

LOCAL RULES OF PRACTICE FOR THE JUVENILE COURT FOR SUMNER COUNTY, TENNESSEE

GENERAL PROVISIONS

RULE 1: Scope and Purpose

Pursuant to the authority vested in the Judge of the General Sessions Court, Division II, and Juvenile Court for Sumner County, Tennessee, by Tenn. Code Ann. § 37-1-101 *et seq.*, and Rule 101 *et seq.* Tenn. R. of Juv. Prac. & Proc., these Local Rules shall govern the practices and procedures of the Juvenile Court for Sumner County, Tennessee. These Local Rules shall supersede all *Rules of Practice and Procedure* adopted prior to 2023. Every person appearing in the Juvenile Court for Sumner County, before either the Judge or the Magistrate, shall be charged with the knowledge and application of these Local Rules.

RULE 2: Sessions and Office Hours

All sessions of the Court are scheduled by the Judge and/or Magistrate as needed.

1. Monday dockets are generally designated for delinquent and unruly cases, and Title IV-D child support matters.
2. Tuesday dockets are generally designated for all dependent and neglected cases and private custody matters.
3. Wednesdays, Thursdays, and Fridays are generally designated for scheduled trials.
4. General Sessions, Division II cases are generally set the third Thursday of each month.
5. Detention Hearings shall be heard by the Judge or Magistrate at 1:30 p.m. on Mondays, Wednesdays, and Fridays. Modifications to this schedule must be approved by the Court.

RULE 3: Courtroom Decorum

There shall be no smoking, eating, drinking, or chewing gum in the courtroom. Additionally, litigants shall not use cellular devices, laptops, notebooks, or other technologically-based communication or social-networking devices in the courtroom unless prior permission from the Court has specifically been given. Any allowed electronic devices shall be used for professional purposes only and shall not create a disruption to courtroom activity. Any such devices that disrupt courtroom proceedings shall be subject to seizure and confiscation, and any person who is in possession of such a device that disrupts Court proceedings may be held in direct contempt of court and sanctioned accordingly.

Lawyers, court attendants, and all persons having business before the Court shall be appropriately dressed while in court attendance. Shorts, tank tops, halter tops, cut-off sleeves, pajama pants, hats, and any clothing with inappropriate images or statements are prohibited. Any person wearing inappropriate clothing that disrupts courtroom proceedings may be removed from the courtroom but also be held in direct contempt of court and sanctioned accordingly.

The Court Officers in attendance will be charged with the responsibility of enforcing compliance with these standards of courtroom conduct. This responsibility may necessitate the removal of any person(s) in violation of these standards from the courtroom and courthouse.

Attorneys and/or self-represented litigants shall notify the court by contacting a judicial assistant or juvenile court clerk as soon as possible if they anticipate they will be late to any scheduled hearing.

RULE 4: Magistrates

Pursuant to Tenn. Code Ann. § 37-1-107(b), the Magistrate may hear any case over which the Juvenile Court has jurisdiction. The Judge may direct the Magistrate hear specific cases. The Magistrate has the same authority as the Judge to issue any and all process. The Magistrate, in the conduct of the Court's proceedings, has the powers of a trial judge, including contempt powers. At the conclusion of a case, the Magistrate's ruling shall be made by written Order. No confirming order of the Magistrate's ruling is required.

Any ruling by the Magistrate on a *preliminary matter* is final and is not reviewable by the Judge, except on the Court's own motion. Pursuant to Tenn. Code Ann. § 37-1-107(d), any ruling by the Magistrate on a non-preliminary matter may be reviewed by the Judge by filing a *Request for Review* with the Juvenile Court Clerk within ten (10) judicial days of the date on which the Magistrate's Order has been stamped by the Juvenile Court Clerk as "Filed." A prematurely filed Request for Review shall be treated as if it were timely filed. Unless the Judge orders otherwise, the Magistrate's Order shall be considered the decree of the Court pending a Review. The Magistrate's dismissal of a Petition for Delinquency or Unruly Behavior following a full adjudicatory hearing, however, is not a preliminary matter and is not subject to review based upon constitutional prohibitions for double jeopardy.

The Magistrate, pursuant to Tenn. Code Ann. § 36-1-102(16)(c), shall have the authority to take a surrender of a child and to take a revocation of such surrender.

Upon good cause shown, and as a preliminary matter, any party may formally motion the Magistrate to administratively transfer a case from the Magistrate's docket to the Judge's docket. If administrative transfer is requested, it shall be done prior to the initial hearing before the Magistrate. The Court shall require a motion be filed and state with specificity the reasons why the case should be administratively transferred. The Court retains sole discretion as to whether to grant the motion.

RULE 5: Court Costs and Filing Fees

Costs for filing a pleading, service of process, and court costs are to be established and assessed by the Juvenile Court Clerk. The schedule of clerk's fees is available for inspection and copying upon request in the office of the Juvenile Court Clerk. Filing fees and/or costs may be waived by the Court for good cause shown, which may include the filing of an Affidavit of Indigency or other representation made under oath of a person's inability to pay these fees and costs.

RULE 6: Form of Pleadings

All pleadings filed or presented to the Court should be on letter-sized (8 ½" x 11"), white paper. An original pleading shall be filed in all cases and shall be accompanied by sufficient copies necessary for service upon the parties.

RULE 7: Attorneys

Only attorneys licensed to practice law in Tennessee who have entered an appearance in a case shall be considered counsel of record. An entry of appearance may be made as follows:

1. A written request by counsel to the Clerk that an appearance be entered;
2. Through the filing of any pleadings, including a formal Notice of Appearance;
3. Entry of an Order of Appointment by the court; and
4. By an appearance as counsel at any court proceeding.

In accordance with Rule 104 of the Tenn. R. of Juv. Prac. & Proc., an attorney of record who wishes to terminate their representation may do so only by permission of the Court.

RULE 8: Record of Proceeding

The Court shall record all hearings which must, by law, be recorded. Child support cases and General Sessions, Division II cases, however, are not recorded. Audio recordings will be maintained by the Court for one (1) year from the day of the final disposition of the case. In the discretion of the Court, copies of audio recordings may be released to attorneys of record or court reporters. Any party or self-represented litigant who desires to obtain a copy of a recording shall submit a timely request to the Court and shall provide the necessary medium on which to acquire the recording.

RULE 9: Dormant Cases

The Court may take reasonable measures to purge the docket of old cases where the cases have been dormant for an extended period:

1. Cases that have been filed but have not been prosecuted within one (1) year of filing may be purged with costs assessed to the Petitioner.
2. Cases that have never been signed or filed by the Petitioner shall be purged immediately from the Juvenile Court case management system.

In the event the Court does choose to purge dormant cases, the Clerk's Office shall provide written notice to all parties and their respective counsel.

RULE 10: Conduct of Trials & Confidentiality of Proceedings

All hearings, including all adjudicatory and/or dispositional hearings, conducted in Juvenile Court shall be conducted without a jury. Minutes of all proceedings shall be kept by the court.

In all juvenile proceedings, a parent or guardian must be present at every adjudicatory hearing unless excused by the Court on the record. The Court may appoint a Guardian *ad litem* to act on the child's behalf in determining the interests of the child at any stage of the proceedings when the child is without a parent or guardian or when it appears that the child's interests so require.

Except for cases where the public is allowed by statute, proceedings in the Court may be private. In the discretion of the Court, the public may be excluded from any juvenile or paternity proceeding and only those persons having a direct interest in the case may be admitted.

1. Dependency and neglect proceedings are not open to the public.
2. Delinquent and unruly proceedings are open to the public; however, in the discretion of the Court, the public may be excluded from any proceeding. In determining whether to close the proceedings, the Court must balance the interests of the parties and the public's interest in open proceedings. *See* Rule 114 Tenn. R. of Juv. Prac. & Proc.
3. Members of the credentialed press may be allowed in the courtroom for delinquent or unruly proceedings but must receive permission of the presiding Judge to attend prior to the hearing.

RULE 11: Confidentiality of Juvenile Court Records

All records submitted to or filed with the Juvenile Court for Sumner County, Tennessee, shall be confidential (which includes, but is not limited to, medical records or evaluations, mental health records or evaluations, substance abuse assessments and/or treatment records, drug screen results, reports from the Tennessee Department of Children's Services, other affiliated agencies, CASA reports, and probation reports) and shall not be disclosed or released to any person for any purpose, other than the proceedings currently before the Court, without further authorization from the Court.

RULE 12: Juvenile Proceedings by Videoconference or Other Means

Cases may be requested to be heard via videoconference, and *Zoom* is the preferred platform. A *Motion Requesting Zoom Trial* shall be filed and shall set forth the reasons for said request, including whether the matter is expected to last a half or full day. A *Response in Opposition to Zoom Trial* may also be filed and must note specific reasons why the Court should deny the requested teleconference.

1. Procedure
 - (A) Once the Motion is filed, a Judicial Assistant will set the matter for a motion hearing. At the Court's discretion, this hearing may be heard by *Zoom*.
 - (B) If the Motion is granted, the case will be docketed for trial. The Order shall reflect the time required to hear the case.

- (C) If a *Zoom* trial is set, the Court will send the appropriate link to the attorneys and CASA, where applicable. It will be the attorneys' responsibility to ensure their clients, witnesses, and court reporters, if applicable, are provided with the link.

2. Hearing

- (A) All attorneys, parties, and witnesses shall appear by *Zoom*. To ensure that everyone is properly identifiable, all user/screen names must reflect the person's actual name. Everyone expected to testify must have a working web-camera and microphone. If the Court cannot see or hear a witness, their testimony cannot be considered.
- (B) Rules of Decorum: The Court shall provide a list of *Zoom* hearing rules that should be disseminated by the attorneys to their clients and witnesses. These are designed to promote a dignified hearing.
- (C) Breakout Room: It is the Court's preference that attorneys and their client(s) should be at the same location. If this is not feasible, however, the Juvenile Court shall offer the use of an assigned Breakout Room function to allow for private attorney-client discussions. An attorney must request the use of a Breakout Room.
- (D) Witnesses will be scheduled at certain times. Until the witness is called to testify, they will be expected to be in the Waiting Room.
- (E) All witnesses must take the Oath or Affirmation that, in addition to telling the truth, if they are appearing remotely without their attorney present with them, no one is in the room with them, nor are they accessing information or people from their cell phones, computers, or other devices. The witness must further swear or affirm that they are not recording the proceedings. Failure to comply with these directives may result in a finding of direct Contempt of Court, a prosecution for perjury, and may also result in the witness' testimony being stricken.
- (F) To promote an efficient trial and be considerate of the parties, witnesses, and attorneys, the Court will take designated breaks at appropriate times.

3. Exhibits

- (A) All documentary evidence should be collated into specific, numbered Exhibits and paginated into an exhibit packet for ease of access during the Trial. All parties shall be given a copy of the exhibit packet seventy-two (72) hours prior to trial.
- (B) A physical copy of all proposed documents, collated and numbered in the same manner as designated above, shall be submitted to the Court seventy-two (72) hours prior to trial.
- (C) Addendums to the submitted documentary evidence may be allowed for good cause shown, but should be noted, collated, and paginated as a separate exhibit packet. Any addendums shall be submitted twenty-four (24) hours prior to trial.

PRELIMINARY MATTERS

RULE 13: Service of Process, Subpoenas, and Other Documents

1. All process shall be delivered to the office of the Juvenile Court Clerk for service of process to be completed by any means reasonably sufficient to ensure that the parties have proper, statutory notice.
2. Unless the Court orders otherwise, every pleading or other document filed with the Court subsequent to the original Petition shall be served on all parties and shall contain a Certificate of Service. The Certificate of Service shall contain the date and manner of service and the name and location of each person served. If the Petitioner or Respondent is represented by an Attorney, then it is that attorney's responsibility to prepare any/all Certificates of Service and/or Summons and forward the same to the Juvenile Court Clerk. If the Petitioners or Respondents are self-represented, then they must prepare and issue service of process, which must include a proper Summons.
3. After service of process has been effectuated by personal service for an initial scheduling and the parties have presented themselves to the Court, subsequent notice may be made by mail, including email, or in open Court. All parties shall appear at the proceedings unless excused by the Judge or Magistrate.
4. In all delinquent and unruly cases, except those involving Detention Hearings, the Petition at issue should be filed with the Juvenile Court Clerk at least ten (10) judicial days before the hearing. For Detention Hearings, the Petition should be filed on the day of the hearing.
5. Subpoenas for Dependency and Neglect, Delinquency, and Unruly Behavior shall be governed by Rule 107 of the Tenn. R. of Juv. Prac. & Proc.:
 - a. *Subpoena of Persons*: With the exception of emergency hearings, preliminary hearings, detention hearings, or for good cause shown, all subpoenas for the attendance of witnesses shall be served at least five (5) calendar days prior to the hearing.
 - b. *Subpoena for Production of Documents*: Except for emergency hearings, preliminary hearings, and detention hearings, all subpoenas to produce documents, images, records, data or like information shall be served at least ten (10) calendar days prior to the hearing, unless otherwise provided by law.
6. Subpoenas for cases where the Juvenile Court exercises concurrent jurisdiction with Circuit and Chancery Courts shall be governed by Rule 4 of the Tenn. R. of Civ. Proc.
7. In Title IV-D cases, leading process shall be the responsibility of the Office of the District Attorney General. After service is effectuated, all pleadings and necessary documents are filed with the Juvenile Court Clerk.

RULE 14: Schedule of Hearings, Mediation, and Continuances

1. All cases shall be scheduled through a Judicial Assistant or Intake Officer.
 - (A) Delinquent, Unruly, and Dependent and Neglect cases shall be timely set through the Juvenile Court.
 - (B) All Title IV-D Child Support cases initiated by the Office of the District Attorney General shall be set by that Office.
 - (C) All cases initiated by the State of Tennessee Department of Children's Services (DCS) shall be set by DCS and the Court.
2. Cases before the Judge or Magistrate, including custody, visitation, parentage, child support matters in which the District Attorney is not involved, Dependent and Neglect actions not filed by DCS, and any modifications of the aforementioned, shall be set through the Juvenile Court. An estimate of how much time is anticipated for the hearing shall be given to the Judge or Magistrate. **All cases shall designate on the pleadings and Summons whether they will be heard before the Judge or Magistrate.**
3. Upon motion of any party or its own motion at any time prior to the trial date, the Court may refer any appropriate case for mediation. The parties can stipulate to a mediator or, should they be unable to reach an agreement, may ask the Court to designate a mediator. It is the responsibility of the parties to pay any and all fees associated with mediation, including those when/if the Court has designated the mediator.
4. Continuances shall only be granted by leave of the Court. All Motions for Continuance shall be made as soon as practical *before* the trial date. Cases shall not be continued except for good cause shown. All cases continued shall be by written Order stating the reason for the continuance, at whose instance it was requested, and the date of the case's reassignment. Agreed continuances shall be by Order and signed by counsel for all parties and shall specify the date of the case's reassignment. It is the responsibility of the party requesting the continuance to notify all other parties and witnesses under subpoena of the continuance and the reset date. **No case shall be "continued indefinitely."**
5. The absence of a witnesses or exhibits will not be grounds for a continuance unless the witness has been properly served with a subpoena or an exhibit has been requested by subpoena *duces tecum* in accordance with these Rules and the Rules of Civil Procedure.
6. When a case is set for hearing without objection, failure to complete discovery, the unavailability of counsel on the hearing date, the inability to take depositions, or the failure to complete any other trial preparation shall not be grounds for a continuance except for good cause shown prior to the hearing date. Emergencies and other unforeseen circumstances for the attorneys, parties, and key witnesses (particularly those under subpoena) may constitute exceptions at the Court's discretion.

7. All dispositional hearings shall be set immediately after the adjudication of a Petition unless the Court deems otherwise. The Court may, on its own motion or upon a party's motion, set a later dispositional date, but said date shall be set immediately after the adjudication. Upon good cause shown the dispositional hearing may be continued to a date certain. *See* Tenn. R. of Juv. Prac. & Proc. 211(a).
8. Any case not specifically scheduled for a hearing within one (1) year of the date of filing or last issued service of process, whichever is later, shall be subject to dismissal at the Court's discretion. In the event of the Court's dismissal under this section, the Court may award court costs, expenses, and attorney fees to the prevailing party.
9. In accordance with Tenn. Code Ann. § 37-1-134, the State must file written notice, in good faith and not for the purpose of delay, of the intent to seek transfer of jurisdiction of the child to Criminal Court.

RULE 15: Motions

1. Motions shall be filed at least five (5) judicial days prior to the hearing date thereon, unless all parties waive the five-day requirement and special approval from the Court is obtained. All Motions shall be in writing and shall contain language detailing relevant facts and a prayer for relief. Further, in cases involving more than one party, or involving a Guardian *ad litem* or CASA, notice of Motions shall be provided on those persons under the same time requirements.
2. Motion dates and times will be set by the offices of the Judge or Magistrate, not the Clerk's Office. Attorneys are encouraged to communicate and propose dates by agreement.
3. All Motions shall designate whether it will be heard before the Judge or the Magistrate.
4. Motions which cannot be heard within thirty (30) minutes shall not be set on a regularly-scheduled docket without leave of the Court. Testimony will be limited to relevant issues. Briefs and responses may be required solely at the discretion of the Judge or Magistrate.
5. In Delinquency proceedings, the following issues must be raised via written motion prior to trial or transfer—*Motions to Suppress Evidence, Request for Discovery and Inspection, and Motions for Severance or Consolidation*. Failure of a party to raise defenses or objections or to file motions prior to the trial or transfer shall constitute a waiver thereof, but the Court, for good cause, may grant relief from the waiver.
6. In Dependency and Neglect proceedings, requests to suspend parenting time shall be raised by written motion.
7. Attorneys filing motions to depose children in cases where neglect, abuse, or sexual abuse is alleged, shall provide notice to DCS, the Guardian *ad litem*, CASA, the District Attorney, and the criminal defense counsel when attorneys are aware that a criminal case is pending regarding the same matters.

8. Failure of attorneys or self-represented litigants to appear for a properly-scheduled motion hearing will result in the motion potentially being dismissed with cost assessed to the party who failed to appear. Upon good cause shown, the Court may choose to reset said motion.

RULE 16: Discovery

1. For all actions falling under the scope of Rule 305 of the Tennessee Rules of Juvenile Practice and Procedure, specifically cases involving dependency and neglect, parties shall act in good faith to share information and shall attempt to achieve any necessary discovery informally to avoid undue expense and delay. Only when such attempts have failed, discovery may be sought and effectuated in accordance with the Rules of Civil Procedure by filing a formal request for discovery.
2. In all delinquent proceedings where the complainant is the State of Tennessee or where the District Attorney is involved, the child's attorney, upon request, shall be informed of and given access to all matters in the possession and control of the State which would be discoverable in Criminal Court under Rule 16 of Rules of Criminal Procedure. To the extent possible, however, discovery shall be done informally.
3. Discovery for cases falling under the Juvenile Court's concurrent jurisdiction with Circuit and Chancery Courts shall be conducted in accordance with the Rules of Civil Procedure.
4. All discovery in Juvenile Court remains subject to Tenn. Code Ann. § 37-1-153, Tenn. Code Ann. § 37-1-403, Tenn. Code Ann. § 37-1-612, and Tenn. Code Ann. § 37-5-107.

RULE 17: Pre-Trial Issues, Briefs, Parenting Plans, and Child Support Worksheets

1. Witness and Exhibit Lists: Unless requested in writing, witness and exhibit lists are not required. If witness and exhibit lists are requested in writing, the same shall be filed with the Juvenile Clerk and exchanged between counsel at least three (3) judicial days prior to the hearing. There is nothing that automatically precludes any witness from testifying.
2. Expert Witnesses: Even if witness and exhibit lists are not requested, expert witnesses shall be disclosed in accordance with the Rules of Civil Procedure or the Rules of Criminal Procedure. *See* Rule 26.02 of Tenn. R. Civ. Pro and Rule 16 of Tenn. R. Crim. Pro.
3. Pre-Trial Briefs: If an attorney desires, or if the Court instructs them, to file a Pre-Trial Brief, such a Brief shall be filed no less than three (3) judicial days prior to the hearing. Responsive Briefs are not required but may be filed no later than twenty-four (24) hours prior to the hearing. Courtesy copies shall be sent directly to the Judge or Magistrate.
4. Parenting Plans and Child Support Worksheets: In all non-dependent and neglect cases where custody, visitation, and child support are to be heard, Proposed Parenting Plans should be filed and incorporated with the initial Petition or Motion. Responsive Proposed Parenting Plans and Child Support Worksheets should be filed with and attached to any Answer. Proposed Parenting Plans and Child Support Worksheets should be also submitted as exhibits during the hearings.

5. The Court may order parents to complete parenting classes in any case, including Delinquent and/or Unruly cases. Upon completion of said classes, the attending parent shall ensure that the certificate of completion is properly filed with the Clerk.

RULE 18: Pre-Trial Conferences

In Dependency and Neglect cases involving the Department of Children's Services, the Court shall hold a mandatory Pre-Trial Conference approximately one week prior to the established adjudication date. At this Conference, any known or recognizable evidentiary or procedural issues should be raised. Further, if a settlement of the contested matter is heard before or at the Conference, the case shall be removed from the trial calendar and the case shall either be concluded by announcement or a signed Agreed Order.

RULE 19: Extraordinary Relief

1. Injunctive Relief: Persons seeking *ex parte* Orders shall first contact the Court by informing a Judicial Assistant regarding the potential Petition for *Ex Parte* Relief. Said Petition must then be filed with the Juvenile Court Clerk. Once filed, the Court will then determine whether the matter should be considered immediately for *ex parte* relief or whether all parties can be given notice and the opportunity to be heard. *Ex parte* relief lies solely at the discretion of the Judge or Magistrate, and the Court may require testimony on the record before issuing any order.

When the opposing party has counsel of record, the party seeking the *ex parte* Order shall dutifully endeavor to give opposing Counsel sufficient notice that he or she is seeking an *ex parte* Order. Exceptions to this rule include situations where time is of the essence and the best interest or welfare of the child(ren) will be compromised if notice is given. Where no notice is given and Counsel for the opposing party is known, parties seeking an *ex parte* Order should present an Affidavit showing why it was not possible to give notice or why the welfare of the child(ren) would be compromised.

Generally, any issued *ex parte* order shall expire by its terms and shall not exceed fifteen (15) days unless within such period: (1) the court extends the order after affording the party to be restrained an opportunity to be heard, or (2) the party to be restrained consents to the extension. Any such extension of an *ex parte* order shall be in the form of an injunction.

In cases involving allegations of dependency and neglect, the court shall proceed with a preliminary hearing within seventy-two (72) hours of entry of the *ex parte* order, pursuant to Rule 302, rather than the fifteen (15) day timeframe prescribed above.

2. Orders of Protection: The Juvenile Court lacks jurisdiction to enter into Orders of Protection involving minor Respondents. If there are allegations that would otherwise support the filing of an Order of Protection against a minor Respondent, the Petitioner should file a Petition alleging delinquent behavior and request injunctive relief under Rule 108 of the *Tennessee Rules of Juvenile Practice and Procedure*. Per this Rule, the Court has broad powers to issue *ex parte* Temporary Restraining Orders.

DEPENDENCY & NEGLECT and CUSTODY CASES

RULE 20: Preliminary Hearings

If a child is removed from the home of a parent, guardian, or legal custodian pursuant to a protective custody order, the child shall not remain in protective custody longer than seventy-two (72) hours, excluding non-judicial days, unless a preliminary hearing is held. In addition, if the protective custody order places the child in the custody of the Department of Children's Services, the order shall include facts supporting the finding that it is contrary to the welfare of the child to remain in the home. Preliminary hearings shall be limited to one (1) hour. The Court may terminate the hearing at any time after probable cause has been established.

1. Reliable hearsay may be considered at the preliminary hearing.
2. The Court must determine whether probable cause exists that the child is dependent and neglected; and
3. If probable cause is found, the Court must determine whether the child is subject to an immediate threat to the child's health or safety, or whether the child may be removed from the jurisdiction of the court; and
4. Determine whether any less drastic alternative is available to the removal of the child from the custody of the parent, guardian, or legal custodian.

The seventy-two (72) hour time limit for the preliminary hearing may be waived by an expressed and knowing waiver by the Respondent. Any such waiver may be revoked, at which time a preliminary hearing shall be held within the time frame outlined in Tenn. Code Ann. § 37-1-117. *See also* Tenn. Code Ann. §37-1-114(a)(2).

RULE 21: Guardians *ad litem* and CASA

1. A Guardian *ad litem* shall be appointed in all cases where there are allegations of Dependency and Neglect, or under circumstances that are required pursuant to Tenn. Code Ann. § 37-1-149. The Guardian shall be compensated at the rate and manner prescribed as any other appointed attorney.
2. In custody proceedings that do not allege Dependency and Neglect but where the Court specifically finds that the child's best interests are not adequately protected by the parties and that separate representation of the child's best interest is necessary, a Guardian *ad litem* may be appointed and compensated pursuant to Rule 40A, Section 3 of the Tennessee Rules of the Supreme Court, consistent with Tenn. Code Ann. § 36-4-132. In cases where one or more parties are not indigent, and upon written motion of the Guardian *ad litem*, the Court may require the parties to pay the Guardian's fees.
3. The Court may appoint CASA (Court Appointed Special Advocate) to act on behalf of a child in determining the best interest of the child in any action pending before the Court. Any party to a proceeding may request that CASA be appointed. In any case in which CASA has been appointed, CASA shall be given notice of all hearings, child and family

team meetings, adjudications, dispositions, and any other notices given to the parties. CASA shall be entitled to be present at any court proceedings or other formal or informal proceedings, including, but not limited to, mediations, pre-trial conferences, or other such proceedings involving the child where the other parties have a right to be present.

RULE 22: Notice Requirements

1. Pursuant to Rule 301 of the Tenn. R. of Juv. Prac. & Proc., when the Petitioner of a Dependency and Neglect action is not the Department of Children's Services, the Petitioner must refer the case to the Department of Children's Services for investigation.
2. Pursuant to Tenn. Code Ann. § 37-2-416, the Tennessee Department of Children's Services shall ensure at each hearing concerning a child in foster care that the foster parents or pre-adoptive parents (if applicable), and any relative caregivers are notified of all proceedings with respect to the child in care.

DELINQUENT & UNRULY CASES

RULE 23: Delinquent Cases

1. Arrest and Detention: In cases alleging juvenile delinquency, no child shall be placed in Juvenile Detention unless an officer authorized by law effects a proper arrest. *See* Rule 4 of the R. of Crim. Proc.
2. Any child taken into custody by an officer authorized by law shall be immediately brought before a Judicial Commissioner who will make an independent determination as to whether the child shall be detained and/or sent for a medical evaluation prior to being detained.
3. Detention Hearings: When conducting Detention Hearings pursuant to Rule 203(d)(3) of the Tenn. R. of Juv. Prac. & Proc. for children alleged to be delinquent, the Court shall
 - (A) Determine whether probable cause exists as to whether the charged offense or a lesser included offense has been committed and whether the child committed it; and
 - (B) If probable cause has been determined, whether the offense is one which qualifies for continued detention under Tenn. Code Ann. § 37-1-114; and
 - (C) If probable cause has been determined and the offense qualifies for continued detention, determine whether it is in the best interest of the child and the community that the child remain in detention pending further hearings. In making this best interest determination, the court should consider the likelihood that the child would abscond or be removed from the jurisdiction of the court; and
 - (D) Determine whether any less restrictive alternatives to detention are available which would satisfy the court's best interest determination above. The court may impose conditions on release such as the setting of bail, restrictions on the

child's movements and activities, requirements of the child's parent, guardian or custodian, or other community-based alternatives as an alternative to continued detention.

Evidence in detention hearings shall be admitted pursuant to the Tennessee Rules of Evidence except that such evidence may include reliable hearsay. *See* Tenn. R. of Juv. Prac. & Proc. 203(d)(2).

4. Plea Agreements: Before accepting a plea of guilty or no contest (in addition to following the requirements of Rule 205 of the Tenn. R. of Juv. Prac. & Proc.), all parties must enter a written plea agreement using the form provided by the Court, which details those requirements under Rule 209 of the Tenn. R. of Juv. Prac. & Proc.
5. Under Rule 202 of the Tenn. R. of Juv. Prac. & Proc., Pretrial Diversion agreements must be in writing. This may be effectuated by a form provided by the Court or incorporated into a Dispositional Order.
6. A validated needs and risk assessment shall be used in all delinquent cases post adjudication in making decisions and recommendations regarding programming and treatment.

RULE 24: Unruly Cases

In cases alleging Unruly Behavior, based upon the allegations of the child's disobedience to his/her parent(s), guardian, or custodian, it shall be necessary for the Petitioner to prove that the child **"habitually is disobedient of the reasonable and lawful commands of the child's parent(s), guardian[,] or legal custodian to the degree that such child's health and safety are endangered."** *See* Tenn. Code Ann. § 37-1-1-102(a)(25)(ii) (Emphasis Added).

The Court shall require all cases involving allegations of unruly or ungovernable behavior to be first referred for a preliminary inquiry before a Youth Services Officer, or other designated court employee. The purpose of this inquiry, which will include an interview with the child and the parent(s), guardian, or custodian is to provide resolution of complaints without official action or which may suitably referred to a non-judicial agency available in the community. *See* Tenn. R. of Juv. Prac. & Proc. 201.

RULE 25: Restitution

The Court may order restitution in Delinquency cases. The Court may limit discovery pertaining to restitution if it determines that the information sought is unreasonably cumulative or duplicative, or is obtainable from some other, more convenient, source that is less burdensome, or expensive, considering the needs of the child.

If restitution is ordered, the Court must make a finding that (1) a specific amount is owed, (2) such amount is ordered to be paid pursuant to a specific payment schedule, and (3) the total amount of ordered restitution is not paid by the time the juvenile court determines that discharge of a case is appropriate or no longer has jurisdiction over the child. Then, notwithstanding any law to the contrary, any unpaid restitution balances ordered by the Court may be converted by the recipient

into a civil judgment against the child that shall remain in effect for ten (10) years from the date of entry. This form of civil judgment shall be enforceable by the recipient in the same manner and extent as other civil judgments. See Tenn. Code Ann. § 37-1-133(b) and § 37-1-163(a)-(e).

The amount of said restitution may be “Reserved” by the Court or the State at disposition for future action when, in the opinion of Court, it is in the child’s best interest to begin a treatment or rehabilitation program, despite the fact that the amount of restitution is unresolved.

RULE 26: Validated Needs and Risk Assessments

A validated needs and risk assessment shall be used in all delinquent cases post-disposition in making decisions and recommendations regarding programming and treatment. Each child placed under supervised probation, or committed to the custody of the Department of Children’s Services, shall undergo this assessment within seven (7) days of the court’s disposition, excluding non-judicial days, to inform the level of supervision, referrals to programs and services, and case planning. *See* Tenn. Code Ann § 37-1-164.

CHILD SUPPORT CASES

RULE 28: Child Support Cases

It is the duty and responsibility of all counsel, in actions for paternity and/or child support, to notify the Offices of the District Attorney General who acts as the Title IV-D contractor so that the District Attorney General may participate, as needed, in any hearing. The failure to notify the District Attorney’s Office may result in a necessary delay in the proceedings.

Child support, paternity, custody, and visitation cases that do not require the notification and/or participation of the District Attorney General **shall not** be set on the Court’s regularly-scheduled, Title IV-D child-support establishment and enforcement dockets; these cases shall be set on the Judge’s or Magistrate’s schedule.

Child support debt compromise under Tenn. Code Ann. § 36-5-101 applies only to child support arrearages to the obligee by the obligor; it does not apply to monies owed to the State of Tennessee (or another State). If there are assigned arrears to the State, this amount cannot be compromised, but the unassigned arrears portion, including interest, can be negotiated if an agreement is reached between the parties (after twelve full months of consistent payments in full). In all Title IV-D cases, the Department of Human Services or its contractors must be a party to the action of settlement and compromise. All parties seeking the compromise and settlement of child support arrears shall use the forms, including the Agreed Order and Explanation of Rights, generated by the Tennessee Department of Children’s Services. The Court shall require, prior to reviewing and accepting the compromise and settlement Agreed Order, that a Motion to Accept the Compromise and Settlement be filed and that all necessary parties appear in court.

In any case in which the Court shall find a child dependent and neglected, unruly or delinquent, it may in the same or subsequent proceeding proceed to inquire into the ability of such parent(s) to support the child or contribute to the such child’s support, and if the court finds the parents(s) able to support the child or contribute thereto, the court may enter such order, and enforce same.

The parent of any child placed in the custody of the Department of Children's Services, regardless whether it is for a finding of dependency and neglect, unruly behavior, or delinquent conduct, shall be ordered to pay child support. This child support payment shall be considered a Title IV-D matter, and shall be set and enforced by the Office of the District Attorney General.

SPECIALTY COURTS

RULE 29: Teen Court

Participation in the Sumner County Teen Court may be initiated by a Youth Services Officer under the informal adjustment, or pretrial diversion process, by the Court itself after the child is placed on judicial diversion, or by the agreement of the child, child's parents, child's attorney, and District Attorney. It may be an option of deferred judgment for a teen charged with the following offenses:

- Assault: § 39-13-101
- Burglary: § 39-14-402
- Theft of Property: § 39-14-103
- Vandalism: § 39-14-408
- Forgery: § 39-14-114
- Unauthorized Use of an Automobile: § 39-14-106
- Disorderly Conduct: § 39-17-305
- Harassment: § 39-17-308
- Criminal Trespass: § 39-14-405
- Traffic Offenses: § 37-1-146
- Runaway: § 37-1-102(b)(32)(D)
- Truancy: § 37-1-102(b)(32)(A)
- Curfew Violations: § 39-17-1702
- Unruly/Ungovernable Behavior: § 37-1-102(b)(32)
- Possession/Casual Exchange of a Controlled Substance: § 39-17-418(a) or (b)
- Possession/Casual Exchange of a Controlled Substance Analogue: § 39-17-454
- Any violation or prohibited conduct involving possession, use, sale or consumption of any alcoholic beverage, wine, or beer.

As part of the program, the teen shall receive a disposition recommended by an empaneled Teen Court Jury and confirmed by the Juvenile Court Judge.

RULE 30: Sumner County Youth Empowerment (SCYE)

The Sumner County Youth Empowerment (SCYE) program is created to serve the needs of children who are at risk of being removed from their homes due to mental health issues that result in behaviors making them unmanageable in their community environments. The program was established to bring intensive services to these children and to address the family issues that may contribute to the underlying dysfunction. It is designed to assess the issues in the home that impact the mental health of the child and the functionality of the family. The Court coordinates with the family and community resources to address the identified problems and to provide the

rehabilitative and supportive services that will allow the juvenile to remain at home. This program is an intensive probation program that incorporates therapeutic services to reach both probation and treatment goals.

ELIGIBILITY CRITERIA: To be eligible for program consideration, the juveniles must meet the criteria of the following target population:

1. Are youths charged with a delinquent or unruly offense;
2. Have a DSM-V diagnosis other than or in addition to substance abuse, ADHD, mental retardation, autism, or pervasive developmental disorder; and
3. Have an IQ of 70 or greater.

REASONS FOR EXCLUSION: Primary diagnosis of Dissociative Disorder, or Personality Disorder, and the juvenile is charged with a “sex offense.”

Applications for the SCYE program must be submitted to the Court after review by the Assistant District Attorney or a Youth Services Officer for initial approval. Following the initial approval, applicants will be invited to go through an initial assessment and be voted on by the multidisciplinary SCYE Board for acceptance or denial to the program.

RULE 31: Safe Baby Court

Safe Baby Court (SBC) will be held on the third Thursday of every month. Procedures and information for SBC are set forth in the SBC Participant and Team Member Handbook on file in the Sumner County Juvenile Court’s Intake Office. The handbook shall be made available to all SBC participants and their attorneys. This is a voluntary program created to serve children ages 0–3 and their families and promote permanency in a defined timeframe.

For admittance to this program, a case must first be referred by the Department of Children’s Services with allegations of dependency and neglect. After such referral and vetting by the SBC Coordinator, participation in the program is allowed only after an agreed adjudication is entered before the Court.

ORDERS & APPEALS

RULE 32: Orders & Decrees

1. Unless otherwise directed, the prevailing party shall draw the Order and submit it to be filed within fourteen (14) judicial days of the hearing. All Orders must include a certificate of service to all parties or their respective Counsel.
2. Any Agreed Order that is announced in Court on the record does not have to be circulated to all parties for their signatures prior to being submitted for filing; however, such Orders must state in the body of the Order that the agreement was announced in open Court.
3. In all final orders in issues of dependency or neglect, where legal custody has been transferred from a parent to any third-party, the following language shall be inserted in the Final Order:

By the granting of custody from this Court, you become the legal custodian(s) of the aforementioned minor child(ren), and are under a court order not to enter a Power of Attorney, or any other legal document purporting to control the care or custody of the child(ren), in favor of the parent(s) to which the child(ren) was/were removed due to the adjudication and findings of dependency, neglect, or abuse. Should you become unable to continue to care for the child(ren) and a change of placement is necessary, any proposed change of the child(ren)'s placement shall require notification to this Court and/or the Department of Children's Services. Violation of this provision can result in the filing of a Contempt of Court action to which if found guilty can be punished by up to ten (10) days in jail, a fifty dollar (\$50.00) fine, or both, plus court cost, for each violation.

RULE 33: Modification of or relief from Judgments or Orders

For cases falling under the Juvenile Court's concurrent jurisdiction with Circuit and Chancery Courts modifications or proceedings seeking relief from Judgments or Orders shall be conducted in accordance with the Rules of Civil Procedure.

In any proceeding where the Rules of Juvenile Practice and Procedure apply, any party to a proceeding, the guardian *ad litem*, or other person having legal custody of or an interest in a child may seek relief from the Court's orders.

1. Modifications of Judgments or Orders may be available under the following circumstances:
 - (A) Clerical mistakes arising from oversight or omission may be corrected by the Court at any time on its own initiative or on motion of a party.
 - (B) Modifications for newly-discovered evidence, but consistent with the best interests of the child.
 - (C) Modifications for changed circumstances since the entry of the order, consistent with the best interests of the child
2. An order may be set aside if it is determined that:
 - (A) The order was obtained by fraud or mistake sufficient to satisfy the legal requirement for relief in any other civil action.
 - (B) The court lacked jurisdiction over a necessary party or of the subject matter; or
 - (C) Newly discovered evidence so requires, but only if the Court determines the movant was without fault in failing to present such evidence at the original proceeding, and that such evidence may have resulted in a different judgment at the original proceeding.

3. Requests for relief shall be made in writing and made by motion. If the requested relief, however, is modification of an order based upon changed circumstances, a petition must be filed and served pursuant to Rule 103 of Tenn. R. of Juv. Prac. & Proc.

RULE 34: Appeals from the Juvenile Court Judge

An appeal from the Judge's decision may be perfected by filing, with the Juvenile Court Clerk, a Notice of Appeal within ten (10) judicial days of the entry of the Court's Order. An appeal shall not operate as a stay of judgment and the Order of this Court shall remain in effect until the appellate court enters an Order to the contrary.

1. Appeals on Delinquency cases shall be made to the Circuit Court (Criminal) Clerk's Office reflecting the appeal made.
2. Appeals on Dependency and Neglect cases, or Unruly cases, shall be made to the Circuit Court (Civil) Clerk's Office.
3. Appeals of Termination of Parental Rights cases shall be made to the Court of Appeals, Middle Section at Nashville.
4. Appeals of all matters heard by the Judge or Magistrate (if the timeframe for filing for a Review has passed) pursuant to Title 36 shall be made to the Court of Appeals, Middle Section at Nashville.

RULE 34: Expunction of Juvenile Record

Notwithstanding any law to the contrary, any person who is tried and adjudicated delinquent or unruly by a juvenile court may subsequently file a motion for expunction of all court files and juvenile records. The court may order all or any portion of the requested expunction if, by clear and convincing evidence, the court finds the movant:

1. Is currently seventeen (17) years of age or older;
2. Is at least one year removed from the person's most recent delinquency or unruly adjudication;
3. Has never been convicted of a criminal offense as an adult, has never been convicted of a criminal offense following transfer from juvenile court, and has never been convicted of a sexual offense as defined in Tenn. Code Ann. § 40-39-202, whether in juvenile court, following a transfer from juvenile court, or as an adult;
4. Has maintained a consistent and exemplary pattern of responsible, productive, and civic-minded conduct for one (1) or more years immediately preceding the filing of the motion for expunction; or
5. Has made such an adjustment of circumstances that the court in its discretion, believes that the expunction serves the best interest of the child and the community.

In any case that is dismissed by the juvenile court, excluding those dismissed after successful completion of an informal adjustment, pretrial diversion, or judicial diversion, the juvenile record shall be expunged by the juvenile court as part of the court's order of dismissal, without the filing of a pleading for expunction, and at no cost to the child.

Expunction is not allowed in instances where there is an adjudication of delinquency for a violent juvenile sexual offense as defined in Tenn. Code Ann. § 40-39-202, and for adjudication of a delinquent act that if committed by an adult would constitute an act of terrorism, or an attempt to commit an act of terrorism.

In any case, save cases where there was the accusation of terrorism or attempt to commit an act of terrorism, in which there is a successful completion of an **informal adjustment, pretrial diversion, or judicial diversion**, the juvenile records shall be expunged by the juvenile court after one (1) year, upon the filing of a motion for expunction and without cost to the child. This motion is available in the Juvenile Court Clerk's Office. *See* Tenn. Code Ann. § 37-1-153 (f)(1)-(12).

RULE 35: Waivers & Modifications of Local Rules

Any of the Local Rules herein enacted, save those designated by statute, the Rules of Juvenile Practice and Procedure, the Rules of Criminal Procedure, and the Rules of Civil Procedure, may be waived or modified by special Order of the Court when, in the Court's opinion and discretion, such waiver or modification is necessary to protect the child(ren)'s best interests, to do substantial justice, or to arrive at the equities of the case between or among the parties involved.

These Local Rules of Practice for the Juvenile Court for Sumner County, Tennessee are hereby adopted and ENTERED on the Minutes of this Court on this, the _____ day of _____, 2023.

David R. Howard, Judge

L. Erin Begley, Magistrate