study by that expert that was not made at the request of any  
486 party;

487  
488 (d) Subjects a person to undue burden.

489 [Existing language unaffected by the amendments is omitted to conserve space]

490  
491  
492 **(D) Duties in responding to subpoena.**

493  
494 [Existing language unaffected by the amendments is omitted to conserve space]

495  
496 (3) A person need not provide discovery of electronically stored information  
497 when the production imposes undue burden or expense. On motion to compel  
498 discovery or for a protective order, the person from whom electronically stored  
499 information is sought must show that the information is not reasonably accessible  
500 because of undue burden or expense. If a showing of undue burden or expense is  
501 made, the court may nonetheless order production of electronically stored  
502 information if the requesting party shows good cause. The court shall consider the  
503 factors in Civ. R. 26(B)(4)(6)(b) when determining if good cause exists. In  
504 ordering production of electronically stored information, the court may specify  
505 the format, extent, timing, allocation of expenses and other conditions for the  
506 discovery of the electronically stored information.

507  
508 [Existing language unaffected by the amendments is omitted to conserve space]

**RULE 53. Magistrates**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(D) Proceedings in Matters Referred to Magistrates.**

**[Existing language unaffected by the amendments is omitted to conserve space]**

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

(a) *Contempt order.* Contempt sanctions under Civ. R. 53(C)(2)(3)(f) may be imposed only by a written order that recites the facts and certifies that the magistrate saw or heard the conduct constituting contempt.

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

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

**RULE 57. Declaratory Judgments**

The procedure for obtaining a declaratory judgment pursuant to ~~Sections 2721.01 to 2721.15, inclusive, Chapter 2721.~~ of the Revised Code, shall be in accordance with these rules. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may advance on the trial list the hearing of an action for a declaratory judgment.

538 **RULE 65.1. Civil Protection Orders**

539  
540 **(A) Applicability; construction; other rules.** The provisions of this rule apply to  
541 special statutory proceedings under R.C. 3113.31, R.C. 2151.34, and R.C. 2903.214 providing for  
542 domestic violence, dating violence, stalking, and sexually oriented offense civil protection orders,  
543 shall be interpreted and applied in a manner consistent with the intent and purposes of those  
544 protection order statutes, and supersede and make inapplicable in such proceedings the provisions  
545 of any other rules of civil procedure to the extent that such application is inconsistent with the  
546 provisions of this rule.

547  
548 **[Existing language unaffected by the amendments is omitted to conserve space]**

549  
550 **(H) Dismissal of petitions for protection orders.** Notwithstanding Civ.R. 41, any  
551 dismissal of a petition for domestic violence, dating violence, stalking, or sexually oriented offense  
552 civil protection order by a court or party, other than a denial on the merits, shall not operate as an  
553 adjudication of the merits or a bar to a subsequent filing of the petition.

**RULE 73. Probate Division of the Court of Common Pleas**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(E) Service of notice.** In any proceeding where any type of notice other than service of summons is required by law or deemed necessary by the court, and the statute providing for notice neither directs nor authorizes the court to direct the manner of its service, notice shall be given in writing and may be served by or on behalf of any interested party without court intervention by one of the following methods:

(1) By delivering a copy to the person to be served;

(2) By leaving a copy at the usual place of residence of the person to be served;

(3) By United States certified or express mail return receipt requested, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt, addressed to the person to be served at the person's usual place of residence with instructions to the delivering postal employee or to the carrier to show to whom delivered, date of delivery, and address where delivered, provided that the certified or express mail envelope or return of the commercial carrier is not returned showing failure of delivery;

(4) By United States ordinary mail after a returned United States certified or express mail envelope or return of the commercial carrier shows that it was refused;

(5) By United States ordinary mail after a United States certified or express mail or commercial carrier envelope is returned with an endorsement stating that it was unclaimed or a similar endorsement indicating the item was unclaimed, provided that the United States ordinary mail envelope is not returned by the postal authorities showing failure of delivery;

(6) By publication once each week for three consecutive weeks in some newspaper of general circulation in the county when the name, usual place of residence, or existence of the person to be served is unknown and cannot with reasonable diligence be ascertained; provided that before publication may be utilized, the person giving notice shall file an affidavit which states that the name, usual place of residence, or existence of the person to be served is unknown and cannot with reasonable diligence be ascertained;

(7) By other method as the court may direct.

Civ.R. 4.2 shall apply in determining who may be served and how particular persons or entities must be served.

**(F) Proof of service of notice; when service of notice complete.** When service is made through the court, proof of service of notice shall be in the same manner as proof of service of summons.

When service is made without court intervention, proof of service of notice shall be made by affidavit. When service is made by United States certified or express mail or by commercial

601 carrier service, the return receipt which shows delivery shall be attached to the affidavit. When  
602 service is made by United States ordinary mail, the prior returned certified or express mail or  
603 commercial carrier envelope which shows that the mail was refused or unclaimed shall be attached  
604 to the affidavit.

605  
606 Service of notice by United States ordinary mail shall be complete when the fact of mailing  
607 is entered of record except as stated in division (E)(5) of this rule. Service by publication shall be  
608 complete at the date of the last publication.

609  
610 **[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 75. Divorce, Annulment, and Legal Separation Actions**

[Existing language unaffected by the amendments is omitted to conserve space]

**(P) Dismissal of domestic relations actions.** Notwithstanding Civ.R. 41, any dismissal of a divorce, dissolution, annulment, or legal separation action by a court or party, other than a denial on the merits, shall not operate as an adjudication of the merits or a bar to a subsequent filing of the action.



619 **OHIO RULES OF CRIMINAL PROCEDURE**

620

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

622

623 **[Existing language unaffected by the amendments is omitted to conserve space]**

624

625 **(D) As used in these rules, any option to use live two-way video and audio technology**

626 **shall not be construed to limit the power of a court to order that a party, attorney, or witness**

627 **physically appear at a proceeding without the use of live two-way video and audio technology.**

**RULE 2. Definitions.**

As used in these rules:

**[Existing language unaffected by the amendments is omitted to conserve space]**

(K) “Appear,” “appearance,” or “in person” mean the physical or remote presence of an individual.

(L) “In person” means the physical or remote presence of an individual except as provided by Crim.R. 17(D).

(M) “Open court” includes a court proceeding open to the public in person or by remote access to the live proceeding.

(N) “Personally” means the physical or remote presence of an individual except as provided by Crim.R. 4(D)(3) and (4).

(O) “Presence” includes the physical or remote presence of an individual.

(P) “Remote presence” means the presence of a person who is using live two-way video and audio technology.

**RULE 4. Warrant or Summons; Arrest.**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(C) Warrant and summons: form.**

**(1) Warrant.** The warrant shall contain the name of the defendant or, if that is unknown, any name or description by which the defendant can be identified with reasonable certainty, a description of the offense charged in the complaint, whether the warrant is being issued before the defendant has appeared or was scheduled to appear, and the numerical designation of the applicable statute or ordinance. A copy of the complaint shall be attached to the warrant.

(a) If the warrant is issued after the defendant has made an initial appearance or has failed to appear at an initial appearance, the warrant shall command that the defendant be arrested and either of the following:

(i) That the defendant shall be required to post a sum of cash or secured bail bond with the condition that the defendant appear before the issuing court at a time and date certain;

(ii) That the defendant shall be held without bail until brought before the issuing court without unnecessary delay.

(b) If the warrant is issued before the defendant has appeared or is scheduled to appear, the warrant shall so indicate ~~and the bail provisions of Crim.R. 46 shall apply.~~

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(E) Arrest.**

**(1) Arrest upon warrant.**

(a) Where a person is arrested upon a warrant that states it was issued before a scheduled initial appearance, or the warrant is silent as to when it was issued, the judicial officer before whom the person is brought shall ~~apply Crim.R. 46~~ determine bail.

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 6. The Grand Jury.**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(F) Finding and return of indictment.** An indictment may be found only upon the concurrence of seven or more grand jurors. When so found the foreperson or deputy foreperson shall sign the indictment as foreperson or deputy foreperson. The indictment shall be returned by the foreperson or deputy foreperson to a judge of the court of common pleas and filed with the clerk who shall endorse thereon the date of filing and enter each case upon the appearance and trial dockets. If the defendant is in custody or has been released ~~pursuant to Crim.R. 46~~ on bail and seven grand jurors do not concur in finding an indictment, the foreperson shall so report to the court forthwith.

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 9. Warrant or Summons Upon Indictment or Information.**

**(A) Issuance.** Upon the request of the prosecuting attorney the clerk shall forthwith issue a warrant for each defendant named in the indictment or in the information. The clerk shall issue a summons instead of a warrant where the defendant has been released pursuant to Rule 46 on bail and is indicted for the same offense for which he was bound over pursuant to Rule 5. In addition, the clerk shall issue a summons instead of a warrant upon the request of the prosecuting attorney or by direction of the court.

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 10. Arraignment.**

[Existing language unaffected by the amendments is omitted to conserve space]

**(B) Presence of defendant.**

(1) The defendant must be present, except that the court, with the written consent of the defendant ~~and the approval of the prosecuting attorney~~, may permit arraignment without the presence of the defendant, if a plea of not guilty is entered.

(2) In a felony or misdemeanor arraignment or a felony initial appearance, a court may permit the remote presence and participation of a defendant ~~by remote contemporaneous video,~~ provided the ~~use of video~~ appearance complies with the requirements set out in Rule Crim.R. 43(A)(2) ~~of these rules. This division shall not apply to any other felony proceeding.~~

[Existing language unaffected by the amendments is omitted to conserve space]

726 **RULE 12. Pleadings and Motions Before Trial: Defenses and Objections.**

727  
728 **[Existing language unaffected by the amendments is omitted to conserve space]**

729  
730 **(B) Filing with the court defined.** The filing of documents with the court, as required  
731 by these rules, shall be made by filing them with the clerk of court, except that the judge may  
732 permit the documents to be filed with the judge, in which event the judge shall note the filing date  
733 on the documents and transmit them to the clerk. A court ~~may~~ shall provide, by court order or  
734 local rules rule, for the filing of documents by electronic means. ~~If the~~ The court adopts such order  
735 or local rules, they rule shall include all of the following:

736  
737 (1) The complaint, ~~if permitted by local rules to be filed electronically~~, shall comply  
738 with Crim.R. 3.

739  
740 (2) Any signature on electronically transmitted documents shall be considered that of  
741 the attorney or party it purports to be for all purposes. If it is established that the documents were  
742 transmitted without authority, the court shall order the filing stricken.

743  
744 (3) A provision shall specify the days and hours during which electronically  
745 transmitted documents will be received by the court, and a provision shall specify when documents  
746 received electronically will be considered to have been filed.

747  
748 (4) Any document filed electronically that requires a filing fee may be rejected by the  
749 clerk of court unless the filer has complied with the mechanism established by the court for the  
750 payment of filing fees.

751  
752 **[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 15. Deposition.**

**(A) When taken.** If it appears probable that a prospective witness will be unable to attend or will be prevented from attending a trial or hearing, and if it further appears that ~~his~~ the witness's testimony is material and that it is necessary to take ~~his~~ the witness's deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment, information, or complaint shall upon motion of the defense attorney or the prosecuting attorney and notice to all the parties, order that ~~his~~ the witness's testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place.

If a witness is committed for failure to give bail or to appear to testify at a trial or hearing, the court on written motion of the witness and notice to the parties, may direct that ~~his~~ the witness's deposition be taken. After the deposition is completed, the court may discharge the witness.

**(B) Notice of taking.** The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time or fix the place of deposition.

**(C) Attendance of defendant.** The defendant shall have the right to ~~attend~~ appear at the deposition. If ~~he~~ the defendant is confined, the person having custody of the defendant shall be ordered by the court to take ~~him~~ the defendant to the deposition. The defendant may waive ~~his~~ the right to attend appear at the deposition, provided ~~he~~ the defendant does so in writing ~~and~~ or in open court, is represented by counsel, and is fully advised of ~~his~~ the right to ~~attend~~ appear by the court at a recorded proceeding. The court may permit the remote presence and participation of a defendant if the defendant has waived in writing or orally on the record the right to be physically present and agreed to appear by remote presence in accordance with Crim.R. 43(A)(2).

**(D) Counsel.** Where a defendant is without counsel, the court shall advise ~~him~~ the defendant of ~~his~~ the right to counsel and assign counsel to represent ~~him~~ the defendant unless the defendant waives counsel or is able to obtain counsel. If it appears that a defendant at whose instance a deposition is to be taken cannot bear the expense thereof, the court may direct that all deposition expenses, including but not limited to travel and subsistence of the defendant's attorney for attendance at such examination together with a reasonable attorney fee, in addition to the compensation allowed for defending the defendant, and the expenses of the prosecuting attorney in the taking of such deposition, shall be paid out of public funds upon the certificate of the court making such order. Waiver of counsel shall be as prescribed in ~~Rule~~ Crim.R. 44(C).

**[Existing language unaffected by the amendments is omitted to conserve space]**



**RULE 19. Magistrates.**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(C) Authority.**

(1) *Scope.* To assist courts of record and pursuant to reference under Crim. R. 19(D)(1), magistrates are authorized, subject to the terms of the relevant reference, to do any of the following:

- (a) Conduct initial appearances and preliminary hearings pursuant to Crim. R. 5.
- (b) Conduct arraignments pursuant to Crim. R. 10.
- (c) Receive pleas, in accordance with Crim R. 11, only as follows:
  - (i) In felony and misdemeanor cases, accept and enter not guilty pleas.
  - (ii) In misdemeanor cases, accept and enter guilty and no contest pleas, determine guilt or innocence, receive statements in explanation and in mitigation of sentence, and recommend a penalty to be imposed. If imprisonment is a possible penalty for the offense charged, the matter may be referred only with the unanimous consent of the parties, in writing or on the record in open court.
- (d) Conduct pretrial conferences pursuant to Crim. R. 17.1.
- (e) Conduct proceedings to establish bail ~~pursuant to Crim. R. 46.~~

**[Existing language unaffected by the amendments is omitted to conserve space]**

(2) *Regulation of proceedings.* In performing the responsibilities described in Crim. R. 19(C)(1), magistrates are authorized, subject to the terms of the relevant reference, to regulate all proceedings as if by the court and to do everything necessary for the efficient performance of those responsibilities, including but not limited to, the following:

- (a) Issuing subpoenas for the attendance of witnesses and the production of evidence;
- (b) Ruling upon the admissibility of evidence in misdemeanor cases in accordance with division (C)(1)(f) of this rule;
- (c) Putting witnesses under oath and examining them;
- (d) When necessary to obtain the presence of an alleged contemnor in cases involving direct or indirect contempt of court, issuing attachment for the alleged contemnor and setting the type, amount, and any conditions of bail ~~pursuant to Crim. R. 46;~~

**[Existing language unaffected by the amendments is omitted to conserve space]**

841 **RULE 40. Taking Testimony.**

842  
843 **(A) In open court.** Except as provided in division (B) of this rule, at trial or hearing,  
844 the witnesses' testimony shall be taken in open court.

845  
846 **(B) Remote testimony.**

847  
848 **(1)** With the agreement of the parties or for good cause shown, the court may  
849 permit the remote presence and participation of a witness, including that of a  
850 defendant, for any proceeding if all of the following apply:

851  
852 **(a)** The court gives appropriate notice to all parties;

853  
854 **(b)** The court finds that the remote appearance of the witness is based  
855 on important state interests, public policies, or necessities of the case;

856  
857 **(c)** The witness is administered the oath or affirmation using live two-  
858 way video and audio conference technology that allows the person  
859 authorized to administer the oath to verify the identity of the witness at the  
860 time the oath is administered;

861  
862 **(d)** The witness is subject to full cross-examination;

863  
864 **(e)** The video arrangements allow the witness to speak, and to be seen  
865 and heard by the court, all parties, and the jury if applicable.

866  
867 **(2)** Every witness testifying remotely, including those outside this state, in a  
868 trial or other proceeding in open court in Ohio shall affirm on the record that the  
869 witness has submitted to the jurisdiction of the Ohio court for the purpose of  
870 enforcement of his or her oath or affirmation, including any consideration of perjury  
871 charges arising from such testimony.

**RULE 43. Presence of the Defendant.**

**(A) Defendant's presence.**

(1) Except as provided in ~~Rule Crim.R. 10 of these rules and division divisions~~ (A)(2) and (A)(3) of this rule, the defendant must be physically present at every stage of the criminal proceeding and trial, including the impaneling of the jury, the return of the verdict, and the imposition of sentence, except as otherwise provided by these rules. In all prosecutions, the defendant's voluntary absence after the trial has been commenced in the defendant's presence shall not prevent continuing the trial to and including the verdict. A corporation may appear by counsel for all purposes.

(2) Notwithstanding the provisions of division (A)(1) of this rule, ~~in misdemeanor cases or in felony cases where a waiver has been obtained in accordance with division (A)(3) of this rule,~~ the court may permit the remote presence and participation of a defendant ~~by remote contemporaneous video for any proceeding~~ if all of the following apply:

- (a) The court gives appropriate notice to all the parties;
- (b) The video arrangements allow the defendant to hear and see the proceeding;
- (c) The video arrangements allow the defendant to speak, and to be seen and heard by the court and all parties;
- (d) The court makes provision to allow for private communication between the defendant and counsel. The court shall inform the defendant on the record how to, at any time, communicate privately with counsel. Counsel shall be afforded the opportunity to speak to defendant privately ~~and in person~~. Counsel shall be permitted to appear with defendant at the remote location if requested.
- (e) The proceeding may involve sworn testimony that is subject to cross examination, if counsel is present, participates, and consents.

(3) ~~The A court may conduct a trial by jury, a trial to the court, a sentencing proceeding or other substantive proceeding with a defendant may waive, appearing remotely if the defendant has waived in writing or orally on the record; the defendant's right to be physically present under these rules with leave of and agreed to appear by remote presence in accordance with division (A)(2) of this rule subject to the approval of the court.~~

**(B) Defendant excluded because of disruptive conduct.** Where a defendant's conduct in the courtroom is so disruptive that the hearing or trial cannot reasonably be conducted with the defendant's continued physical presence, the hearing or trial may proceed in the defendant's absence or by remote ~~contemporaneous video~~ presence, and judgment and sentence may be pronounced as if the defendant were present. Where the court determines that it may be essential to the preservation of the constitutional rights of the defendant, it may take such steps as are required for the communication of the courtroom proceedings to the defendant.

918

919

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 46. Pretrial Release and Detention.**

**(A) Pretrial detention.** A defendant may be detained pretrial, pursuant to a motion by the prosecutor or the court's own motion, in accordance with the standards and procedures set forth in the Revised Code.

**(B) Pretrial release.** Unless the court orders the defendant detained under division (A) of this rule, the court shall release the defendant on the least restrictive conditions that, in the discretion of the court, will reasonably assure the defendant's appearance in court, the protection or safety of any person or the community, and that the defendant will not obstruct the criminal justice process. If the court orders financial conditions of release, those financial conditions shall be related to the defendant's risk of non-appearance, the seriousness of the offense, and the previous criminal record of the defendant. Any financial conditions shall be in an amount and type which are least costly to the defendant while also sufficient to reasonably assure the defendant's future appearance in court.

(1) Financial conditions of release. Any person who is entitled to release shall be released upon one or more of the following types of bail in the amount set by the court:

(a) An unsecured bail bond;

(b) A bail bond secured by the deposit of ten percent of the amount of the bond in cash. Ninety percent of the deposit shall be returned upon compliance with all conditions of the bond;

(c) A surety bond, a bond secured by real estate or securities as allowed by law, or the deposit of cash, at the option of the defendant.

(2) Non-financial conditions of release. The court may impose any of the following conditions of release:

(a) The personal recognizance of the accused;

(b) Place the person in the custody of a designated person or organization agreeing to supervise the person;

(c) Place restrictions on the travel, association, or place of abode of the person during the period of release;

(d) Place the person under a house arrest, electronic monitoring, or work release program;

(e) Regulate or prohibit the person's contact with the victim;

(f) Regulate the person's contact with witnesses or others associated with the case upon proof of the likelihood that the person will threaten, harass, cause injury, or seek to intimidate those persons;

967  
968       (g)     ~~Require completion of drug and/or alcohol assessment and compliance with~~  
969 ~~treatment recommendations, for any person charged with an offense that is alcohol or drug related,~~  
970 ~~or where alcohol or drug influence or addiction appears to be a contributing factor in the offense,~~  
971 ~~and who appears based upon an evaluation, prior treatment history, or recent alcohol or drug use,~~  
972 ~~to be in need of treatment;~~

973  
974       (h)     ~~Require compliance with alternatives to pretrial detention, including but not limited~~  
975 ~~to diversion programs, day reporting, or comparable alternatives, to ensure the person's appearance~~  
976 ~~at future court proceedings;~~

977  
978       (i)     ~~Any other constitutional condition considered reasonably necessary to reasonable~~  
979 ~~assure appearance or public safety.~~

980  
981       **~~(C) Factors.~~** ~~Subject to subsection (G)(2) of this rule, in determining the types,~~  
982 ~~amounts, and conditions of bail, the court shall consider all relevant information, including but not~~  
983 ~~limited to:~~

984  
985           (1)     ~~The nature and circumstances of the crime charged, and specifically whether the~~  
986 ~~defendant used or had access to a weapon;~~

987  
988           (2)     ~~The weight of the evidence against the defendant;~~

989  
990           (3)     ~~The confirmation of the defendant's identity;~~

991  
992           (4)     ~~The defendant's family ties, employment, financial resources, character, mental~~  
993 ~~condition, length of residence in the community, jurisdiction of residence, record of convictions,~~  
994 ~~record of appearance at court proceedings or of flight to avoid prosecution;~~

995  
996           (5)     ~~Whether the defendant is on probation, a community control sanction, parole, post-~~  
997 ~~release control, bail, or under a court protection order.~~

998  
999       **~~(D) Appearance pursuant to summons.~~** ~~When summons has been issued and the~~  
1000 ~~defendant has appeared pursuant to the summons, absent good cause, there is a presumption of~~  
1001 ~~release on personal recognizance.~~

1002  
1003       **~~(E) Continuation of bail.~~** ~~When a judicial officer, either on motion of a party or on~~  
1004 ~~the court's own motion, determines that the considerations set forth in subsections (B) and (C)~~  
1005 ~~require a modification of the conditions of release, the judicial officer may order additional or~~  
1006 ~~different types, amounts or conditions of bail, or may eliminate or lessen conditions of bail~~  
1007 ~~determined to be no longer necessary. Unless a modification is agreed to by the parties, the court~~  
1008 ~~shall hold a hearing on the modification of bond as promptly as possible. Unless modified by the~~  
1009 ~~judicial officer, or if application is made by a surety for discharge from a bond pursuant to R.C.~~  
1010 ~~2937.40, conditions of release shall continue until the return of a verdict or the entry of a guilty~~  
1011 ~~plea, or a no-contest plea, and may continue thereafter pending sentence or disposition of the case~~  
1012 ~~on review.~~

**(F) Information need not be admissible.** Information stated in or offered in connection with any order entered pursuant to this rule need not conform to the rules pertaining to the admissibility of evidence in a court of law. Statements or admissions of the defendant made at a bail proceeding or in the course of compliance with a condition of bail shall not be received as substantive evidence in the trial of the case.

**(G) Bond schedule.**

(1) In order to expedite the prompt release of a defendant prior to initial appearance, each court shall establish a bail bond schedule covering all misdemeanors including traffic offenses, either specifically, by type, by potential penalty, or by some other reasonable method of classification. The court also may include requirements for release in consideration of divisions (B) and (C)(5) of this rule. The sole purpose of a bail schedule is to allow for the consideration of release prior to the defendant's initial appearance.

(2) A bond schedule shall not be considered as "relevant information" under division (C) of this rule.

(3) Each municipal or county court shall, by rule, establish a method whereby a person may make bail by use of a credit card.

(4) Each court shall review its bail bond schedule biennially by January 31 of each even-numbered year, to ensure an appropriate bail bond schedule that does not result in the unnecessary detention of defendants due to inability to pay.

**(H) Review of Release Conditions.** A person who has been arrested, either pursuant to a warrant or without a warrant, and who has not been released on bail, shall be brought before a judicial officer for an initial bail hearing no later than the second court day following the arrest. That bail hearing may be combined with the initial appearance provided for in Crim. R. 5(A).

If, at the initial bail hearing before a judicial officer, the defendant was not represented by counsel, and if the defendant has not yet been released on bail, a second bail hearing shall be held on the second court day following the initial bail hearing. An indigent defendant shall be afforded representation by appointed counsel at State's expense at this second bail hearing.

**(I) Failure to appear; breach of conditions.** Any person who fails to appear before any court as required is subject to the punishment provided by the law, and any bail given for the person's release may be forfeited. If there is a breach of condition of bail, the court may amend the bail.

**(J) Justification of sureties.** Every surety, except a corporate surety licensed as provided by law, shall justify by affidavit, and may be required to describe in the affidavit, the property that the surety proposes as security and the encumbrances on it, the number and amount of other bonds and undertakings for bail entered into by the surety and remaining undischarged, and all of the surety's other liabilities. The surety shall provide other evidence of financial responsibility as the court or clerk may require. No bail bond shall be approved unless the surety

1060 ~~or sureties appear, in the opinion of the court or clerk, to be financially responsible in at least the~~  
1061 ~~amount of the bond. No licensed attorney at law shall be a surety.~~



1062 **OHIO RULES OF EVIDENCE**

1063

1064 **RULE 101. Scope of Rules: Applicability; Privileges; Exceptions**

1065

1066 **[Existing language unaffected by the amendments is omitted to conserve space]**

1067

1068 **(C) Definitions.** As used in these rules:

1069

1070 **(1)** “Present” means the physical or remote presence of an individual.

1071

1072 **(2)** “Remote presence” means the presence of a person who is using live two-way video  
1073 and audio technology.

1074

1075 **(D) Exceptions.** These rules (other than with respect to privileges) do not apply in the  
1076 following situations:

1077

1078 ~~**(1) Admissibility determinations.**~~ **(1)** Determinations prerequisite to rulings on the  
1079 admissibility of evidence when the issue is to be determined by the court under Evid.R.  
1080 104.;

1081

1082 ~~**(2) Grand jury.**~~ **(2)** Proceedings before grand juries;

1083

1084 ~~**(3) Miscellaneous criminal proceedings.**~~ **(3)** Proceedings for extradition or rendition  
1085 of fugitives; sentencing; granting or revoking probation; proceedings with respect to  
1086 community control sanctions; issuance of warrants for arrest, criminal summonses and  
1087 search warrants; and proceedings with respect to release on bail or otherwise;

1088

1089 ~~**(4) Contempt.**~~ **(4)** Contempt proceedings in which the court may act summarily;

1090

1091 ~~**(5) Arbitration.**~~ **(5)** Proceedings for those mandatory arbitrations of civil cases  
1092 authorized by the rules of superintendence and governed by local rules of court;

1093

1094 ~~**(6) Other rules.**~~ **(6)** Proceedings in which other rules prescribed by the Supreme  
1095 Court govern matters relating to evidence;

1096

1097 ~~**(7) Special non-adversary statutory proceedings.**~~ **(7)** Special statutory proceedings  
1098 of a non-adversary nature in which these rules would by their nature be clearly  
1099 inapplicable;

1100

1101 ~~**(8) Small claims division.**~~ **(8)** Proceedings in the small claims division of a county  
1102 or municipal court.

1103

1104 **(E)** As used in these rules, any option to use live two-way video and audio technology  
1105 shall not be construed to limit the power of a court to order that a party, attorney, or witness  
1106 physically appear at a proceeding without the use of live two-way video and audio technology.

**RULE 601. General Rule of Competency**

~~(A)~~**(A) General rule.** Every person is competent to be a witness except as otherwise provided in these rules.

~~(B)~~**(B) Disqualification of witness in general.** A person is disqualified to testify as a witness when the court determines that the person is any of the following:

(1) Incapable of expressing himself or herself concerning the matter as to be understood, either directly or through interpretation by one who can understand him or her; ~~or~~

(2) Incapable of understanding the duty of a witness to tell the truth;

(3) A spouse testifying against the other spouse charged with a crime except when either of the following applies:

(a) ~~a~~ A crime against the testifying spouse or a child of either spouse is charged;

(b) ~~the~~ The testifying spouse elects to testify.

(4) An officer, while on duty for the exclusive or main purpose of enforcing traffic laws, arresting or assisting in the arrest of a person charged with a traffic violation punishable as a misdemeanor where the officer at the time of the arrest was not using a properly marked motor vehicle as defined by statute or was not wearing a legally distinctive uniform as defined by statute;

(5) A person giving expert testimony on the issue of liability in any medical claim, as defined in R.C. 2305.113, asserted in any civil action against a physician, podiatrist, or hospital arising out of the diagnosis, care, or treatment of any person by a physician or podiatrist, unless all the following apply:

(a) The person testifying is licensed to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery by the state medical board or by the licensing authority of any state;

(b) The person devotes at least one-half of his or her professional time to the active clinical practice in his or her field of licensure, or to its instruction in an accredited school ~~and, at~~ either the time the negligent act is alleged to have occurred or the date the claim accrued;

(c) The person practices in the same or a substantially similar specialty as the defendant. The court shall not permit an expert in one medical specialty to testify against a health care provider in another medical specialty unless the expert shows both that the standards of care and practice in the two specialties are similar and that the expert has substantial familiarity between the specialties.

If the person is certified in a specialty, the person must be certified by a board recognized by the American board of medical specialties or the American board of osteopathic specialties in

1153 a specialty having acknowledged expertise and training directly related to the particular health care  
1154 matter at issue.

1155  
1156 Nothing in this division shall be construed to limit the power of the trial court to adjudge  
1157 the testimony of any expert witness incompetent on any other ground, or to limit the power of the  
1158 trial court to allow the testimony of any other witness, on a matter unrelated to the liability issues  
1159 in the medical claim, when that testimony is relevant to the medical claim involved.

1160  
1161 This division shall not prohibit other medical professionals who otherwise are competent  
1162 to testify under these rules from giving expert testimony on the appropriate standard of care in  
1163 their own profession in any claim asserted in any civil action against a physician, podiatrist,  
1164 medical professional, or hospital arising out of the diagnosis, care, or treatment of any person.

1165  
1166 (6) As otherwise provided in these rules.

**RULE 607. Impeachment**

**(A) Who may impeach.** The credibility of a witness may be attacked by any party except that the credibility of a witness may be attacked by the party calling the witness by means of a prior inconsistent statement only upon a showing of surprise and affirmative damage. This exception does not apply to statements admitted pursuant to Evid.R. 801(D)(1)~~(A)~~(a), 801(D)(2), or 803.

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 609. Impeachment by Evidence of Conviction of Crime**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(B) Time limit.** Evidence of a conviction under this rule is not admissible if a period of more than ten years has elapsed since the date of the conviction or of the release of the witness from the confinement, or the termination of community control sanctions, post-release control, ~~or~~ probation, ~~shock probation~~, parole, or ~~shock parole~~ judicial release imposed for that conviction, whichever is the later date, unless the court determines, in the interests of justice, that the probative value of the conviction supported by specific facts and circumstances substantially outweighs its prejudicial effect. However, evidence of a conviction more than ten years old as calculated herein, is not admissible unless the proponent gives to the adverse party sufficient advance written notice of intent to use such evidence to provide the adverse party with a fair opportunity to contest the use of such evidence.

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 616. Methods of impeachment**

In addition to other methods, a witness may be impeached by any of the following methods:

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(C) Specific contradiction.** Facts contradicting a witness's testimony may be shown for the purpose of impeaching the witness's testimony. If offered for the sole purpose of impeaching a witness's testimony, extrinsic evidence of contradiction is inadmissible unless the evidence is one of the following:

(1) Permitted by Evid.R. 608(A), 609, 613, 616(A), 616(B), or ~~706~~ 803(18);

(2) Permitted by the common law of impeachment and not in conflict with the Rules of Evidence.

1207 **OHIO RULES OF JUVENILE PROCEDURE**

1208

1209 **RULE 1. Scope of Rules: Applicability; Construction; Exceptions**

1210

1211 **[Existing language unaffected by the amendments is omitted to conserve space]**

1212

1213 **(D) As used in these rules, any option to use live two-way video and audio technology**

1214 **shall not be construed to limit the power of a court to order that a party, attorney, or witness**

1215 **physically appear at a proceeding without the use of live two-way video and audio technology.**

**RULE 2. Definitions**

As used in these rules:

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

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

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

(D) “Appear,” “appearance,” or “in person” mean the physical or remote presence of an individual.

(E) “Attendance” means the physical or remote presence of an individual.

(F) “Child” has the same meaning as in sections 2151.011 and 2152.02 of the Revised Code.

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

~~(F)~~(H) “Complaint” means the legal document that sets forth the allegations that form the basis for juvenile court jurisdiction.

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

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

~~(I)~~(K) “Delinquent child” has the same meaning as in section 2152.02 of the Revised Code.

~~(J)~~(L) “Dependent child” has the same meaning as in section 2151.04 of the Revised Code.

~~(K)~~(M) “Detention” means the temporary care of children in restricted facilities pending court adjudication or disposition.

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



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

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

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

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

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

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

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

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

~~(U)~~(W) “Juvenile traffic offender” has the same meaning as in section ~~2151.024~~ 2152.02 of the Revised Code.

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

~~(W)~~(Y) “Mental examination” means an examination by a psychiatrist or psychologist.

~~(X)~~(Z) “Neglected child” has the same meaning as in section 2151.03 of the Revised Code.

~~(Y)~~(AA) “Open court” includes a court proceeding open to the public in person or by remote access to the live proceeding.

1307       ~~(BB)~~ “Party” means a child who is the subject of a juvenile court proceeding, the child’s  
1308 spouse, if any, the child’s parent or parents, or if the parent of a child is a child, the parent of that  
1309 parent, in appropriate cases, the child’s custodian, guardian, or guardian ad litem, the state, and  
1310 any other person specifically designated by the court.

1311  
1312       ~~(Z)~~~~(CC)~~ “Permanent custody” means a legal status that vests in a public children’s  
1313 services agency or a private child-placing agency, all parental rights, duties, and obligations,  
1314 including the right to consent to adoption, and divests the natural parents or adoptive parents of  
1315 any and all parental rights, privileges, and obligations, including all residual rights and obligations.

1316  
1317       ~~(AA)~~~~(DD)~~ “Permanent surrender” means the act of the parents or, if a child has only  
1318 one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the  
1319 Revised Code, to transfer the permanent custody of the child to a public children’s services agency  
1320 or a private child-placing agency.

1321  
1322       ~~(BB)~~~~(EE)~~ “Person” includes an individual, association, corporation, or partnership  
1323 and the state or any of its political subdivisions, departments, or agencies.

1324  
1325       ~~(CC)~~~~(FF)~~       “Personally” means the physical or remote presence of an individual.

1326  
1327       ~~(GG)~~ “Physical examination” means an examination by a physician.

1328  
1329       ~~(DD)~~~~(HH)~~ “Planned permanent living arrangement” means an order of a juvenile court  
1330 pursuant to which both of the following apply:

1331  
1332       (1)       The court gives legal custody of a child to a public children’s services agency or a  
1333 private child-placing agency without the termination of parental rights;

1334  
1335       (2)       The order permits the agency to make an appropriate placement of the child and to  
1336 enter into a written planned permanent living arrangement agreement with a foster care provider  
1337 or with another person or agency with whom the child is placed.

1338  
1339       ~~(EE)~~~~(II)~~ “Private child-placing agency” means any association, as defined in section  
1340 5103.02 of the Revised Code that is certified pursuant to sections 5103.03 to 5103.05 of the  
1341 Revised Code to accept temporary, permanent, or legal custody of children and place the children  
1342 for either foster care or adoption.

1343  
1344       ~~(FF)~~~~(JJ)~~ “Public children’s services agency” means a children’s services board or a  
1345 county department of human services that has assumed the administration of the children’s services  
1346 function prescribed by Chapter 5153 of the Revised Code.

1347  
1348       ~~(GG)~~~~(KK)~~       “Remote presence” means the presence of a person who is using live two-  
1349 way video and audio technology.

1350  
1351       ~~(LL)~~ “Removal action” means a statutory action filed by the superintendent of a school  
1352 district for the removal of a child in an out-of-county foster home placement.

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

~~(H)~~(NN) “Residual parental rights, privileges, and responsibilities” means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including but not limited to the privilege of reasonable visitation, consent to adoption, the privilege to determine the child’s religious affiliation, and the responsibility for support.

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

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

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

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

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

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

~~(PP)~~(UU) “Unruly child” has the same meaning as in section 2151.022 of the Revised Code.

~~(QQ)~~(VV) “Ward of court” means a child over whom the court assumes continuing jurisdiction.

**RULE 7. Detention and Shelter Care**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(F) Detention hearing.**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(4) Release of child; serious youthful offender.** With respect to a child alleged to be or adjudicated a serious youthful offender, the juvenile court shall set the terms and conditions for release of the child ~~in accordance with Crim.R. 46.~~

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 8. Filing By ~~Fa~~esimile Electronic Transmission**

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

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

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

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

**RULE 18. Time**

**[Existing language unaffected by the amendments is omitted to conserve space]**

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

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 30. Relinquishment of Jurisdiction for Purposes of Criminal Prosecution**

**[Existing language unaffected by the amendments is omitted to conserve space]**

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

**RULE 34. Dispositional Hearing**

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

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

[Existing language unaffected by the amendments is omitted to conserve space]

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

[Existing language unaffected by the amendments is omitted to conserve space]



**RULE 35. Proceedings After Judgment**

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

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

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

**RULE 40. Magistrates**

**[Existing language unaffected by the amendments is omitted to conserve space]**

**(C) Authority**

**[Existing language unaffected by the amendments is omitted to conserve space]**

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

- (a) Issuing subpoenas for the attendance of witnesses and the production of evidence;
- (b) Ruling upon the admissibility of evidence;
- (c) Putting witnesses under oath and examining them;
- (d) Calling the parties to the action and examining them under oath;
- (e) When necessary to obtain the presence of an alleged contemnor in cases involving direct or indirect contempt of court, issuing an attachment for the alleged contemnor and setting the type, amount, and any conditions of bail pursuant to Crim.R. 46;
- (f) Imposing, subject to Juv.R. 40(D)(8), appropriate sanctions for civil or criminal contempt committed in the presence of the magistrate.

**[Existing language unaffected by the amendments is omitted to conserve space]**

**RULE 41. Taking Testimony**

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

**(B) Remote testimony.**

**(1) General.** With the agreement of the parties or for good cause shown, the court may permit the remote presence and participation of a witness, including a party, if all of the following apply:

(a) The court gives appropriate notice to all parties;

(b) The court finds that the remote appearance of the witness is based on important state interests, public policies, or necessities of the case;

(c) The witness is administered the oath or affirmation using live two-way video and audio conference technology that allows the person authorized to administer the oath to verify the identity of the witness at the time the oath is administered;

(d) The witness is subject to full cross-examination;

(e) The video arrangements allow the witness to speak, and to be seen and heard by the court, all parties, and the jury if applicable.

**(2) Notice.** A request to present testimony remotely shall be discussed among counsel and unrepresented parties, and filed with the court no later than the deadline set in the case scheduling order or thirty days before the trial or hearing, unless for good cause the court permits later notice.

**(3) Oath or affirmation.** Every witness testifying remotely, including those outside this state, in a trial or other proceeding in open court in Ohio must affirm on the record that the witness has submitted to the jurisdiction of the Ohio court for the purpose of enforcement of his or her oath or affirmation, including any consideration of perjury charges arising from such testimony.