

**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
JUVENILE DIVISION**

**IN RE: LOCAL RULES OF COURT : JUDGE NICK KUNTZ**  
**Effective July 1, 1992 : JUDGE ANTHONY CAPIZZI**  
**Complete with Amendments :**  
**Effective: January 1, 2016; :**  
**July 1, 2016; January 1, 2017; :**  
**February 6, 2017 :**

**MONTGOMERY COUNTY COMMON PLEAS COURT, JUVENILE DIVISION,  
RULES OF THE COURT**

It is ordered that the following rules be and are hereby adopted for the governance of the practice and procedures in the Court of Common Pleas, Juvenile Court Division, Montgomery County, Ohio, until otherwise provided pursuant to Article IV, Section (5) of the Ohio Constitution, to section 2151.23 Ohio Revised Code, and to the Rules of Superintendence promulgated by the Supreme Court of Ohio.

**ADOPTION, SCOPE AND CONSTRUCTION OF RULES**

1. The Juvenile Division of the Common Pleas Court for Montgomery County, Ohio, adopts the following Rules for the management of proceedings and other functions of the Court. The Court may amend the Rules from time to time as needed or required by law.
2. These Rules are intended to supplement and complement the Ohio Rules of Juvenile Procedure [Juv.R.], the Superintendence Rules of the Supreme Court of Ohio [Sup. R.] and controlling statutes.
3. These Rules shall be applied, construed and enforced so as to avoid inconsistency with other rules of Court and statutes governing proceedings of this Court. In their application, they shall be construed so as to provide fairness and to secure just, expeditious and inexpensive determination of all proceedings.
4. These Rules shall be cited as "Mont. Juv. Ct. Rules X.XX."
5. These Rules shall be effective July 1, 1992 and may be revised from time to time as is necessary by this Court or as required by Statute or Rules of Superintendence for the Courts of Ohio issued by the Supreme Court of the State. (Effective: July 1, 1992. Amended effective: July 1, 1995; October 1, 2004; August 1, 2005; March 1, 2009; April 1, 2010; January 1, 2014; March 23, 2015; January 1, 2016; July 1, 2016; January 1, 2017; February 6, 2017)

**RULE 5.1 CONDUCT IN COURT**

- 5.1.1** Any person entering the Juvenile Justice Center [JJC] and/or any other facility controlled, operated and/or occupied by or for the benefit of the Court of Common Pleas, Juvenile Court Division, Montgomery County, Ohio [Juvenile Court], is subject to search. No person carrying a bag, case or parcel shall be permitted to enter or remain in any such location or facility without first, if requested by Juvenile Court and/or Security Personnel, submitting such bag, case or parcel for inspection.
- 5.1.2** The Juvenile Court may conduct its hearings in an informal manner and may adjourn its hearings from time to time. The Court may excuse the attendance of the minor child at the hearing in neglect, dependency or abuse cases.
- 5.1.3** Public access to hearings shall be governed by Ohio Revised Code [ORC] section 2151.35, Juv. R. 27 and the Superintendence Rules of the Supreme Court of Ohio.
- 5.1.4** No minor child not otherwise a party to a case shall be permitted to enter or remain in any Courtroom unless accompanied by an adult or as otherwise authorized by the Court.
- 5.1.5** Persons committing any violation of proper conduct may be removed from any Courtroom, waiting area, hallway, entryway or any other location within the JJC or on its campus and/or any other facility controlled, operated and/or occupied by or for the benefit of the Juvenile Court by Juvenile

Court and/or Security Personnel charged with the enforcement of this rule and may be subject to being found in contempt of Court.

**5.1.6** Food, beverages and the use of cell phones and other electronic transmission devices is prohibited in the Courtrooms and other areas of the Juvenile Justice Center as posted. Smoking is prohibited throughout the entire Juvenile Justice Center. (Effective July 1, 1992; amended effective April 1, 2010)

**5.1.7** Attire for persons entering the Juvenile Justice Center shall not display any profanity, be lewd or obscene, and should be appropriate, as potentially in the presence of children.

**5.1.8** Physical restraint of a child shall not be utilized unless the judge or magistrate before whom the child is appearing makes an individualized determination on the record that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because the child represents a current and significant threat to the safety of the child's self or other persons in the courtroom, or there is a significant risk the child will flee the courtroom.

The child who is the subject of a juvenile court proceeding, the child's spouse, if any, the child's parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child's custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court shall have the right to be heard on the issue of whether the use of physical restraint is necessary for that particular child at that particular proceeding.

If physical restraint is found necessary by the judge or magistrate, the restraint shall be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands. [Adopted pursuant to Ohio Sup.R. 5.01. Effective July 1, 2016.]

## **RULE 5.2 RECORDS**

**5.2.1** The inspection of Court records shall be governed by Juv. R. 32, Sup. R. 44 through 47, and ORC §2151.14 [Sup.R. 44(C)(2)(h) as amended Effective January 1, 2016]

**5.2.2** The records of adult cases shall be public record as provided by law.

**5.2.3** No person except a Judge or Magistrate of the Court or a representative of either shall remove any documents or case files from the custody of the Clerk of Court [Clerk].

**5.2.4** Upon request, an individual may examine but not remove any original document or official case file that is maintained by the Clerk that is not considered confidential (Refer to Local Rule 5.2.1 above). Examination shall be allowed during regular business hours. The Clerk has a reasonable amount of time to make the requested document or case file available for examination, with efforts toward one business day for files kept internally and three business days for files stored off-site.

**5.2.5** Upon request and the payment of a photocopy fee, the Clerk shall provide copies of an original document, except official transcripts, maintained by its office. Copies shall be provided during regular business hours within a reasonable period of time as determined by the Clerk. A reasonable period of time shall be based upon the extent of the request with efforts toward a response time of one business day.

## **RULE 5.3 OFFICIAL LAW JOURNAL**

Provided it is a newspaper of general circulation for Montgomery County, Ohio, the Dayton Daily News shall be the official daily law journal of the Montgomery County Juvenile Court wherein shall be published all notices, advertisements, service and other matters as required by the Statutes, Codes and Rules of Courts of the State of Ohio. At its sole discretion, the Court may use other newspapers of general circulation in Montgomery County in addition to and/or in lieu of the Dayton Daily News.

**RULE 5.4 PHOTOGRAPHING, RECORDING AND BROADCASTING OF COURT PROCEEDINGS**

No radio or television transmission, voice-recording device (other than a device used in making a record of the proceeding for the Court), or the making or taking of pictures shall be permitted, without prior approval of the Judge or Magistrate.

**RULE 5.5 OFFICIAL RECORDING OF PROCEEDINGS / TRANSCRIPTS / EXHIBITS**

**5.5.1** Pursuant to Juv. R. 37, a complete record of all testimony or other oral proceedings shall be taken in shorthand, stenotype or by any other adequate mechanical or electronic recording device.

**5.5.2** No public use shall be made by any person, including a party, of any record or transcript thereof except in the course of an objection or appeal or as authorized by the Court.

**5.5.3** An audio recording of any hearing may be requested from the Clerk's office on a form available from the Clerk. An initial deposit of \$5.00 per hearing is required at the time of the request. The requestor will be responsible for additional charges, should the hearing requested be recorded on more than one CD. The amount to cover the additional CD's must be paid prior to receipt. Audio Recordings may be picked up in person, during normal business hours, from the appropriate Court Reporter.

**5.5.4** Transcripts - Any party requesting a transcript of any proceeding shall file the request in writing with the Clerk and provide a time-stamped copy to the appropriate Court Reporter.

**5.5.5** All written requests for a transcript shall contain the: 1) case name; 2) case number(s); 3) assigned Judge and Magistrate; 4) date of hearing; 5) reason for request; 6) payer of transcript; and 7) date the objection or appeal was filed, where appropriate.

**5.5.6** The cost per page of a non-expedited transcript shall be as follows:

(A) Indigent cases

- |  |        |
|--|--------|
| (1) First ordering party (original transcript filed, copy to first ordering party) | \$4.00 |
| (2) Copy to opposing party (electronic/PDF file or paper)                          | Free   |

(B) Non-indigent cases:

- |  |        |
|--|--------|
| (1) First ordering party (original transcript filed, copy to first ordering party) | \$4.00 |
| (2) Copy to opposing non-indigent party (electronic/PDF file or paper)             | \$1.00 |

**5.5.7** The cost per page of an expedited transcript shall be as follows:

- |   |        |
|---|--------|
| (A) By 8:00 AM the next calendar day  | \$7.95 |
| (B) 1 to 5 business days  | \$5.95 |
| (C) 6 to 10 business days   | \$5.45 |
| (D) Real-time (an unofficial transcript; not the final transcript filed with the court) | \$7.95 |

**5.5.8** Payment for transcripts shall be deposited with the Court Reporter prior to transcript preparation and within ten (10) days of the Reporter's request for payment.

**5.5.9** Requests for transcripts for the benefit of indigent parties, other than those represented by the Office of the Public Defender, shall be submitted to the Court and supported by an order of the Court directing that the transcript be prepared at public expense.

**5.5.10** All original transcripts are filed with the Clerk and shall become part of the official record of the case, although they are physically filed in a separately maintained records area within the Juvenile Justice Center.

**5.5.11** Exhibits - Any exhibits which are to become part of the permanent record of the Court shall be limited to 8 1/2" x 11" in size, unless not practical or possible as determined by the trial judge. It shall be the responsibility of trial counsel to ensure that any exhibits larger than standard size are reduced for inclusion into the permanent record.

**5.5.12** Disposal of Exhibits and Depositions

(A) At the conclusion of a civil proceeding in the Juvenile Court, including times for direct appeal, the Court may destroy exhibits and depositions if all of the following are met:

(1) The Court must notify the party who tendered the exhibits or depositions, in writing, that the party must retrieve the exhibits or depositions within sixty (60) days after the appeal period or ninety (90) days if there is no appeal.

(2) The written notification provided herein must:

(a) Inform the party who tendered the exhibits or depositions that these documents will be destroyed within sixty (60) days of the notification; and

(b) Inform the party who tendered the exhibits or depositions of the location for retrieval of the exhibits or depositions.

(B) At the conclusion of a criminal proceeding in the Juvenile Court, where property is entered into evidence by the Montgomery County Prosecutor's Office, the evidence shall be transferred out of the custody of the Court in the following manner:

(1) In cases where the defendant is found not guilty, the evidence shall be returned to the Prosecutor immediately or within five (5) days of the not guilty verdict.

(2) In cases where the defendant is convicted of an offense, the exhibits will be held by the Court for sixty (60) days (including the thirty (30) day appeal period). After the sixty (60) day period has expired, the Court shall notify the Arresting Agency in writing that a timely appeal has not been filed. The Arresting Agency shall then be responsible for transferring the evidence within thirty (30) days from the courthouse to the Agency's Property Room.

(3) The written notification provided herein must

(a) Inform the Arresting Agency of the location for retrieval of the exhibits; and

(b) Inform the Arresting Agency that the exhibits will be destroyed within sixty (60) days from the date of the written notification.

(C) In cases where a timely appeal has been filed, the evidence shall be transferred to the Court of Appeals by the Court pursuant to existing policy and procedure. (effective February 6, 2017)

## **RULE 5.6 SPECIAL NEEDS / COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT (ADA) / INTERPRETER SERVICES**

(A) Requests for reasonable accommodations and services for individuals with disabilities, special needs or the need for an interpreter shall be made to the Court's Department of Legal Services Administrative Secretary by calling (937) 225-4250 at least seven (7) business days prior to any scheduled hearing, home visit or other case related situation where the accommodations or services are required.

(B) Interpreter requests by Court staff, or Court appointed counsel, guardian ad litem or CASA guardian ad litem [Requesting Party] shall be made by email to the Administrative Secretary with the following information:

(1) Name of Client

(2) Name of Person In Need of the Interpreter and Their Relationship to the Case

(3) Case Number

(4) Charge / Case Type

(5) Hearing Type / Mediation / Home Visit

(6) Magistrate / Mediator

(7) Date and Time of the Hearing / Mediation / Home Visit

(8) Anticipated Length\* of Hearing / Mediation / Home Visit

[\*Please be as accurate as possible to avoid charges billed for any unused time that is ordered.]

(9) Language

(10) Contact Person (MCJC Staff or Attorney) and Telephone Number

(11) Address of Hearing / Mediation / Home Visit

(C) If the accommodations, services or interpreter is no longer required, or the hearing, home visit or other case related situation has been continued or canceled, the Requesting Party or other person who requested the accommodation, service or interpreter must **immediately** notify by calling and/or email to

the Legal Services Administrative Secretary in order to cancel or reschedule the service. Failure to do so may result in a cancellation fee for the service being billed to the Requesting Party.

**RULE 5.7 ATTORNEYS, PRO SE LITIGANTS, APPOINTED COUNSEL, ATTORNEY & CASA GUARDIANS AD LITEM AND LEGAL INTERNS**

**5.7.1** Pursuant to Rule 6 of the Rules of Superintendence for the Courts of Ohio, all documents filed with the Juvenile Division of the Court of Common Pleas shall include the attorney or pro hac vice registration number issued by the Supreme Court of Ohio to identify attorneys who file documents with the Juvenile Division.

**5.7.2** Right to Counsel; Pro Se Litigants; Appointment of Guardian ad Litem

(A) Every party shall have the right to be represented by counsel, and as provided in R.C.2151.352, the right to appointed counsel, if indigent. Appointments may be made in delinquency, unruly, abuse, neglect and dependency cases, adults in criminal matters and contempt actions other than in parentage cases initiated by the state, and contempt actions related to custody, child support or visitation, and for children who file a complaint pursuant to O.R.C. 2151.85. A \$25.00 application fee shall be paid to the Clerk of Court by or on behalf of the party seeking appointment of an attorney prior to the appointment unless said fee is waived prior to disposition of the case. Fees not waived shall be assessed as a cost and shall not be waived post-disposition.

(B) Unless otherwise provided herein, all pleadings, motions and other filings shall comply, in form and content, with the Juv. R. and/or Ohio Rules of Civil Procedure [CivR] and the Local Rules of this Court. Nothing in these rules shall be construed so as to prevent a party or parties from representing themselves [Pro Se]. Any pleading, motion or other filing signed by a Pro Se litigant may be submitted to the court to ensure compliance with the Juv. R. and/or Ohio Rules of Civil Procedure [CivR] and the Local Rules of this Court as to form and content only. If revisions are required, the Court will notify the Pro Se party to pick up their documents along with a letter indicating what changes need to be made before they can be filed with the Clerk of Courts. Once approved for filing, the Court will contact the Pro Se party to pick up the documents and submit them to the Clerk of Court for filing along with the number of required copies for service and any filing fee(s).

(C) The Court shall maintain a list of private attorneys willing to accept appointments for Juvenile Court cases to serve as attorney, as guardian ad litem or in a dual capacity as attorney and guardian ad litem, and a list of Court Appointed Special Advocate [CASA] volunteers qualified to serve as guardian ad litem.

(D) Application and List Requirements

(1) In order to be considered and approved for, and to maintain placement on the Court's appointment list of attorneys the following standards must also be met:

- (a) Be an attorney in good standing with the Supreme Court of Ohio;
- (b) Inform the Court of any prior disciplinary complaints against the attorney which resulted in sanctions;
- (c) Maintain a working telephone with a local telephone number or toll free long distance number, with staff and/or working service to be able to respond to calls from the Court or client;
- (d) Either maintain professional liability (malpractice) insurance in an amount equal to the minimum coverage required by the Ohio Rules of Professional Conduct [ORPC], or comply with ORPC 1.4(c) at the time of the appointment.
- (e) Maintain a working email account to receive and respond to messages and attachments from the Court or client; and
- (f) Successfully complete of the Court's Attorney Certification Training.
- (g) Attorneys are under an ongoing duty to notify the Court of changes in their status, address, or telephone number; and

(2) In addition to the requirements stated in (1) (a) thru (f) above, attorneys desiring to be placed on the appointment list shall apply in writing on a form promulgated by the Court, to the Court Legal Services Director, specifying the case type(s) from which (s)he is willing to accept appointment to and affirm under oath that pursuant to Sup R 48, OAC Section 120-1-10 and Local Rule 5.7.2(D) they are qualified by the education, training and experience required therein to be appointed by the Court to represent indigent clients in the particular case types they have indicated on Appendix B of these Local Rules.

(3) Attorneys accepting appointments are responsible for providing proof of their qualifications if asked to do so by the Court. Acceptance of appointments to cases the attorney is not qualified to handle under this Rule disqualifies them from be compensated for the representation, may subject them to removal from the appointments list and could result in other consequences outside of the Court.

(4) To be placed on the guardian ad litem appointment list, an attorney applicant, and a CASA volunteer shall have, at a minimum, successfully completed the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's pre-service training program, or with the Court's six hour GAL Training that covers the topic areas in Ohio Rule of Superintendence 48(E) (3). [Adopted pursuant to OAC 120-1-10 Effective December 1, 2015 Statutory

Authority ORC 120.03(B); 120.04(B); effective January1, 2017)

(5) To be placed on the guardian ad litem appointment list, an attorney applicant, and a CASA volunteer shall have, at a minimum, successfully completed the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's pre-service training program, or with the Court's six hour GAL Training that covers the topic areas in Ohio Rule of Superintendence 48(E) (3).

#### (E) Private Case Guardian ad Litem Appointments

(1) At their cost, a party or parties in a private case may request the appointment of a guardian ad litem [GAL] from the Court's list of approved GAL's. The request may be in writing or by oral motion during any pretrial hearing. If the parties cannot agree, the assigned Judge or Magistrate shall select the GAL. The role of the GAL is to perform an investigation and to be an advocate for the child's best interest, not to be the child's attorney. The GAL may meet the child alone for discussion, observe the child's interaction with each parent, conduct a home visit at both parents' residence and talk with other key individuals such as the child's teacher, neighbors and relatives. The GAL shall submit a written report of their findings and recommendations to the Court and counsel in compliance with Rule 5.7.

(2) The party requesting the appointment shall be responsible for payment of the GAL's fee and shall be required to deposit the fee in advance with the GAL. If the parties make a mutual request for a GAL, each shall be responsible for one-half (1/2) payment of the GAL's fee and shall be required to deposit the fee in advance with the GAL. The Court may reallocate such fees at a subsequent hearing. The issuance of an Order or Entry appointing a GAL in a private case is conditioned upon confirmation by the GAL to the Court that a party or the parties have deposited with the GAL \$750.00, or other amount as agreed to by the parties for the GAL to bill against to cover fees and costs. Confirmation shall be made to the Judge or Magistrate, or their assigned Case Management Specialist [CMS] in writing signed by the GAL or by email or facsimile from an origin that may be confirmed is that of the GAL. The Court shall not issue an appointment Entry or Order, and the GAL shall have no obligation to act in that capacity until verification of the deposit of the monies is completed. The CMS shall generate the Entry or Order of, shall provide it to the Clerk of Court for filing and imaging and shall send the imaged Entry or Order of Appointment via email to the GAL. The effective date for the GAL appointment shall be the date of confirmation of the deposit of monies with the GAL.

**5.7.3 Appointments** - Except as otherwise stated herein, all appointments of attorneys to serve as attorney, as guardian ad litem or in a dual capacity as attorney and guardian ad litem will be on a rotating basis. Excluded from the rotating appointments are companion cases, cases that are dismissed and refiled, multiple cases involving the same client, appointments made from the bench, appointments made at a preliminary conference, and reappointment of an attorney for a probation violation. Attorneys who will be unavailable for designated periods of time may notify the legal director of the dates of their unavailability. Once such notification is received, the attorney will not be appointed to any cases during the specified period of unavailability. The Court will notify the appointed attorney of the availability of an appointment by telephone, speaking with the attorney personally, or with the attorney's staff. If the appointed attorney or their staff cannot be contacted, or are not able to accept the appointment, the appointment will be offered to the next attorney on the list.

All appointments of CASA volunteers shall be based upon availability with consideration also given to areas of specialty or expertise.

The appointment entry will be signed by the Judge or Magistrate and filed with the Clerk of Courts. Each new case and each case reactivation requires a new appointment entry specifically identified with the Court case number and any suffix for reactivated cases in order for the appointed attorney, guardian ad litem or dual capacity attorney / guardian ad litem to be entitled to compensation for their work. Once appointed, counsel must attend all hearings or arrange for coverage. An attorney should not accept a referral if at the time the case is referred the attorney has a scheduled conflict with the date and time. Continuances will not be granted except for emergency circumstances.

**5.7.4 Duties and Responsibilities of Appointed Counsel and Guardians Ad Litem** - In addition to the provisions of Sup. R. 48, Attorneys accepting appointments to serve as Court appointed counsel, shall initiate and maintain reasonable contact with their client / ward. Attorneys accepting appointments to serve as guardian ad litem, or in the dual capacity of both attorney and guardian ad litem, and CASA volunteers shall initiate and maintain reasonable contact with their client / ward, said contact should be no less than once per month while a case is open and pre-disposition, and at least once within the month prior to an annual review hearing. The attorney/guardian ad litem shall advise his / her client / ward of the client's / ward's rights and the possible consequences of the pending action. Attorneys shall personally represent the client for which (s) he was appointed, and shall not, absent an emergency, allow substitute counsel to represent the client. Repeated failure to personally represent the client will result in removal from the guardian ad litem/appointed counsel list(s).

**5.7.5 Powers** - The powers of the attorney/guardian ad litem shall be wide ranging, including but not limited to, the right to file motions and to review all confidential records involving their client(s) by request, through deposition by leave of Court under Juv. R. 25, and by subpoena. The attorney / guardian ad litem shall have reasonable access to the child at school or in placement.

Appointed attorneys and guardians ad litem shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices and other documents filed in the case. CASA volunteers appointed as guardians ad litem shall have the same powers as noted above except for those powers that by rule, statute or case law may only be performed by an attorney licensed to practice in the State of Ohio.

**5.7.6 Reports and Court Appearances** - A guardian ad litem or their certified representative shall be present at all hearings pertaining to the child(ren), and shall prepare written reports in compliance with Sup. R. 48(F). As used herein, a "certified representative" is an attorney currently on the Court's list as being eligible to accept appointments as a guardian ad litem.

**5.7.7 Duration of Appointment** - Except as otherwise provided herein, a guardian ad litem shall continue to serve until their duties terminate in accordance with R.C.2151.281 (G), or until discharged by order of the Court. However, each reactivation of a case requires a new appointment entry specifically identified with the Court case number and any suffix for the reactivated case in order for the guardian ad litem or dual capacity attorney / guardian ad litem to be entitled to bill and be compensated for their work.

Whenever feasible, the same guardian ad litem shall be reappointed for a specific child in any subsequent proceeding before this Court wherein the child is a party or the subject of the action. Except as otherwise provided herein and subject to further Order of the Court, Attorneys representing parents whose children have been removed from their custody shall continue to serve until the complaint is dismissed, all dispositional orders relative to the child have terminated, legal custody of the child is granted to a relative or another person, parental rights are terminated, or the attorney withdraws or is removed by the Court. Court appointed counsel and guardians ad litem shall advise their clients of the client's right to objection and appeal. The appointment of counsel continues through objections and shall terminate upon the filing of an entry disposing of all pending matters, or counsel filing a notice of appeal, whichever is later. It is the duty of appointed counsel to consult with his or her client regarding the possibility of appeal and to file the notice of appeal, if any, in accordance with Rule 5.7.8 below. Appointment of the GAL shall continue until final disposition. Upon the filing of a Final Appealable Order of Permanent Custody or of a Planned Permanent Living Arrangement to a public or private children services agency, the appointment of any GAL shall terminate.

**5.7.8** Notice of Appeal - When filing a notice of appeal, appointed counsel shall file a motion with the Clerk of the Juvenile Court requesting preparation of the transcript at state expense. Counsel shall present a time stamped copy of the motion and a proposed journal entry granting the motion to the Judge assigned to the case. Following journalization of the entry by the clerk, counsel shall deliver a copy of the entry to the Court reporter or stenographer. Thereafter, appointed counsel shall file a motion with the Clerk of the Juvenile Court seeking either leave to withdraw and appointment of new counsel or an appointment to prosecute the appeal.

**5.7.9** Fees and Costs - Except in private case, all filing fees and Court costs are waived as to Court appointed attorneys and guardians ad litem.

**5.7.10** Requirements to Remain on Guardian ad Litem or Court Appointed Counsel List(s) - In addition to the requirements of Sup. R. 48(E), not later than January 30<sup>th</sup> each year, the attorney must complete and submit to the Court legal director an eligibility report on a form provided by the Court. If an attorney does not complete and return the annual report certifying compliance timely, (s) he will be removed from eligibility for new appointments and will be removed from any current appointments.

**5.7.11** Removal and Reinstatement - Attorneys and guardians ad litem may be removed from the Court appointment list(s) by approval of the Judges of the Montgomery County Juvenile Court for cause.

**5.7.12** Annual Review and Evaluation - At least annually, the Court shall conduct a review of its list to determine that all individuals are in compliance with the training and education requirements of this rule, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.

**5.7.13** Written Comments - The Court legal director or designee shall accept and consider written comments regarding the performance of publicly funded attorneys and guardians ad litem practicing before the Court. A copy of comments commending the performance shall be provided to the attorney or guardian ad litem who is the subject of the comments, and a copy shall be placed in their appointment file. The Court legal director and the CASA Program Manager will investigate the comments that raise complaints according to the Court's established performance evaluation procedure.

**5.7.14** Compensation and Expenses - Rules governing billing procedures are set forth on the Court's website at <http://www.mcjcoho.org/>. By accepting Court appointments, attorneys agree to be bound by said rules. The Court shall determine the amount of compensation an appointed attorney will receive based upon the rates of compensation as determined from time to time by the Montgomery County Board of Commissioners.

**(A)** Prescribed Forms - Appointed attorneys and guardians ad litem seeking to be paid for fees and/or expenses shall correctly complete the forms prescribed in the Ohio Public Defender's STANDARDS AND GUIDELINES FOR APPOINTED COUNSEL REIMBURSEMENT, current edition. Appointed counsel shall use the software program provided by the Ohio Public Defender when submitting fee



applications. The program may be downloaded from:

[http://www.opd.ohio.gov/Resources/RC\\_Downloads.htm](http://www.opd.ohio.gov/Resources/RC_Downloads.htm). Appointed counsel shall submit the original fee application, a time stamped entry appointing the attorney, a time stamped copy of the dispositional entry, and the financial disclosure affidavit.

Appointed attorneys and guardians ad litem shall obtain the signature of the indigent client, or parent / guardian / custodian when applicable, on the financial disclosure / affidavit of indigency form required by the Ohio Public Defender. If the indigent client or parent / guardian / custodian is unavailable to sign the form, the appointed counsel / guardian ad litem shall obtain the signature from the assigned Judge or Magistrate, certifying the indigency of the defendant.

(B) Expenses - Necessary and reasonable expenses may be allowed for such items as expert witness fees, polygraph costs, long distance phone calls and photocopying. Attorneys seeking reimbursement for expenses must provide receipts for all expenses in excess of one dollar. Court approval is not required for expenses up to \$100.00. However, attorneys may not fractionalize expenses to circumvent the \$100.00 cap. Prior approval by the Assigned Judge is required before incurring expenses exceeding \$100.00. When determining whether to grant expenses the Assigned Judge shall consider the value added to the proper representation, and whether there is another available alternative which would fulfill the same function at a lesser cost.

(C) Non-reimbursable expenses

Except as otherwise provided herein, attorneys and guardians ad litem will not be reimbursed for the following expenses:

- (a) mileage and parking incurred between the attorney's and/or guardian ad litem's home and office, the attorney's and/or guardian ad litem's home and Court, or the attorney's and/or guardian ad litem's office and Court;
- (b) any fixed office overhead expenses;
- (c) Court transcripts or depositions, except as provided by law;
- (d) lodging, meals, mileage, and travel by common carrier for the client, the client's family, the client's friends, or for the attorney's employees; and
- (e) hardcopies of discovery.

(D) CASA Guardian ad Litem shall be reimbursed for parking expenses and mileage at the federal rate.

#### **5.7.15 Extraordinary Fees**

Requests for extraordinary fees must be made by written motion submitted with supporting information, including all regular billing documents, within 30 days of the date of the journal entry disposing of the complaint or motion, or date of the journal entry approving the case plan, whichever is later. Requests for extraordinary fees will not be considered prior to disposition.

#### **5.7.16 Legal Interns**

(1) Legal Interns shall be permitted to practice before the Court subject to the Supreme Court Rule For The Government Of The Bar Of Ohio [Gov. Bar R.] II. Cases that may be handled by Interns shall go to the Montgomery County Prosecuting Attorney's Office [PA], and the Law Office of the Public Defender, Montgomery County, Ohio [PD] who may assign cases to Interns within their respective offices. Interns shall close and/or transfer case files back to the PA or PD promptly at the end of their tenure as an Intern.

(2) An Intern shall provide all the direct representation of clients including but not limited to interviewing clients and witnesses, negotiating with opposing counsel, making all the legal arguments before the Court and handling all phases of contested hearings.

(3) Except as otherwise provided in Gov. Bar R. II 5 (E), a Legal Intern's Supervising Attorney shall attend all Court appearances and supervise but not actively participate in handling the cases or representing the clients, or as co-counsel except in the case of a delinquency arising out of a felony of the 1<sup>st</sup> or 2<sup>nd</sup> degree.

(4) The Court, in its sole discretion may place limitations on the type of cases that may be referred for handling by Interns, which dockets the Interns shall be allowed to practice before and any other internal policies governing Intern practice.

## **RULE 5.8 MAGISTRATES**

### **5.8.1 Assignment of Cases**

As assigned by the Judges of this Court and subject to the terms of their Order of Appointment, Magistrates will preside over hearings, pre-trials, trials and issue any and all Magistrates' orders and Magistrates' decisions in accordance with Juv. R. 40, CivR 53, Ohio Rule of Criminal Procedure 19 and Sup. R. Rule 19. Except as otherwise provided herein, Motions to Set Aside Magistrate's Order, Objections to Magistrate's Decisions, Action of Court on Magistrate's Decision and on any Objections to Magistrate's Decision, Entry of Judgment or Interim Order by Court, Extensions of Time, and Disqualification of a Magistrate shall be governed by the Juvenile, Civil and/or Criminal Rule(s) and Statutes of the State of Ohio.

### **5.8.2 Findings of Fact & Conclusions of Law**

When a request for Findings of Fact and Conclusions of Law is made, the party requesting them shall, and any other party may prepare and file proposed Findings of Fact and Conclusions of Law within seven (7) days of the Judge's Order or the Magistrate's Decision. Thereafter, the Judge or the Magistrate will prepare Findings of Fact and Conclusions of Law, which shall become part of the record.

**5.8.3** Motions to Set Aside Interim Orders and Objections to Decisions – the Clerk shall not accept or file a Motions to Set Aside an Interim Order or an Objection to the Decision of a Magistrate until the subject Order or Decision has been filed and docketed by the Clerk.

**5.8.4** Transcripts – Transcripts of the record of proceedings in support of objections to factual findings in a Magistrate's Decision must be requested in writing according to Mont. Juv. Rules 5.5.4 and .5 within fourteen (14) days of the filing of the Decision being objected to. Failure to request and pay for a transcript according to these Rules shall result in the Court ruling on the Objections based upon the materials before it.

## **Rule 5.9 CASE MANAGEMENT**

### **PURPOSE**

Pursuant to Sup. R. 5(B)(1), this rule is adopted to facilitate case management, enabling the Court to expeditiously process cases brought before it and to provide consistent procedures which can be followed by the Court, members of the bar and pro se litigants. This rule shall be guidance on timely resolution and shall not affect the Court's jurisdiction or the outcome of the case.

**5.9.1** Mediation – Per the Sup. R Time Guidelines, Mediation shall not delay the resolution of any case.

(A) At any time after the filing of a complaint or motion, the court may refer the matter for mediation. If mediation is ordered, the mediation is a docketed event and appearance is required. The parties will be informed of the date and time and place of the mediation through the mediation scheduling order, and all parties shall be responsible for their own cost of the mediation unless otherwise ordered by the court. If an agreement is reached as a result of the mediation, the agreement will be forwarded to the Judge or Magistrate assigned to the case, and if the agreement is approved, a magistrate's decision will be issued and the agreement will become an enforceable court order when approved and filed with the clerk.

(B) Exemptions - the following shall be exempted from mediation at the motion of any party:

- (1) Cases in which one party has been convicted of, or pled guilty to domestic violence within the past two (2) years or when a civil temporary protection order is in effect;
- (2) Cases in which the physical distance between parties is so great that it is not feasible for them to participate in mediation sessions;
- (3) Cases in which one of the parties is mentally ill;
- (4) Cases in which emergency circumstances require an immediate hearing by a jurist;

(5) Cases in which the parties have achieved an executed Agreed Judgment Entry; or

(6) Cases in which the parties have previously mediated the matters at issue.

(C) Confidentiality - All disclosures made or information received from any source or person during mediation shall be deemed confidential and, as compromise negotiations, shall not be admissible as evidence pursuant to Evidence Rule 408 in actions before the Court. Mediators shall not disclose or testify about any statements or discussions which occurred during or regarding mediation. The foregoing confidentiality requirements shall not be construed to exempt any person from the statutory duty to report child abuse or neglect.

(D) Qualifications of Mediators - The mediation sessions shall be conducted by mediators approved and recommended by the Court Administrator and/or his/her designee.

#### **Rule 5.9.2 Motions**

(A) All motions shall be made in writing in accordance with Juv. R. 19 and 22, unless otherwise permitted by the Court. All motions made in cases with a child support number (SETS number) shall include the SETS number in the caption.

(B) The court will accept motions with several branches, however, the caption of the motion must contain the issue being raised in each branch. The caption shall indicate the number of each branch and the relief sought for each, for example: Motion to Show Cause (Branch 1), Motion to modify support (Branch 2), Motion to Modify Parenting Time (Branch 3).

(C) Each child will be assigned a separate case number (excluding motions under a UIFSA), and an original must be included for each case number.

(D) Motions filed with the clerk will be forwarded to the assigned Judge or Magistrate for determination. Any motion that requires a hearing or a hearing is requested, shall be accompanied by a hearing notice that includes full caption, case numbers, SETS numbers and an area with blanks for the time, place and date of the hearing which will be set and inserted in the notice by court staff. A signature line for the assigned magistrate or Judge is not required and should not be included.

(E) Motions that require a hearing will be set for hearing accordingly and motions that do not require a hearing or no hearing is requested will be forwarded for determination to the appropriate Judge or Magistrate after the proper response time has elapsed. Movants and/or their attorneys are responsible for sending copies of a motion and hearing notice if appropriate, to opposing parties or filing instructions for service with the clerk to issue service of motion.

#### **5.9.3 Paternity**

(A) A complaint for paternity shall be filed and proceed according to the Rules of Civil Procedure, and shall be accompanied by an affidavit of child custody, and affidavit of financial information, the Juvenile Court information sheet, and appropriate instructions to the clerk for service.

(B) Any paternity complaint for which service has not been perfected within 6 months of filing is subject to dismissal after notice to the plaintiff thereof.

(C) All plaintiffs (except the child) must be present at pretrial.

(D) Genetic testing to establish paternity may be ordered by the court or upon request of any party at any time after the complaint is filed or at the same time the complaint is filed. Genetic testing will not be ordered by the court in cases where paternity was previously established by law.

(E) When a Motion for Relief from a Paternity Determination is filed, the Petitioner must include genetic test results from a genetic test administered no more than six months prior to the date of filing the Motion for Relief that excludes the Petitioner from paternity. (effective January 1, 2016)

#### **5.9.4 Custody, Parenting Time, Allocation of Parental Rights & Responsibilities, Child Support, and Modification of Existing Child Support Orders**

(A) Original actions shall be initiated by sworn complaint. Requests to modify existing orders shall be made by motion. Objections to administrative recommendation for child support shall be filed as original actions, and objections to recommendations for modification will be filed as motion where

there is an existing order, and a copy of the administrative order shall be attached to the compliant/motion.

(B) When an action is initially filed, the person filing the complaint must include the name, address, and date of birth of the child and true and accurate name and address of every party who has a legal interest in the case. Each child shall be assigned an individual case number.

(C) A motion for modification of an existing court order for child support shall state the specific reason for the request for modification and shall be supported by an affidavit signed by the moving party.

(D) Actions involving child support, custody, and allocation of parental rights and responsibilities shall have the court's personal information sheet, the child custody affidavit pursuant to RC 3127.33, and the IV-D application and information form, Affidavit in Income, expense, health insurance and Financial Disclosure. Actions involving parenting time shall have the court's personal information sheet, **and** the child custody affidavit pursuant to RC 3127.33.

(E) The court will accept complaints with several branches, however, the caption of the pleading must contain the issue being raised in each branch. The caption shall indicate the number of each branch and the relief sought for each, for example: Complaint for Custody (Branch 1), Support (Branch 2), and Establishment of Parenting Time (Branch 3).

(F) All parties involved in custody, allocation of parental rights and responsibilities, modification of support, or establishment of support or objections to administrative recommendations must bring evidence of income by recent pay stub, copy of last income tax return, and insurance information if applicable.

(G) Pro se litigants and/or their attorneys are responsible for filing instructions for service, notarized waiver of service or certificate of service with complete name and addresses of all interested parties for the proceeding.

**5.9.5 Ex Parte Motions** - Motions requesting ex parte orders that affect children are discouraged.

However, the Court may issue such orders where it is shown that the child or children are at immediate or imminent risk of irreparable harm unless immediate action is taken, and the moving party has also filed requesting the reallocation of parental rights and responsibilities. Such motions for ex parte orders shall have supporting affidavits that clearly delineate the immediate or imminent risk of irreparable harm. Any ex parte order for a change in the residential parent status shall include a provision for immediate notice of the ex parte order to the legal custodian or the residential parent, and the filing attorney or pro se litigant is responsible for service, including sending notice to the last known address, if unknown at the time of filing.

(A) Requests by Public or Private Agencies - Emergency hearing requests may be made by a public children services agency or private child placing agency.

(1) The children services agency shall file the Complaint and Motion for Ex Parte with the Court, through a process as determined between the agency and Court. The review of the ex parte order (granting or denying) shall take place at a Shelter Care hearing held no later than the next business day.

(2) On the next business day following the issuance of a telephone ex parte order, the agency shall file either a Complaint or a Motion to Dismiss the telephone ex parte order

(3) Any Complaint and Motion for Shelter Care shall be filed within the time frames designated by the Court. If the Motion for Shelter Care is not filed timely, it will not be heard until the following business day.

(B) Pro se requests and requests by Private Attorneys - Emergency hearing requests may be made pro se or by private attorneys.

(1) After all filing fees are paid and all filing requirements are met for an ex parte motion and the substantive filing of custody or visitation, as required by law (Refer to MCJC Local rules: 5.9.2 and 5.12), the case assigned Judicial Officer shall be notified by the Clerk of Court's Office of the filing, and based upon the applicable sections of the ORC and the Rules of Juvenile Procedure, the Court will Grant or Deny the motion for an ex parte / emergency order and / or hearing. If the ex parte motion is granted,

a hearing shall be set according to law. If the ex parte motion is denied, a review hearing may be set at the sole discretion of the assigned Judicial Officer. (effective February 6, 2017)

(2) It is the responsibility of the pro se litigant or the attorney filing the Complaint and Motion to notify all necessary parties and attorneys of record of the time of the hearing, and to provide proof of service to the Court (by filing with the Clerk's Office) prior to the Court hearing.

(C) In any case in which an emergency hearing is requested regarding a child taken into custody pursuant to ORC 2151.31, the Court shall set a time for emergency hearing the next business day or no later than seventy-two (72) hours from the request. It is the responsibility of the attorney filing the Complaint and Motion to notify all necessary parties and attorney(s) of record and to provide proof of service to the Court prior to the emergency hearing. (effective February 6, 2017)

(D) Any complaint filed with a request / motion for expedited hearing will be filed as a motion for interim order, and interim order filing and time standards apply.

#### **5.9.6 Juvenile Traffic Offenses – Mandatory Appearance Offenses and Traffic Bureau**

(A) Traffic Citations include the summons for the hearing. Hearings are set approximately two weeks from the date of the citation, per the date / time allocated to that particular jurisdiction. All juvenile citations, that are not certifications, require the juvenile and his/her parent or legal guardian's attendance at the scheduled hearing, unless the rules for the Traffic Violations Bureau are met, exercised and approved by the Court. Juvenile traffic hearings may be reset, with the Court's permission, and upon payment of the scheduled reset fee (See Fee Schedule, and Addendum to these Local Rules)

(B) Any violation which involves an accident may not be processed through the Traffic Violations Bureau, and a mandatory Court appearance is required.

(C) A second traffic violation of any kind which occurs prior to the age of eighteen (18) years may not be processed through the Traffic Violations Bureau, and a Court appearance is required. If more than one moving traffic violation is charged arising from a single incident or series of incidents, none of those violations may be processed through the Traffic Violations Bureau, and a Court appearance is required.

(D) The following offenses require a MANDATORY Court appearance:

1. Offenses which would be indictable if committed by an adult.
2. Operating a motor vehicle while under the influence of alcohol or drugs.
3. Leaving the scene of an accident.
4. Driving while under suspension or revocation of driver's license.
5. Driving without being licensed to drive.
6. Failure to stop and remain standing upon meeting or overtaking a school bus stopped on the highway for the purpose of receiving or discharging a school child.
7. Drag racing.
8. Reckless operation.
9. Failure to maintain reasonable control.
10. Speeding (in excess of 20 mph over posted limit).
11. Speeding in a school zone.
12. Permitting unlicensed driver to operate a motor vehicle.
13. Operating a motor vehicle under temporary instruction permit unaccompanied by a licensed operator.
14. Offenses charging a violation under Revised Code Chapter 29.
15. Resisting/Interfering with an officer.
16. Presenting false name or information to an officer.
17. Any other offense or proceeding as determined by the Court.

(E) The schedule of fines and costs which shall be charged by the traffic violations are established and set forth as follows:

Minor misdemeanor (moving violation)	\$143.00
Minor misdemeanor (non-moving violation)	\$103.00

Seatbelt driver	\$83.00
Seatbelt passenger	\$73.00

**Rule 5.10 Servicemembers Civil Relief Act**

The Court shall apply, and the Court and parties to matters before the Court shall comply with the appropriate provisions of the Servicemembers Civil Relief Act of 2003, 50 U.S.C. App. Sections 501 to 597 [SCRA].

**Rule 5.11 Affidavit of Income, Expenses, Health Insurance & Financial**

**5.11.1** All Complaints and/or Motions where custody and/or child support are at issue shall be accompanied by an Affidavit of Income, Expenses, Health Insurance and Financial Disclosure form. A sample form may be obtained on the Court’s website. Respondents may be required to complete an affidavit and supplement the Court’s record, prior to any hearing on the motion.

**5.11.2** In agency cases, an Order to Submit must be used when parents have failed to cooperate with the request of the agency to complete the affidavit.

**Rule 5.12 Affidavit of Child Custody Information**

In accordance with section 3127.23 et seq. of the ORC, the Affidavit of Child Custody Information must be completed and filed with the Clerk on any complaint / motions filed involving custody. A sample form may be obtained on the Court’s website.

**Rule 5.13 Agreed Orders**

(A) If a new/original complaint or motion is filed with the court and is accompanied by an agreed order, the new complaint or motion must contain all the requirements generally required with such pleadings. The agreed order contained in new filings must be filed as a PROPOSED AGREED ORDER. All such new/original complaints or motions are required to have a hearing before a proposed agreed order will be adopted. If adopted, the Court will prepare an Entry adopting the PROPOSED AGREED ORDER.

(B) If an agreed order is requested by a Judge or Magistrate as a result of a hearing on the issue before the court, the agreed order shall be submitted directly to that Judge or Magistrate within the time specified by the Judge or Magistrate. Failure to submit an agreed order signed by all parties and any counsel within the specified time frame may result in the dismissal of the pending matter, the Court issuing interim order(s) or a decision and final appealable order based upon the record and / or other action as the Court deems proper as allowed by Rule and /or Statute.

(C) Proposed agreed orders and agreed orders shall include provisions that paternity has been established, how paternity was established, whether an existing child support order is being suspended or terminated, whether there are any assigned or unassigned arrearages and if so, how they are to be paid and by whom, and shall be accompanied by a Juvenile Court Information Sheet submitted to the Clerk, with current information from which a withholding order and/or a medical support order may be prepared, and shall contain the required statutory language for support orders contained in the Ohio Revised Code including notices to the parties concerning their duty to provide certain information. All agreed orders which contain a child support order shall have attached a completed computation sheet on the form required by the Ohio Revised Code. All agreed orders shall contain provision for payment of uninsured medical expenses and health insurance availability and designation of health insurance obligor, if any. If the Standard Order of Parenting time of this court is not included in the Agreed order provisions, each agreed order shall contain the provision accordingly: (effective February 6, 2017)

“Out-of-State Relocation: If the residential parent intends to move to a residence other than the residence specified in the parenting time order or decree of the Court, that parent shall file a notice of intent to relocate with the Court. Except as provided in ORC 3109.051 (G)(2), (3), and (4), the Court

shall send a copy of the notice to the non-residential parent. Upon receipt of the notice, the Court, on its own motion or the motion of the non-residential parent, may schedule a hearing with notice to both parents to determine whether it is in the best interest of the child to revise the parenting time schedule for the child.” (effective February 6, 2017)

(D) All agreed orders also must contain the following language:

“Access to records: The non residential parent shall have access to the same records, same school activities and to any daycare center which the child(ren) attend on the same basis that said records and access is legally permitted to the residential parent, unless a restrictive order has been issued from any court. It is the responsibility of the parent obtaining a restrictive order to serve it on the appropriate organization.

Notice of Change of Address: Both parents shall give written notice to the other parent immediately upon any change of address and/or phone number, unless a restrictive order has been obtained from the Court. A copy of the notice, including the party’s name and case number, shall also be provided to the Clerk’s Office, Juvenile Justice Center 380 W. Second Street, Dayton, Ohio 45422.”

(E) Parties and/or counsel who file a PROPOSED AGREED ENTRY will be notified by the court if a hearing is scheduled to determine whether the proposed entry will be adopted, or if the entry is adopted by the court, parties/counsel will receive the order adopting the entry without a hearing, which is **at** the discretion of the assigned Judge or Magistrate.

**Rule 5.14 Required Language for All Orders Involving Child Support** (effective February 6, 2017)

In order for the Court to issue an Order or Notice to Withhold and Dependent Health Care Order(s), all pertinent information must be included: current addresses of parties, social security numbers, dates of birth, SETS#, employers, payroll addresses, pay cycles, health insurance information, names of financial institutions, address, account numbers, etc. This information must be supplied to the Court on the Juvenile Court Support Information Sheet. Any person filing shall only include the last four (4) digits of any social security numbers or financial accounts numbers on the filed paperwork. If such information is deemed to be required, the party filing shall redact (remove) the first five (5) numbers of any social security number (when required to be filed). It is the responsibility of counsel who prepares an entry or order to include the appropriate language as indicated below in all orders containing a support order.

**5.14.1** Support Order Language - Child support provisions shall provide the following:

- Monthly amount per child rounded to nearest dollar;
- Effective date of the support obligation;
- If an arrearage exists, state the amount of the arrearage (if known) and the amount of monthly repayment until paid in full;
- If the parties agree to continue child support beyond age nineteen (19), said provision shall be stated in the final decree;
- A statement that support may be terminated as provided in R.C. 3119.88 (Reasons for termination of child support);
- Designation of parent who may claim child(ren) as dependent for federal income tax purposes; (R.C. 3119.82)
- The parents’ life insurance benefits, if any, for the benefit of the children shall be included.

**5.14.2** Mandatory Support Order Language - Agreed Orders shall provide for the appropriate notice to withhold as required under R.C. 3121.03 - 3121.0311, 3121.04, and 3121.08 and shall identify the source of the withholding. (Use of all these paragraphs - last paragraphs should be in bold face and capital letters.)

All support under this order shall be withheld or deducted from the income or assets of the obligor pursuant to a withholding or deduction notice or appropriate order issued in accordance with Chapter 3119., 3121., 3123., and 3125. of the Revised Code or a withdrawal directive issued pursuant to Sections 3123.24 to 3123.28 of the Revised Code and shall be forwarded to the obligee in accordance with Chapters 3119., 3121., 3123., of the Revised Code.

“IT IS FURTHER ORDERED that obligor is restrained from making said payments directly to the obligee. Any payments of support not made through the OCSPC shall be deemed a gift unless the payment is made to discharge an obligation other than support.”

“IT IS FURTHER ORDERED that the obligor shall notify the CSEA immediately, in writing, of any change in employment status or employer. This duty to notify the CSEA immediately shall continue until further notice of the court. Failure to provide such notification may make the obligor liable for retroactive support that would have been ordered.”

“IT IS FURTHER ORDERED that the obligor and obligee shall notify the CSEA immediately, in writing of any change in the status of the minor children of the parties which would terminate the duty of obligor to pay child support.”

“IT IS FURTHER ORDERED that the obligor and obligee shall notify the other party immediately, in writing, of any change in status which would affect child support.”

“IT IS FURTHER ORDERED that both parties shall take notice of the Obligee’s Rights and Remedies for Enforcement of Support, attached hereto, available to the obligee in the event the obligor fails to make payment of support as ordered herein. [Counsel shall attach a copy of the Obligee’s Rights and Remedies for Enforcement of Support to each copy of the agreed order. [Appendix Form \_\_\_ ]”

**“EACH PARTY TO THIS SUPPORT ORDER MUST NOTIFY THE CHILD SUPPORT ENFORCEMENT AGENCY IN WRITING OF HIS OR HER CURRENT MAILING ADDRESS, CURRENT RESIDENCE ADDRESS, CURRENT RESIDENCE TELEPHONE NUMBER, CURRENT DRIVER’S LICENSE NUMBER, AND OF ANY CHANGES IN THAT INFORMATION. EACH PARTY MUST NOTIFY THE AGENCY OF ALL CHANGES UNTIL FURTHER NOTICE FROM THE COURT OR AGENCY, WHICHEVER ISSUED THE SUPPORT ORDER. IF YOU ARE THE OBLIGOR UNDER A CHILD SUPPORT ORDER AND YOU FAIL TO MAKE THE REQUIRED NOTIFICATIONS, YOU MAY BE FINED UP TO \$50 FOR A FIRST OFFENSE, \$100 FOR A SECOND OFFENSE, AND \$500 FOR EACH SUBSEQUENT OFFENSE. IF YOU ARE AN OBLIGOR OR OBLIGEE UNDER ANY SUPPORT ORDER ISSUED BY A COURT AND YOU WILLFULLY FAIL TO GIVE THE REQUIRED NOTICES, YOU MAY BE FOUND IN CONTEMPT OF COURT AND BE SUBJECTED TO FINES UP TO \$1,000 AND IMPRISONMENT FOR NOT MORE THAN 90 DAYS. IF YOU ARE AN OBLIGOR AND YOU FAIL TO GIVE THE REQUIRED NOTICES, YOU MAY NOT RECEIVE NOTICE OF THE FOLLOWING ENFORCEMENT ACTIONS AGAINST YOU: IMPOSITION OF LIENS AGAINST YOUR PROPERTY; LOSS OF YOUR PROFESSIONAL OR OCCUPATIONAL LICENSE, DRIVER’S LICENSE, OR RECREATIONAL LICENSE; WITHHOLDING FROM YOUR INCOME; ACCESS RESTRICTION AND DEDUCTION FROM YOUR ACCOUNTS IN FINANCIAL INSTITUTIONS; AND ANY OTHER ACTION PERMITTED BY LAW TO OBTAIN MONEY FROM YOU TO SATISFY YOUR SUPPORT OBLIGATION.”**



**5.14.3** Mandatory Health Care Provision Language - Agreed Orders related to child support shall contain a provision in accordance with R.C. 3119.30 that one or both of the parties shall provide health care coverage for any minor child or, if not available to either party at a reasonable cost, a provision requiring that coverage be obtained if it subsequently becomes available to either party at a reasonable cost. Health care provisions shall further include language requiring the obligee to be responsible for the first \$100 incurred per child per calendar year of uninsured medical, dental and optical expenses. It shall also specify that remaining uninsured medical, dental, optical, and all psychological expenses for any minor child are to be shared in amounts equal to the parents' percentages of total income from Line 16 of the Child Support Computation Worksheet; the percentages shall be identified with the parent responsible for that percentage. All health insurance provisions shall refer to the Standard Order of Health Care Needs for Dependent Children [Appendix, Form 5] and direct the parties to take notice of it; the Standard Order of Health Care Needs for Dependent Children shall be attached to the decree or agreed order and be incorporated by reference.

Use one of the following four (4) options:

(1) Health Insurance Provided by Obligor's Insurance

"IT IS THEREFORE ORDERED that obligor shall obtain private health insurance coverage for the dependent children, if coverage is available at a more reasonable cost than coverage available to the obligee."

"IT IS FURTHER ORDERED that obligor and obligee shall take notice of the Standard Order of Health Care Needs for Dependent Children attached hereto and incorporated herein by reference. Oblige shall be responsible for the first \$100 incurred per child per calendar year of uninsured medical, dental, and optical expenses. Costs of the remaining uninsured medical, dental, optical, and all psychological expenses, shall be shared by obligor and obligee in amounts equal to their percentages of total income found on Line 16 of the Child Support Computation Worksheet, unless otherwise agreed as follows:  
\_\_\_\_\_."

(2) Health Insurance Provided by Oblige's Insurance

"IT IS THEREFORE ORDERED that obligee shall obtain private health insurance coverage for the dependent children, if coverage is available at a more reasonable cost than coverage available to the obligor."

"IT IS FURTHER ORDERED that obligor and obligee shall take notice of the Standard Order of Health Care Needs for Dependent Children attached hereto and incorporated herein by reference. Oblige shall be responsible for the first \$100 incurred per child per calendar year of uninsured medical, dental, and optical expenses. Costs of the remaining medical, dental, optical, and all psychological expenses, shall be shared by obligor and obligee in amounts equal to their percentages of total income found on Line 16 of the Child Support Computation Worksheet, unless otherwise agreed as follows:  
\_\_\_\_\_."

(3) In the event both obligor & obligee have health insurance available

"IT IS THEREFORE ORDERED that obligor and obligee shall obtain private health insurance coverage for the dependent children, if coverage is available at a reasonable cost to both obligee and obligor and dual coverage would provide for coordination of medical benefits without unnecessary duplication of coverage."

“IT IS FURTHER ORDERED that obligor and obligee shall take notice of the Standard Order of Health Care Needs for Dependent Children attached hereto and incorporated herein by reference. Obligee shall be responsible for the first \$100 incurred per child per calendar year of uninsured medical, dental, and optical expenses. Costs of the remaining medical, dental, optical, and all psychological expenses, shall be shared by obligor and obligee in amounts equal to their percentages of total income found on Line 16 of the Child Support Computation Worksheet, unless otherwise agreed as follows: \_\_\_\_\_.”

(4) In the event neither obligor nor obligee has health insurance available for a reasonable cost

“IT IS THEREFORE ORDERED since no health insurance for dependent children is available at a reasonable cost, obligee shall be responsible for the first \$100 incurred per child per calendar year of uninsured medical, dental, and optical expenses. Costs of the remaining medical, dental, optical, all psychological expenses, and prescription medication shall be shared by obligor and obligee in amounts equal to their percentages of total income found on Line 16 of the Child Support Computation Worksheet, unless otherwise agreed as follows: \_\_\_\_\_.”

“IT IS FURTHER ORDERED that obligor and obligee shall take notice of the Standard Order of Health Care Needs for Dependent Children attached hereto and incorporated herein by reference.”

“IT IS FURTHER ORDERED that if, after the issuance of this order, private health insurance becomes available for the dependent children at a reasonable cost through a plan offered by the obligor’s or obligee’s employer or through any other private health insurance plan available to obligor or obligee, said party shall immediately notify the Montgomery County Support Enforcement Agency, 14 West Fourth Street, Room 530, Dayton, Ohio 45422-3080, in writing of the available insurance, company name and address and policy number.”

**5.14.4 Mandatory Cash Medical Support Language** - When a child support order is issued or modified, the order shall include the amount of cash medical support to be paid by the obligor [R.C. 3119.30(C)]. Any cash medical paid pursuant to R.C. 3119.30(C) shall be paid by the obligor to the obligee, through the Ohio Child Support Payment Central, if the child(ren) is not Medicaid recipients or to be the office of child support to defray the cost of Medicaid expenditures if the children are Medicaid recipients.

“**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** that when health insurance **IS** being provided by a party in accordance with this order for the child(ren) named above, the obligor shall pay child support for the minor child(ren) in the amount of \$\_\_\_\_\_ per month, per child, for \_\_\_\_\_ child(ren), \$\_\_\_\_\_ per month child support arrearage, \$\_\_\_\_\_ per month for spousal support, \$\_\_\_\_\_ per month for spousal support arrearage, plus the 2% SEA processing fee.”

“**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that when private health insurance **IS NOT** being provided by a party in accordance with this order for the child(ren) named above, the obligor shall pay child support for the minor child(ren) in the amount of \$\_\_\_\_\_ per month, per child, for \_\_\_\_\_ child(ren), \$\_\_\_\_\_ per month cash medical support, \$\_\_\_\_\_ per month child support arrearage; \$\_\_\_\_\_ per month for spousal support; \$\_\_\_\_\_ per month for spousal support arrearage, plus the 2% SEA processing fee.”

If private health insurance coverage is being provided and becomes unavailable or is terminated, the obligor **SHALL BEGIN** paying cash medical support commencing the first day of the month

immediately following the month in which private health insurance coverage became unavailable or is terminated, and SHALL CEASE paying cash medical support on the last day of the month immediately preceding the month in which private health insurance coverage begins or resumes. Cash medical support shall be paid in addition to child support.

#### **RULE 5.15 PARENTING TIME**

(A) The Court has adopted a Standard Order of Parenting Time [Appendix C].

(B) In the event that the Standard Order of Parenting Time is not ordered, the following language shall be included in all Parenting Time orders:

(C) Out-of-State Relocation: If the residential parent intends to move to a residence other than the residence specified in the parenting time order or decree of the Court, that parent shall file a notice of intent to relocate with the Court. Except as provided in ORC 3109.051 (G)(2), (3), and (4), the Court shall send a copy of the notice to the non-residential parent. Upon receipt of the notice, the Court, on its own motion or the motion of the non-residential parent, may schedule a hearing with notice to both parents to determine whether it is in the best interest of the child to revise the parenting time schedule for the child.

(D) Access to Records: The non-residential parent shall have access to the same records, same school activities and to any daycare center which the child(ren) attend on the same basis that said records and access is legally permitted to the residential parent, unless a restrictive order has been obtained from the Court. It is the responsibility of the parent obtaining a restrictive order to serve it on the appropriate organization.

(E) Notice of Change of Address: Both parents shall give written notice to the other parent immediately upon any change of address and/or phone number, unless a restrictive order has been obtained from the Court. A copy of the notice, including the party's name and case number, shall also be provided to the Juvenile Court Support Office, Juvenile Justice Center 380 W. Second Street, Dayton, Ohio 45422.

**5.15.1 Parenting Phase-In** - The Court has adopted Standard Phase-In Parenting Time Guidelines

Where the child may not be sufficiently familiar with the parent to warrant standard parenting time scheduling, the Court may consider, subject to the child's best interests, phase-in parenting time guidelines before initiating the standard parenting time schedule. [Appendix D]

#### **RULE 5.16 COMPETENCY PROCEEDINGS**

(A) General Purpose - The purpose of these rules is to expedite proceedings under sections 2152.51 to 2152.59 of the Revised Code, to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under these sections.

(B) Expedited Hearings - Juvenile competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or by this rule.

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

(D) Stay of Proceedings - Upon the filing of a motion for a determination regarding a child's competency or upon the Court's own motion the Court shall stay all delinquency proceedings pending a determination of competency. If, upon a determination of competency, the Court determines that the child is not competent but could likely attain competency, the Court order staying the delinquency

proceedings shall remain in effect until such time as the child attains competency or the proceeding is dismissed.

(E) Motion – A Motion for a Competency Evaluation shall be made in writing, filed with the Clerk and submitted to the Judge or Magistrate along with an Entry for the Judge or Magistrate to sign. Within 15 days of a motion the Court will determine either the juvenile is incompetent, or whether a reasonable basis exists to conduct a competency evaluation.

(F) Reasonable Basis - If Court decides reasonable basis exists then the Court shall order the competency evaluation be conducted by the Court Psychologist who shall be the appointed evaluator.

(G) Evaluation - Within ten days of appointment, the APA and defense counsel shall provide evaluator all relevant, non-privileged information and reports that are in the attorney's possession, the evaluator shall evaluate these specific characteristics and child's capacity to comprehend and appreciate the charges or allegations, understand the adversarial nature of the proceedings including the roles of the participants, assist in the child's defense and communicate and comprehend and appreciate consequences. The evaluator should submit the report within 45 calendar days. The Court may grant one extension of a reasonable length of time. The evaluator's report shall be limited to opinions of whether or not the juvenile meets the criteria for legal competency, whether the juvenile could attain competency through accommodations in Courtroom, or whether an incompetent juvenile could obtain competency within specified time lines. If the evaluator feels this option is viable, then evaluator shall also provide known competency attainment services

(H) Post-evaluation - Copies of reports should be provided to attorneys and guardians ad litem. Objections can be made with a request for second evaluation subject to the same timelines as the original. The moving party pays for a subsequent evaluation. After the submission of all evaluations, the Court shall conduct a hearing in 15 to 30 days to determine juvenile's competency, and shall rule within 15 days of competency hearing finding either the juvenile is competent, the juvenile is not competent and cannot obtain competency, or the juvenile is not competent and can obtain competency.

#### **RULE 5.17 PSYCHOLOGICAL REPORTS**

(A) In any case in which the Court orders a psychological evaluation, the report of the psychologist shall be submitted to the Court within sixty (60) days from the Court's order, or as directed by the presiding Judge or Magistrate.

(B) Upon request and for good cause shown, the presiding Judge or Magistrate may order the parties to submit to a second (2<sup>nd</sup>) psychological evaluation. The request must be timely made and the Court shall afford the parties a reasonable opportunity to respond. When the Judge or Magistrate orders that an evaluation be done, it shall determine the party to be responsible for the payment of the charges for same. The presiding Judge or Magistrate may apportion the charges for such evaluation between the parties and may tax the charge as costs. The maximum fee payable for a second (2<sup>nd</sup>) psychological evaluation shall be one thousand dollars (\$1,000.00).

(C) Failure of a party to cooperate with an evaluation ordered by the Court may result in the application of sanctions, including the imposition of fines and incarceration; payment of attorney fees; reimbursement for lost wages; and payment of the charges of the evaluator. If the party bringing the action fails to cooperate, judgment may be entered against him or the matter dismissed.

(D) The presiding Judge or Magistrate may require that reports made pursuant to orders issued under this rule be delivered directly to the Court and may prescribe the manner in which any reports made under this rule will be distributed. It may restrict the access of the parties to the reports. The presiding Judge or Magistrate may also limit the number of copies to be made of the report and may require that any copies be returned to the Court upon the conclusion of the action. Excess copies may be destroyed when the original reports are retained as a part of the Court file.

**RULE 5.18 PETITIONS FOR PROTECTION ORDERS** may be requested with the Court, for cases where the respondent is under 18 at the time of the occurrence and the petitioners reside in Montgomery County. Petitions are screened by the Court's Intervention Center which is staffed 24/7/365. The petitions are filed with the Clerk, during normal business hours. Ex parte hearings shall be heard within one (1) business day of file and full hearings shall follow upon service of the respondent's parent and/or legal guardian, but set within 14 days of file or ex parte hearing. Objections to protection orders do not stay the previous ruling.

### **RULE 5.19 CONTINUANCES**

5.19.1 Continuance requests shall be made in accordance with Juv. R. 23 and Sup. R. Rule 41. The decision to grant or deny a continuance is discretionary and it should not be assumed that the Court will grant the motion automatically. Ruling on a continuance request may be reserved until the scheduled hearing date where continuances on the record are necessary to preserve service or notice on parties.

5.19.2 No case in which a date has been fixed for a detention hearing, preliminary conference, adjudicatory or other hearings shall be continued, except for good cause, and only by the Judge or Magistrate to whom the matter is assigned. The cause shown must include that it was not known to counsel prior to the day of trial and that counsel has used diligence to be ready for trial. Counsel must have notified, or made diligent effort to notify, all parties as soon as he/she became aware of the necessity to ask for a postponement. This rule cannot be waived by consent of counsel. Cases will be continued when counsel is actually engaged in trial in another court provided such counsel notifies the Judge or Magistrate of being so engaged.

5.19.3 All requests for continuances must be made in writing and filed seven days before the scheduled hearing date. However, the Court may consider a Motion for Continuance that is filed less than seven days before the scheduled hearing date upon demonstration of emergency or for other unforeseen circumstances.

5.19.4 All requests for continuances shall contain the following information:

- (A) The date on which the need for the continuance arose;
- (B) The reasons for requesting the continuance;
- (C) The date on which all other attorneys of record, pro se parties and guardians ad litem on the case were contacted, and whether they agree on the need for a continuance; and,
- (D) The earliest date that all parties will be ready to proceed. (effective February 6, 2017)

### **RULE 5.20 FILING OF APPEALS**

**5.20.1** Upon the filing of a notice of appeal, the Court shall appoint counsel if youth is found to be indigent and youth requests counsel to handle the appeal procedure. In accordance with the procedures of the 2<sup>nd</sup> District Court of Appeals of Ohio, absent the showing of any special circumstances that justify the continuation of appointed Juvenile Court counsel as appellate counsel, the Juvenile Court shall appoint counsel other than the trial counsel to represent the youth on appeal and the assigned juvenile Court counsel shall file a motion to withdraw.

**5.20.2** A Civil Docket Statement is required in every appeal, and shall be filed with the required amount of copies at the Clerk's Office.

**5.20.3** If a transcript is needed for an appeal and a full transcript has not been prepared, then the appellate counsel will need to request a transcript pursuant to Rule 5.5 herein, and the Juvenile Court shall approve and appoint a transcriber to prepare a transcript.

**5.20.4** Pursuant to Juv. R. 40(D)(3)(iv) A party shall not assign as error on appeal the Court's adoption of any finding of fact or conclusion of law, in that decision, unless the party timely and specifically objects to that finding or conclusion.

**5.20.5** A filing fee deposit, as set by the Court of Appeals, is required at the time of the filing of the appeal, unless proof of indigency is provided.

## **RULE 5.21 MOTION TO SHOW CAUSE**

### **(A) Content of Motion**

Any motion to show cause shall state with specificity each provision of a prior court order which a party is alleged to have failed to comply, the date of such order, and the facts constituting the noncompliance.

The motion shall be supported by an affidavit signed by the party. (effective February 6, 2017)

(B) Motions for Nonsupport - Motions alleging failure to pay child support shall clearly set forth the date of the last order of support, the amount of the support order, the total elapsed weeks or months, the amount which should have been paid under the order and the amount which was actually paid during that time, and the amount of arrearages existing to the date of filing. At the hearing, the filing party shall be prepared to update the arrearage computation to the date of hearing.

(C) Motions for Parenting Time / Visitation - Motions alleging failure to comply with court order for parenting time shall clearly state forth the dates of alleged denial of parenting time and the date of the order of parenting time which is the subject of the motion.

(D) Medical Bills or Other Support Obligations - Motions alleging nonpayment of medical bills shall contain an itemization of the expenses that are claimed to be due and whether demand of payment has been made prior to the filing of the motion.

All motions alleging contempt shall contain the statutory notice required by the ORC, which is required to be served upon the respondent.

**HEALTH INSURANCE CONTEMPT: IF YOU ARE FOUND IN CONTEMPT FOR FAILURE TO COMPLY WITH HEALTH INSURANCE ORDERS RELATING TO MINOR CHILDREN, YOU ARE LIABLE FOR ANY MEDICAL EXPENSES INCURRED AS A RESULT OF YOUR FAILURE, AND UPON A SECOND OFFENSE, YOUR CHILD SUPPORT OBLIGATION MAY BE INCREASED (O.R.C. §3119.56)**

(E) Interest - If interest is being sought on child support arrears which have accrued since July 1, 1992, the party requesting interest shall have determined, prior to hearing, how many weeks or months of support the computed arrearage constitutes, and categorize the total weeks or months of arrearages based on the amount of weekly or monthly support ordered and based on the rate of 10% per year simple interest. If interest on unpaid periodic support is being sought, the party must request, in writing, such interest and shall have, prior to hearing, determined how many weeks of support the computed arrearage constitutes and categorize the total weeks of arrearage based on the amount of weekly support ordered (if the amount of support increased or decreased over the period of arrearage) and based on the change in the rate of interest as follows:

1. prior to July 1, 1962, 4%
2. from July 1, 1962 to July 29, 1980, 6%
3. from July 30, 1980 to July 4, 1982, 8%
4. from July 5, 1982 - forward, 10%

The interest awarded on arrearage and judgments on arrearage shall be simple interest.

### **5.21.1 Content of Summons – Motion to Show Cause (to be attached to the Motion)**

**NOTICE TO THE PERSON SERVED WITH THIS NOTICE: YOU ARE ACCUSED OF CONTEMPT OF A COURT ORDER. YOU SHOULD READ THIS NOTICE.**

(A) A notice of hearing date is attached. Your failure to appear at this hearing may result in the issuance of an order for your arrest. If this case involves alleged failure to pay support, the Court may also issue an order for the payment of support by withholding an amount from your personal earnings or by withholding or deducting an amount from some other asset of yours.

(B) You have a right to be represented by legal counsel in this matter. If you believe that you are indigent, you must apply for a public defender or Court-appointed counsel within three (3) business days after receipt of the attached summons. THE ADDRESS OF THE MONTGOMERY COUNTY PUBLIC

DEFENDER'S OFFICE IS: 117 S. MAIN STREET, SUITE 400, DAYTON, OHIO 45422. THE TELEPHONE NUMBERS ARE (937) 225-4652 or (937) 225-5566.

(C) The Court may refuse to grant you a continuance at the time of hearing for the purpose of obtaining counsel, if you fail to make a good faith effort to retain counsel or to obtain a public defender.

(D) The following potential penalties could be imposed upon you if you are found guilty of contempt for your failure to pay support, or for your failure to comply with a visitation order or decree:

**STATUTORY PENALTIES: FOR A FIRST OFFENSE, YOU MAY BE FINED NOT MORE THAN \$250 AND IMPRISONED NOT MORE THAN THIRTY (30) DAYS, OR BOTH. FOR A SECOND OFFENSE, YOU MAY BE FINED NOT MORE THAN \$500 AND IMPRISONED FOR NOT MORE THAN SIXTY (60) DAYS, OR BOTH. FOR A THIRD OFFENSE, YOU MAY BE FINED NOT MORE THAN \$1,000 AND IMPRISONED NOT MORE THAN NINETY (90) DAYS, OR BOTH (O.R.C. 2705.5) IMPRISONMENT UNTIL COMPLIANCE: IF YOUR CONTEMPT CONSISTS OF THE OMISSION TO DO AN ACT WHICH THE COURT FINDS YOU CAN YET PERFORM, YOU MAY BE IMPRISONED UNTIL YOU PERFORM IT. (O.R.C. 2705.06) SUPPORT CONTEMPT: IF YOU ARE FOUND IN CONTEMPT FOR FAILURE TO MAKE CHILD SUPPORT OR SPOUSAL SUPPORT PAYMENTS AS ORDERED, IN ADDITION TO ALL OTHER PENALTIES, THE COURT MAY ORDER YOU TO PAY ALL COURT COSTS AND REASONABLE ATTORNEY FEES TO THE OTHER PARTY. (O.R.C. 3105.21; 33113.31(K); & 3105.18(G). IN ADDITION, IF THE COURT FINDS YOUR FAILURE TO PAY CHILD SUPPORT WAS WILLFUL, IT MUST REQUIRE YOU TO PAY INTEREST ON YOUR CHILD SUPPORT ARREARAGES. (O.R.C. 3123.17) PARENTING TIME CONTEMPT: IF YOU ARE FOUND IN CONTEMPT FOR FAILURE TO COMPLY WITH OR INTERFERENCE WITH ANY COMPANIONSHIP OR PARENTING TIME RIGHTS, IN ADDITION TO ALL OTHER PENALTIES, THE COURT MAY ORDER YOU TO PAY ALL COURT COSTS AND REASONABLE ATTORNEY FEES TO THE OTHER PARTY, AND MAY ALSO AWARD COMPENSATORY VISITATION TIME. (O.R.C. 3105.051(K) ADDITIONAL PENALTIES: IN ADDITION TO ALL PENALTIES IMPOSED BY STATUTE, THE COURT HAS THE INHERENT POWER TO IMPOSE ADDITIONAL SANCTIONS FOR CONTEMPT OF COURT**

**5.21.2** Content of Summons – Motion to Impose **Civil Contempt** Sentence (to be attached to the Motion)

**NOTICE TO THE PERSON SERVED WITH THIS NOTICE: IT HAS BEEN REQUESTED THAT A PREVIOUSLY SUSPENDED SENTENCE AGAINST YOU NOW BE IMPOSED**

(A) You have been found in civil contempt and the Court is being asked to impose the previously suspended sentence.

(B) You have the right to obtain legal counsel [an attorney] for representation at this hearing at your own cost. You are not entitled to Court appointed counsel.

(B) Criminal Contempt

(C) A continuance will not be granted to obtain counsel if you have not made a good-faith effort to secure legal representation.

(D) You will be given an opportunity to address the Court whether or not you have an attorney.

(E) You may bring any documents you have that you wish the Court to consider in determining whether to impose the previously suspended sentence.

(F) You are hereby notified that failure to appear as ordered subjects you to a possible warrant for your arrest.

### **5.21.3 AWARD OF ATTORNEY FEES IN CONTEMPT ACTIONS**

(A) Pursuant to ORC 3105.2(C), attorney fees in contempt actions shall be awarded if defendant is found in contempt, and in the absence of particular testimony at hearing set for that purpose, attorney fees are deemed to be reasonable in the amount of \$350.00, or otherwise determined at hearing if requested.

(B) If the moving party requests fees in excess of \$350.00, there must be testimony from a properly qualified expert witness as to the reasonableness of the request.

### **RULE 5.22 JURY MANAGEMENT PLAN**

The selection of jurors for Montgomery County Common Pleas Court, Juvenile Division, shall be in accordance with Montgomery County Court of Common Pleas Rule 1.23.

### **RULE 5.23 FAILURE TO ABIDE BY THE RULES (COURT)**

A failure to abide by the rules of the Montgomery County Court of Common Pleas Rules of the Juvenile Division by the Court does not give either party grounds for dismissal. However, a party may make a motion to the Court to correct the violation.

### **RULE 5.24 FAILURE TO ABIDE BY THE RULES (PARTY)**

A failure to abide by the rules of the Montgomery County Court of Common Pleas Rules of the Juvenile Division by a party may be grounds for dismissal without prejudice by the Court. However, a party must file a motion to correct the violation.

### **RULE 5.25 FILING FEES AND COSTS**

(A) The party initiating the action shall submit the filing fee at the time of filing. If the party is indigent and unable to pay the fee, the clerk may accept the filing if accompanied by an affidavit of indigence and documentation in support of the affidavit such as payroll receipts, Social Security determinations, or public assistance determinations.

(B) The Magistrate presiding over the case will review all affidavits of indigence. The Magistrate may accept the affidavit as filed or set a hearing to determine if the filing fee must be paid before the case may proceed. If a party's financial status changes during the course of the proceedings, the party is under a duty to inform the Court. The Court may order subsequent payment of the filing fee if the Court finds that financial circumstances have changed since the filing of the case.

(C) Failure to comply with the rules for commencement of an action may delay or preclude the filing of the case.

(D) Court costs and fines may be ordered in any case where applicable, pursuant to the posted fee schedule, state or local requirements.

### **RULE 5.26 GENERAL SPECIAL PROJECT FEE**

(A) Pursuant to ORC, Section 2303.201 (E)(1), the Juvenile Division of the Court of Common Pleas for Montgomery County, Ohio, has determined that for the efficient operation of the Court, additional funds are necessary to acquire and pay for special projects of the Court.

(B) All fees collected shall be used for special projects consistent with ORC 2303.201(E)(1). All fees collected shall be paid to the Montgomery County Treasurer. The Treasurer shall place the funds from the fees in separate general special project fund to be disbursed upon an order of the Juvenile Division of the Court of Common Pleas for Montgomery County.

(Fee schedule is located under **Appendix A** of these rules)

(C) Fees for Computer Research and Services



Pursuant to the authority of R.C.2151.541(A)(1)(b) it is determined that, for the efficient operation of the Juvenile Branch of this Court additional funds are required to obtain computerized legal research services.

(D) The Clerk of this Court is directed and hereby authorized to charge and collect a fee of three dollars (\$3.00) upon the filing of each cause or appeal under R.C.2303.20(A), (Q), and (U). The fee is included in the appropriate security for costs sections listed above.

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

(F) Pursuant to the authority of R.C.2303.201 (B)(1) it is determined that for the efficient operation of the Juvenile Branch of this Court, additional funds are required to computerize the Clerk's office located therein.

(G) The Clerk of this Court is directed and hereby authorized to charge an additional fee of twenty-five dollars (\$25.00) upon the filing of each cause of action, appeal, certificate of judgment, or the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under R.C.2303.20(A), (P), (Q), (T) and (U).

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

#### **RULE 5.27 FILING OF PAPERS**

(A) Duties of the Clerk: The Clerk shall file and maintain all documents delivered to the Clerk's Office, that adhere to the requirements as provided in these local rules. Filings not in compliance with these rules may be refused for filing.

(B) Size of Documents, Pagination and Heading Requirement: All pleadings, motions, briefs and other similar documents that are filed with the Clerk shall be typewritten or printed, on white 8-1/2" x 11" paper, in at least a 10 point regular type font, and paginated sequentially. In all filings a blank space of at least two inches shall be left at the top of the first page for endorsements, time stamps and other identifying marks thereon and shall have appropriate side and bottom margins. Each consecutive page shall have appropriate top, bottom, and side margins.

(C) Documents Requiring Service or Notice: All documents requiring service or notice upon filing shall:

- (1) Include the complete addresses of the parties to the case in the instructions for service; OR
- (2) Indicate that the address is unknown; if such addresses are in fact, unknown. The filing party must request and pay any additional fee for publication in which a party to the case has an address that is unknown.
- (3) The Clerk shall not accept for filing any document that must be served upon counsel or parties, which does not designate names and addresses on the accompanying instruction for service or within the certificate of service. The Clerk shall not accept a filing without instructions for service, a certificate of service, or waiver of service which has been signed by opposing counsel and/or parties to the one filing the documents.
- (4) Nothing in these rules shall be construed so as to prevent a party or parties from representing themselves.

(D) All properly completed paperwork requesting filing will be filed within one business day, from the time of drop-off or receipt via mail. Facsimile transmissions will be held for one business day, and upon receipt of the original, will be filed as of the date that the facsimile was received. However, if the original is not received in excess of one business day, it will be filed on the date of receipt. Any filing brought to the office after filing hours will be processed the next business day.

(E) Any agreement drafted by the parties to a case or the respective attorney(-ies) may be submitted as a proposed agreement or order. Some agreements require a filing to reactivate the case, and the proposed order will not be accepted until the case is reactivated. The court retains the right whether or not adopt the submitted agreement.

## **RULE 5.28 PROCESS**

(A) Summons: Service and return shall be done according to Juv. R. 16.

(B) Locations for Service by Posting shall be the Montgomery County Court of Common Pleas Juvenile Division Juvenile Justice Center, the Department of Jobs & Family Services Children Services Division's Haines Children's Center, the main branch of The Dayton Metro Library, and Department of Jobs & Family Services' Job Center.

## **RULE 5.29 SPECIALIZED DOCKETS**

### **5.29.1 Juvenile Treatment Court**

(A) Establishment of the Juvenile Treatment Court Docket –The type of docket being created is a Specialized Dockets: Juvenile Treatment Court. The program will serve court involved residents of Montgomery County ages 14-17, who have been adversely affected by drugs and/or alcohol with the ability to serve approximately 165 annually. In collaboration with the Juvenile Court, ADAMHS Board, Reclaiming Futures and several treatment providers, the goal is to reduce substance abuse and recidivism by providing judicially supervised treatment and case management, drug testing, community supervision and use of incentives/sanctions. Participants improve in major life areas as they are expected to follow the rules of the home, attend school, attend probation meetings, counseling sessions and court hearings, obtain employment (if age appropriate) and become drug free. Montgomery County Juvenile Treatment Court has been in existence since 1997.

(B) Placement in the Juvenile Treatment Court Docket –

The referral and acceptance guidelines are as follows:

- 1) A Judge, Magistrate, Intervention staff or probation staff identifies that youth may benefit from the intensive case management and treatment court docket and makes a referral to Juvenile Treatment Court stating why they believe youth should be accepted into the program. A Caring for Kids referral is also done at this time.
- 2) Juvenile Treatment Court supervisor assigns case to a Drug Specialist for additional screening and assessments. Drug Specialist makes final recommendation, in collaboration with Supervisor to whether youth is an appropriate candidate for the program. Parents must sign necessary consents, Participation Agreement and Medical Release to be considered. Participant Handbook is given to all families who agree to participate in the program.
- 3) To be considered a candidate for Juvenile Treatment Court, participants must meet the minimum criteria as determined by the Federal Government and State of Ohio. These include, but are not limited to, the following guidelines:

Youth must:

- Be a Montgomery County resident and involved with the Montgomery County Juvenile Court;
- Not have any current adjudications for violent felony offenses or offenses of a sexual nature, unless an exception is made by the Juvenile Treatment Court Judge;
- Be between the ages of 14 and 17;
- Be drug involved, have positive urinalysis or admit to the use of alcohol or other illicit substances;
- Not have any serious mental health diagnosis, fire-starting behaviors or history of acts of animal cruelty;

- Have a Caring for Kids assessment reporting that youth has a drug abuse or dependence issue and could benefit from further AoD treatment.
- Have a parent or guardian willing to actively participate in Juvenile Treatment Court.

4) If youth is found to be an appropriate candidate for the program, the youth and family are given a court date to appear in front of the Juvenile Treatment Court Judge for official program acceptance. The Juvenile Treatment Court Judge has the right to deny any youth acceptance into the program. Youth is also assigned to a Juvenile Treatment Court Case Manager at this hearing. The official rules and expectations are given to youth and family formally during the Acceptance Hearing.

(C) Case Assignment –

A case is transferred to the Juvenile Treatment Court Judge upon acceptance of the youth into the program. If youth unsuccessfully completes and is transferred to another probation department, youth will be re-assigned to the previously assigned Magistrate.

(D) Juvenile Treatment Court Docket Case Management –

Youth and families are given the Participant Handbook and asked to sign the Participant Agreement at the end of the initial screening if it is deemed that youth is an appropriate candidate and the family agrees to participate in the Juvenile Treatment Court program. Once accepted into the program, the youth and family are automatically in Phase 1 of the Juvenile Treatment Court Program. This initial phase, Orientation, allows the Juvenile Treatment Court team to analyze the assessments and link youth to the appropriate recommended services. Youth is also referred for a Natural Helper through the Reclaiming Futures program. Once youth stabilizes and enters a treatment program youth will advance to Phase 2. Phase 2 requires the completion of half of the recommended treatment track. Home issues and school attendance are also closely monitored, as well as drug testing. Once youth completes half of their treatment program, youth can advance to Phase 3. The 3<sup>rd</sup> phase requires the youth to complete their recommended treatment track and continue to have school and home monitoring, as well as weekly drug tests. The youth will also begin to participate in pro-social activities and will need to have 45 days sober in order to advance to the next phase. The 4<sup>th</sup> Phase includes group participation and requires that the participant be drug free for a minimum of ninety (90) days, with the last thirty (30) of those being consecutive. Upon successful completion of Juvenile Treatment Court, participants receive special recognition, the opportunity to have their record seal and expunged early, and a graduation certificate signed by the Juvenile Treatment Court Judge.

(E) Termination from the Juvenile Treatment Court Docket –

The termination criteria for the MCJC Juvenile Treatment Court docket is as follows:

- Successful completion of the program.
- Youth could be terminated if adjudicated of a violent offense felony as stipulated by the Ohio Revised Code. The Juvenile Treatment Court Judge has discretion when deciding if youth should be terminated or kept in the program. Cases such as Arson or any Sex Related Charge will be immediately considered for termination at the discretion of the Juvenile Treatment Court Judge and/or treatment team.
- Youth could also be terminated from Juvenile Treatment Court if youth has consistently been non-responsive to services and is at least 18 years of age. The Case Manager assigned to the case needs to be able to articulate all services that have been offered, all sanctions and incentives, and any unofficial efforts made that youth and/or the family have not followed through with while youth has been in the program and present in to the Judge in the form of a report. The Juvenile Treatment Court Judge will make the final determination of whether or not youth should be terminated based on this report.

- Youth will be terminated from the program if youth is no longer considered a Resident of Montgomery County or has been placed by the court or another governmental agency in any long term residential placement that is located outside of Montgomery County.
- Participant turns 21 years of age.
- Youth would be terminated if it is deemed that youth could benefit from additional programming outside the scope of Juvenile Treatment Court, such as primary mental health diagnosis or behavioral issues.
- Youth could be terminated as Neutral if any of the following criteria are met: serious mental-health condition, death of participant, inability to participate in Juvenile Treatment Court due to (but not limited to): incarceration for an extended period of time, injury, illness, communicable disease or relocation.[updated effective February 6, 2017]

**APPENDIX A**  
 [updated eff. 03/23/2015]  
**FEE SCHEDULE / CASHIERING PROCEDURES**  
**MONTGOMERY COUNTY JUVENILE COURT CLERK'S OFFICE**

CUSTODY, VISITATION &/OR PARENTAGE FILING FEE / COMPLAINT  
 (copies provided by filing party) . . . . . \$130.00  
 (Filings with same parties and more than one child is \$130.00 for the  
 first child and \$80.00 for each additional child.)  
 ORC 2303.201(C) [S.B.177 Eff. 03/23/2015]

CUSTODY, VISITATION &/OR PARENTAGE FILING FEE / MOTION  
 (copies provided by filing party) . . . . . \$80.00  
 (Filings with same parties and more than one child – this is a flat rate)  
 ORC 2303.201(C) [S.B.177 Eff. 03/23/2015]

SUPPORT FILING FEE / COMPLAINT (copies provided by filing party) . . . . . \$115.00  
 (Filings with same parties and more than one child is \$115.00 for the  
 first child and \$65.00 for each additional child.)

SUPPORT FILING FEE / MOTION (copies provided by filing party) . . . . . \$65.00  
 (Filings with same parties and more than one child – this is a flat rate)

**MULTIPLE CHILD CASES:** For the above noted cases where there is a discount on complaints filing fees when there are siblings and parties are the same for each child, an attorney may write one check for the entire amount. If the case is being filed as a “Pro Se,” the private individual may pay with one money order (via mail) or by cash or credit card (in person) in the amount of all the cases. The discount is provided to all that file cases.

COPY PREPARATION BY COURT SERVICE . . . . . \$5.00  
 (charge will be added per filing fee)

FINGERPRINTING FEE/BCI . . . (CUSTODY CASES ONLY) . . . . . \$40.00  
 FINGERPRINTING FEE/FBI . . . (CUSTODY CASES ONLY) . . . . . \$50.00

PUBLICATION . . . . . \$45.00

MARRIAGE CONSENT . . . . . \$50.00

COURT OF APPEALS . . . . . \$100.00

APPLICATION FOR SEALING ... (ADULT CASES) . . . . . \$50.00

APPLICATION FOR APPOINTED COUNSEL . . . . . \$25.00

WRIT OF HABEAS CORPUS . . . . . \$90.00

JURY DEMAND . . . (PATERNITY CASES ONLY) . . . . . \$25.00

NO CHARGE FOR JURY DEMAND ON CRIMINAL CASES.

RE-ISSUANCE OF SERVICE . . . . . \$20.00

PREPARATION AND SERVICE OF SUBPOENAS (EACH).....\$40.00

Note: Counsel Must Submit A Check from Trust Account Payable  
To Witness Being Subpoenaed Before Filing; not applicable to  
Juvenile quasi-criminal matters or Adult Criminal matters.

SERVICE (ONLY) of PARTY-PREPARED SUBPOENAS.....\$20.00

“NSF” FEE .....\$35.00

HALF DAY WITNESS FEE.....\$6.00

FULL DAY WITNESS FEE .....\$12.00

OUT OF COUNTY WITNESS FEE.....\$12.00

(Plus Ten Cents Per Mile Round Trip Mileage)

Note: Witness checks provided by counsel should be made out to each individual witness.

TEMPORARY RESTRAINING ORDER (Support only).....\$20.00

FIGURING COURT COSTS

**NOTE: MAILING FEES/COSTS MAY BE ADJUSTED TO COINCIDE WITH CHANGES IN U.S GOVERNMENT POSTAL INCREASES, WITHOUT FILING A LOCAL RULE AMENDMENT.**

ALL ENTRIES (INCLUDING FINAL)..... \$2.00

NEW SERVICE (SUMMONS, SUBPOENAS) PER PERSON ..... \$2.00

WARRANTS / CAPIAS ..... \$1.00

(ENTRY: PRAECIPE + WARRANT = \$3.00)

AFFIDAVITS ..... \$1.00

CERTIFIED MAIL ..... \$7.00

REGULAR MAIL ..... \$3.00

RESTRICTED / REGISTERED MAIL ..... \$10.00

COMMERCIAL CARRIER .....\$10.00

JC MISDEMEANOR FILING FEE & TRAFFIC MOVING VIOL . \$20.00

(\$9.00 VICTIM FUND + \$11.00 PUBLIC DEFENDER FUND)

JC FELONY FILING FEE ..... \$41.00

(\$30.00 VICTIM FUND + \$11.00 PUBLIC DEFENDER FUND)

CERTIFIED COPIES ..... (PER PAGE) ..... \$1.00

REGULAR COPIES ..... (PER PAGE)..... \$1.10

MCSO JAIL BOOKING /RELEASE FEE .....

BOOKING FEE . . . INTO JAIL ..... \$4.00

BOOKING FEE FOR RELEASE FROM JAIL .....	\$4.00
FOREIGN SHERIFF .....	ADD FIGURES IN DOCKET
LOCAL SHERIFF .....	ADD FIGURES IN DOCKET
STENOGRAPHER.....	ADD FIGURES IN DOCKET
POSTAGE .....	ADD FIGURES IN DOCKET
LEGAL RESEARCH .....	\$3.00
COMPUTER FUND .....	\$10.00
SPECIAL PROJECTS FEE.....	\$25.00
MEDIATION FEE (ALREADY INCLUDED IN FILING FEE).....	\$5.00

**SERVICE FEES**

A re-issuance of service, whether to change method or address costs \$20.00.

Additional costs may be charged for commercial carriers used in service, based on charges of that commercial carrier that are NOT covered by the initial filing fee deposit.

**BASIC COURT COSTS**

**1. TRAFFIC**

<u>Moving Violations</u>	\$93.00
<u>Non Moving Violations</u>	\$53.00
<u>Reset Fee</u>	\$30.00
<u>BMV Forfeiture Fee</u>	\$15.00

**Fines and additional Court Costs can be added to the above Basic Traffic Court Costs.**

<u>Seat Belt Fine/Driver</u>	\$30.00
<u>Seat Belt Fine/Passenger</u>	\$20.00

**Basic Costs and additional Court Costs can be added to the above Basic Seat Belt Fines.**

**The schedule of fines and costs which shall be charged by the TRAFFIC BUREAU for qualifying citations:**

<u>Minor misdemeanor (moving violation)</u>	\$143.00
<u>Minor misdemeanor (non-moving violation)</u>	\$103.00
<u>Seatbelt driver</u>	\$83.00
<u>Seatbelt passenger</u>	\$73.00

**2. DELINQUENCY AND UNRULY**

<u>Felony</u>	\$119.00
<u>Misdemeanor and Unruly</u>	\$68.00
<u>Tobacco Cases (pay ticket / no hearing)</u>	\$100.00
<u>Tobacco Cases</u>	\$68.00

**Fines and additional Court Costs can be added to the above Basic Delinquency and Unruly Court Costs.**



**APPENDIX B  
FORMS**

IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
JUVENILE DIVISION

APPOINTED ATTORNEY / : JUDGE NICK KUNTZ  
GUARDIAN AD LITEM : JUDGE ANTHONY CAPIZZI  
:

**APPLICATION FOR PLACEMENT ON APPOINTMENT LIST**  
**BACKGROUND DISCLOSURE STATEMENT**

Name: \_\_\_\_\_  
                    First  Middle  Last

Current Business Address: \_\_\_\_\_

\_\_\_\_\_  
City  County  State  Zip Code

(Office)  (Cell)  (Fax)  
Telephone Numbers

\_\_\_\_\_  
Email Address  Ohio Supreme Court Registration Number

Pursuant to Local Rule 5.7, I hereby make application to the Montgomery County, Ohio Juvenile Court for placement on the list of individuals eligible for appointment to indigent clients to serve as their attorney , guardian ad litem , and/or attorney/guardian ad litem  [check all that apply]

<b>BACKGROUND</b>	<b>YES</b>	<b>NO</b>
1. Have you ever been charged with a crime involving a minor?	<input type="checkbox"/>	<input type="checkbox"/>
2. Have you ever committed an act that resulted in a child being adjudicated abused or neglected?	<input type="checkbox"/>	<input type="checkbox"/>

<b>CONDUCT</b>	<b>YES</b>	<b>NO</b>
3. Have you ever been disbarred, suspended, censured, sanctioned, or otherwise reprimanded or disqualified as a member of the legal profession or another profession, or as a holder of public office?	<input type="checkbox"/>	<input type="checkbox"/>
4. Have you ever been the subject of any written charges, complaints, or grievances to a Court or administrative agency concerning your conduct as a Guardian ad Litem or attorney, including any now pending? Do not disclose referrals to the Bar Association or Disciplinary Counsel unless formal action was later taken.	<input type="checkbox"/>	<input type="checkbox"/>

**If you answered yes to any of the questions above, furnish a thorough explanation on a separate sheet.**



IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
JUVENILE DIVISION

APPOINTED ATTORNEY / : JUDGE NICK KUNTZ  
GUARDIAN AD LITEM : JUDGE ANTHONY CAPIZZI  
:

**ADDENDUM TO APPLICATION FOR PLACEMENT ON APPOINTMENT LIST**

I hereby acknowledge that for some of the case types listed on my current application for placement on this Court's appointment list I am already qualified to accept. For the other case types that I want to be considered for but do not have the qualifications already completed, I pledge and commit to becoming so qualified at a reasonable time in the future by completing the appropriate training/continuing legal education courses.

STATE OF OHIO }  
 } ss.  
COUNTY OF MONTGOMERY }

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name

Subscribed and sworn to or affirmed before me this \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_ month  
year

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_



IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
JUVENILE DIVISION

APPOINTED ATTORNEY / : JUDGE NICK KUNTZ  
GUARDIAN AD LITEM : JUDGE ANTHONY CAPIZZI  
:

**ANNUAL ELIGIBILITY REPORT**

Name: \_\_\_\_\_  
First Middle Last

Current Business Address: \_\_\_\_\_

\_\_\_\_\_  
City County State Zip Code

(Office) (Cell) (Fax)  
\_\_\_\_\_  
Telephone Numbers

\_\_\_\_\_  
Email Address Ohio Supreme Court Registration Number

Pursuant to Local Rule 5.7.10 of the Montgomery County, Ohio Juvenile Court, I hereby affirm that I am in compliance with the provisions of Local Rule 5.7, et seq and am eligible to remain on the list of individuals eligible for appointment to represent indigent clients to serve as their attorney , guardian ad litem , and/or attorney/guardian ad litem [check all that apply]. **Guardian ad litem and/or attorney/guardian ad litem:** a copy of the appropriate certificate of compliance with the continuing education requirements of Ohio Rule of Superintendence 48(E)(5) is attached.

I further affirm that there are not  / there are  changes to my responses to my Background Disclosure Statement on file with the Court.

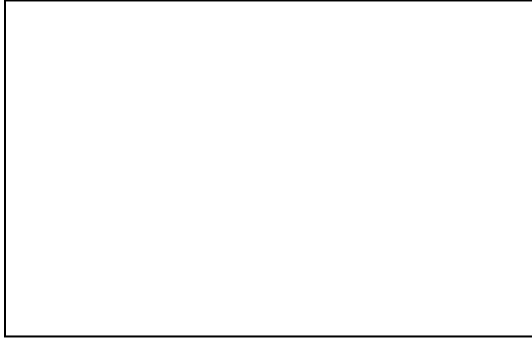
**If there are changes to your responses on the Background Disclosure Statement, please furnish a thorough explanation on a separate sheet.**





**IN THE COMMON PLEAS COURT OF MONTGOMERY COUNTY, OHIO  
JUVENILE DIVISION**

**IN RE:  
DOB:**



\* **CASE NO. JC**  
\* **Judge**  
\* **Magistrate**

\* **REPORT & RECOMMENDATIONS**  
\* **OF GUARDIAN AD LITEM**

**Photo(s) of Child [optional]**

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

\*\*\*\*\*

Now comes the Court-appointed Guardian ad Litem for the above referenced minor child/children and respectfully submits the following report and recommendations, which are of a confidential nature for the benefit of the Court and may be distributed only to parties to the proceedings.

**MOTHER:  
FATHER:  
DATE OF HEARING:  
TYPE OF HEARING:  
GAL LAST SAW CHILD:**

**CASE HISTORY:**

**MATERIALS/RECORDS REVIEWED:**

**LIST INDIVIDUALS INTERVIEWED/OBSERVED:**

**CHILD:  
MOTHER:  
FATHER:  
SIGNIFICANT OTHER(S):**

**SUMMARY OF INDIVIDUAL INTERVIEWS/OBSERVATIONS:**

**CHILD'S WISHES [if unable to provide, please explain]:**

**GAL CONCERNS:**

**GAL RECOMMENDATIONS [must include basis and why in best interest of the child]:**



Respectfully submitted,

\_\_\_\_\_, Guardian ad Litem

[Name]

[Address]

[Telephone Number]

[Attorneys include OhSupCt Reg No]

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been served upon, Attorney for, Address, Dayton, Ohio Zip Code and, Attorney for, Address, Dayton, Ohio Zip Code by ordinary U.S. mail service, and facsimile transmission, on the same day of filing.

By: \_\_\_\_\_  
Guardian ad Litem

**APPENDIX C**  
**MONTGOMERY COUNTY, OHIO JUVENILE COURT**  
**STANDARD ORDER OF PARENTING TIME**  
(effective January 1, 2014)

Parents are encouraged to agree on a fair written parenting time schedule that fits their circumstances and their children's lives, with the following serving as a schedule when the parents cannot agree. The parents may change this schedule by agreement. In the event of conflicting dates and times, the following is the order of priority: Children's Birthdays; Mother's/Father's Day; Holidays; Summer/Breaks; Weekends; then Weekdays. If the parents have more than one child, the parenting time will be exercised with all children together. Each parent has a duty to facilitate and encourage the other parent's parenting time with the children.

1. **WEEKENDS:** The non-residential parent shall have parenting time on alternate weekends from Friday at 6:00 p.m. to Sunday at 6:00 p.m. (Exception – not applicable during summer vacation)
2. **WEEKDAY:** The non-residential parent shall have parenting time from 6:00 p.m. to 9:00 p.m. each Wednesday evening or another weekday evening by agreement. (Exception – not applicable during summer vacation)
3. **HOLIDAYS:** The father shall have the children on the holidays in Column 1 in odd-numbered years and the holidays in Column 2 in the even-numbered years. The mother shall have the children on the holidays in Column 1 in even-numbered years and the holidays in Column 2 in odd-numbered years:

**COLUMN 1**

Martin Luther King, Jr. Day  
Easter Sunday  
Fourth of July  
Beggar's Night (6:00 to 9:00 p.m.)

**COLUMN 2**

Presidents Day  
Memorial Day  
Labor Day  
Thanksgiving Day

Parenting time shall be from 9:00 a.m. the day of the holiday until 9:00 p.m., except for Beggar's Night as observed in that parent's community. When the holiday falls on a Monday immediately following a non-residential parenting time weekend, the non-residential parent shall be entitled to keep the children continuously from 6:00 p.m. Friday to 6:00 p.m. Monday.

4. **MOTHER'S/FATHER'S DAY:** On Mother's Day and Father's Day, no matter the parenting time schedule, the children shall be with the appropriate parent on those days from 9:00 a.m. to 9:00 p.m.
5. **CHRISTMAS BREAK:** In all even-numbered years, the mother shall have the children from 9:00 a.m. the day after school recesses (or 9:00 a.m. on December 20 if the children are not in school), until 9:00 p.m. December 24 and the father shall have the children from 9:00 p.m. December 24 through 6:00 p.m. January 1. In all odd-numbered years the reverse shall apply.
6. **BIRTHDAYS:** In odd-numbered years, the father shall have all the children on each child's birthday from 6:00 p.m. until 9:00 p.m. In even-numbered years, mother shall have all the children on each child's birthday from 6:00 p.m. until 9:00 p.m.
7. **SPRING BREAKS:** In odd-numbered years the father shall have all the children for the spring break from school, starting at 9:00 a.m. the day after school recesses to 6:00 p.m. the Sunday before school

resumes. The mother shall have the children for spring break in the even-numbered years. If all the children are not of school age, the Saturday before Easter through the Friday after Easter shall be substituted.

**8. SUMMER VACATION:** The parties shall exercise summer parenting time in alternating one week increments beginning the first Friday after the last day of school. Each period shall begin on Friday at 6:00 p.m. until the following Friday at 6:00 p.m. The alternate parenting week schedule shall continue until the children are scheduled to return to school. In the odd numbered years, the father shall start the first week. In the even numbered years, the mother shall start the first week.

If either party is employed by an employer that has an annual mandatory shut-down, that party shall have priority for parenting time during that period. If both parents have an identical shut-down period, the non-residential parent shall have priority. If the mandatory shut-down period creates a conflict with the alternating week schedule, the parties shall trade an equal amount of time as make-up for the lost shut-down parenting time.

Mid weekday and alternating weekend parenting time shall be suspended during summer vacation parenting time. Child support will not be reduced during summer parenting time.

Each parent shall provide the other parent with destination, time of departure and arrival, phone number for emergency purposes, and mode of travel and flight numbers.

In all cases, this summer vacation schedule ends at 6:00 p.m. the Friday before classes resume. That Friday the children shall be returned to the residential parent. Effective that Friday, the weekend and weekday parenting times pursuant to paragraphs 1 and 2 above shall resume. The non-residential parent's first alternating weekend shall begin the following weekend.

**9. LATE PICK-UP:** The residential parent shall have the children ready for pick-up at the start of all parenting time. The children and the residential parent have no duty to wait for the non-residential parent to arrive for parenting time more than thirty (30) minutes, unless notified. The non-residential parent who arrives more than thirty minutes late without prior notification for a particular parenting time forfeits that parenting time, unless the residential parent agrees otherwise.

**10. DROP-OFF:** The non-residential parent will not return the children early from parenting time unless the parents agree to a different drop-off time in advance. The residential parent or other adult well-known to the children must be present when the children are returned from parenting time.

**11. CANCELING NON-RESIDENTIAL PARENTING TIME:** Except in emergency situations, the non-residential parent must give at least 24 hours advance notice when canceling any parenting time.

**12. MAKE-UP NON-RESIDENTIAL PARENTING TIME:** Make-up days shall be given if an emergency prevents scheduled parenting time. When requested by non-residential parent, all make-up parenting time shall be rescheduled and exercised within sixty (60) days of that emergency.

**13. MEDICAL TREATMENT AND EMERGENCIES:** If the children become seriously ill or injured, each parent shall notify the other parent as soon as practicable. If the children become ill or injured during their time with the non-residential parent, said parent, shall contact the residential parent to secure treatment unless the situation is a medical emergency.

14. **TELEPHONE/MAIL OR ELECTRONIC:** Neither parent shall interfere with written, voice, or electronic communications between the children and the other parent. Long-distance calls from an out of town parent shall be at that parent's expense. Non-emergency phone calls should be limited to one per day before 8:00 p.m. EST.

15. **TRANSPORTATION:** The non-residential parent has responsibility for transportation of the children to and from their home for parenting time with them and may use another adult well-known to the children for picking up or dropping off the children when necessary. Any person transporting the children may not be under the influence of alcohol or drugs, and must be a licensed, insured driver. All child restraint and seat-belt laws must be observed by the driver. Car seats should be exchanged when required.

16. **SCHOOL WORK:** Parents shall provide time for children to study and complete homework assignments, even if the completion of work interferes with the parent's plans for the children. The residential parent is responsible for providing the non-residential parent all of the school assignments and books. Summer school which is necessary for a child must be attended; regardless of which parent has the child during the summer school period.

17. **EXTRACURRICULAR ACTIVITIES:** Regardless of where the children are living, their continued participation in extracurricular activities, school related or otherwise, should not be interrupted. It shall be the responsibility of the parent with whom the children are residing at the time to discuss the scheduling of such activities with the children and to provide transportation to the activities. Each parent shall provide the other parent with notice of all extracurricular activities, complete with schedules and the name, address and telephone number of the activity leader, if available.

18. **OUT-OF-STATE RELOCATION:** If the residential parent intends to move to a residence other than the residence specified in the parenting time order or decree of the Court, that parent shall file a notice of intent to relocate with the Court. Except as provided in ORC 3109.051 (G)(2), (3), and (4), the Court shall send a copy of the notice to the non-residential parent. Upon receipt of the notice, the Court, on its own motion or the motion of the non-residential parent, may schedule a hearing with notice to both parents to determine whether it is in the best interest of the child to revise the parenting time schedule for the child.

19. **ACCESS TO RECORDS:** The non-residential parent shall have access to the same records, same school activities and to any day-care center which the children attend on the same basis that said records or access is legally permitted to the residential parent, unless a restrictive order has been obtained from the Court. It is the responsibility of the parent obtaining a restrictive order to serve it on the appropriate organization.

20. **NOTICE OF CHANGE OF ADDRESS:** Both parents shall give written notice to the other parent immediately upon any change of address and/or phone number, unless a restrictive order has been obtained from the Court. A copy of the notice, including the parties' name and case number, shall also be provided to the Juvenile Court, 380 W. 2<sup>nd</sup> St., Dayton, Ohio 45422, Attention: Chief Deputy Clerk.

**APPENDIX D**  
**MONTGOMERY COUNTY, OHIO JUVENILE COURT**  
**Phase-In Parenting Time**  
(effective January 1, 2014)

In most paternity cases, the parents and child have not been living together as a family unit. Therefore, it is in the child's best interests that visitation with the non-custodial parent be introduced on a limited basis. After that introduction has been accomplished, visitation would be expanded consistent with the Standard Order of Visitation.

1. Unless the parties agree otherwise, or subject to a modifying order, introductory visitation shall be as follows:

(A) Visitation shall occur once a week for 3 hours away from the custodial parent's home at a neutral site, such as a suitable relative of the non-custodial parent provided they are agreeable.

(B) The child shall not be removed from the agreed upon visitation location during the visitation period.

(C) No beverages alcohol or substances of abuse shall be used by any person involved in the visitation prior to or during the visitation.

(D) The custodial parent shall choose the day and time of the visit, unless this conflicts with the non-custodial parent's work schedule. If the custodial parent cannot choose another non-conflicting day and time, then the non-custodial parent shall choose the day and time.

(E) Introductory visitation shall continue for 4 weeks. If the non-custodial parent misses any visitation, the introductory visitation pattern shall continue beyond 4 weeks until 3 consecutive weeks of visitation have occurred.

2. Following the completion of section 1. (E), visitation shall be enhanced for an additional 4 weeks for 1 day a week for 6 hours per visit, and may occur away from the relative's home. All other guidelines within section 1. shall continue in effect.

3. Following the completion of section 2., the non-custodial parent may have the child for overnight visitation from 10:00 AM to 10:00 AM [unless agreed otherwise by the parents] once every other week for 6 weeks. The choice of days shall follow the selection process set out in section 1. (D).

4. After the successful completion of section 3., the parties shall exercise visitation as they agree but in no instance less than the Standard Order of Visitation.