

**MERCER COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION**

*Matthew L. Gilmore, Judge
Richard M. Delzeith, Magistrate*

RULES OF COURT

Effective as of September 01, 2021

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**RULES OF PRACTICE AND PROCEDURE
MERCER COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION**

It is ordered that the following rules shall be adopted for the governance of the practice and procedures in the Court of Common Pleas, Juvenile Division, Mercer County, Ohio, until otherwise provided pursuant to the Ohio Constitution, to the Ohio Revised Code, and to the Rules of Superintendence promulgated by the Supreme Court of Ohio.

Adoption, Scope and Construction of Rules

The Juvenile Division of the Common Pleas Court for Mercer 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.

If an amended rule or appendix conflicts in any way with a prior Order of the Court, the Rules in existence at the time of the Order shall be followed unless otherwise directed by the Court.

These Rules are intended to supplement the Ohio Juvenile Rules of Procedure, the Ohio Civil Rules of Procedure, the Superintendence Rules of the Supreme Court of Ohio, and controlling statutes.

These Rules shall be effective _____ 01, 2021.

RULE 1 GENERAL

RULE 1.01 SESSIONS OF COURT

(A) The Mercer County Juvenile Court shall be open daily from 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m. on all business days, Tuesday through Friday, and 8:30 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. on Mondays. The Mercer County Juvenile Court shall be closed for all legal holidays, Christmas Eve, and the day following Thanksgiving, as observed by law. The Juvenile Clerk of Court, at the discretion, and upon the Order of the Judge, may be open or closed at other hours for matters of extraordinary nature or importance.

RULE 1.02 CONDUCT IN COURT

(A) Any person entering the Juvenile Court is subject to search at any time by any law enforcement officer, Court Bailiff or Juvenile Court Probation Officer. Any item, container, book bag, backpack, vehicle or possession, within the confines of the Courthouse or upon the Courthouse property, shall be subject to search and inspection at any time by any law enforcement officer, Court Bailiff, or Juvenile Court Probation Officer.

(B) The Court will not tolerate any inappropriate facial expressions, grimaces or gestures during any Court appearance. Rude and disrespectful behavior towards opposing counsel, parties, witnesses, jurors or Court staff will not be tolerated. Any of these actions may be considered by the Court as direct Contempt.

(C) All attorneys, parties and witnesses should wear appropriate attire to Court. The Court considers appropriate attire as clothing Mercer County residents would wear to important events in their lives. Counsel should ensure that their clients and witnesses are appropriately attired. Failure of such may result in the hearing or trial being postponed and costs assessed. Hats shall be removed upon entering the Courtroom.

(D) The general public may be excluded from the Courtroom and only those persons who have a direct interest in the case are to be admitted, in accordance with Ohio Revised Code Section 2151.35. Hearings regarding charges against adults and serious youthful offenders will be open in accordance with Ohio Revised Code Section 2152.

(E) Attorneys may remain seated when addressing the Court unless otherwise directed by the Court. Objections shall be stated with consistency and with reliance on proper legal authority.

(F) Any person who brings a child to Court shall not leave the child unattended or allow the child to disrupt the proceedings of the Court. Children are generally not permitted in the Courtroom unless the Court has required that the subject child(ren) shall be present.

(G) Food is prohibited in the Courtroom during all hearings. No smoking is permitted on the premises of the Courthouse as provided for by law.

(H) The Courtroom shall be cleared at all recesses unless instructed otherwise by the Court.

(I) Representatives of the media will under no circumstances question or converse with prospective or selected jurors concerning a cause set for trial.

(J) All cellular phones and other communication devices are to be turned off by all persons before entering any Courtroom. Cellular phones and other communication devices are to remain off during any Courtroom proceeding. The use of Text Messaging and E-Mails during Court hearings is prohibited by all parties unless authorized by the Court.

(K) No person shall have on his or her possession, or under his or her control or direction, any dangerous ordnance other than law enforcement officer(s), Court Bailiffs on official business, and other persons authorized by the Court. No firearms, deadly weapons, or dangerous ordnances are permitted in the Courthouse or upon the property surrounding the Courthouse.

RULE 1.03 COURT RECORDS

(A) The Clerk of this Court shall not permit original files to be removed from the Clerk's Office by anyone other than Court personnel, unless the same are to be delivered to the Judge or Magistrate of said Court, or unless removal is authorized in writing by the Judge or Magistrate. The inspection of Court records by attorneys shall be guided by Rule 32 of the Ohio Rules of Juvenile Procedure. Counsel of record may view these reports at the Clerk's office. Records may not be removed from the Court, and shall not be copied by any party without leave of the Court. Inspection by *pro se* litigants may be permitted only by leave of Court. The Court may limit or deny the inspection of said documents for good cause pursuant to Rule 32 of the Ohio Rules of Juvenile Procedure.

(B) Subject to Rule 1.03 (E) and (F), no person, including parties or counsel, shall have access to or right to inspect any social histories, psychological reports, or probation records without written authorization from the Judge or Magistrate, or by the written consent of the juvenile herein. The written consent of the juvenile shall be executed at the Court in the presence of an officer of the Court or Deputy Clerk.

(C) Written requests for information (i.e., military, employment, government) will be processed within seventy-two (72) business hours. Written requests may be hand delivered, mailed or faxed to the Court and must be accompanied by a signed release of information. A copy of the Juvenile Prior sheet will be the only information provided. If the juvenile is under the age of eighteen (18), a parent or legal custodian must also sign the release.

(D) Uncertified copies of any public record may be obtained at the cost of \$0.25 per page. Certified copies of any public record may be obtained at the cost of \$5.00 for certification plus \$0.25 per page copied. These costs shall not apply to any abuse, neglect, and/or dependency cases.

(E) To the extent not covered by other statute or rule, psychological reports, Guardian *Ad Litem* reports, home studies, drug/alcohol assessments, drug screen results, victim impact statements, school reports, reports and records of the Probation Department, reports and records from the Mercer County Department of Job and Family Services, shall be considered confidential information and shall not be made available to the general public.

(F) In a proceeding to resolve a dispute over the custody of a child, records of a parent's supervised visitation with that child shall not be admitted without a proper predicate. The term "record" as used in this paragraph includes written observation reports, videotapes, audio and video recordings, and oral testimony by employees of visitation centers. Written reports may be introduced only when the party offering the report has demonstrated by clear and convincing evidence that the report's author is unavailable, and that the report is supported by substantial indicia of reliability. The above restrictions notwithstanding, the Court may in its discretion admit records of critical incidents at visitations. The term "critical incident" means conduct by a parent that warrants termination of a visit.

(G) The record or transcript of any *in camera* interview shall be sealed, to be opened only by the Court or upon order of the Court. Only Counsel for the child may have access to the transcript of the child's interview and only upon written motion and judgment entry signed by the Court. The parents shall have no access to the report of the interview, even if the record has been transcribed for purposes of an appeal or objections.

1.04 EX PARTE COMMUNICATIONS WITH JUDGE OR MAGISTRATE

(A) No attorney or party shall discuss, or attempt to discuss, the merits, either orally or in writing, of any litigation with any Judge or Magistrate presiding over the matter before final disposition thereof without the presence of opposing counsel, or the unrepresented party.

RULE 1.05 OFFICIAL RECORD OF PROCEEDINGS

(A) Matters heard by the Judge or the Magistrate in the Courtroom utilize a digital recording system. All discussions, that are not part of official Court proceedings, should be held outside of the Courtroom in order to ensure the confidentiality of these discussions. Any communications on any recording which are not part of the proceeding shall not be transcribed for any reason.

(B) No public use shall be made by any person, including a party, of any Juvenile Court record, including the recording or transcript thereof of any Juvenile Court hearing, except in the course of an appeal or as authorized by the order of the Court.

(C) If a request for a transcript is made for the purposes of appeal or an objection filed pursuant to Juvenile Rule 40 and Civil Rule 53. The person seeking the transcript is responsible for arranging for a Court reporter to transcribe the record. All original transcripts produced shall be filed with the Clerk and become a part of the official Court record of a case.

The transcript shall include a front and back cover; the front cover shall bear the title, case number of the case and the name of the Court in which the proceedings occurred. The transcript shall be firmly bound on the left side and shall be prepared on white paper eight and one-half inches by eleven inches in size with the lines of each page numbered and the pages sequentially numbered. An index of witnesses shall be included in the front of the transcript of proceedings and shall contain page and line references to direct, cross, re-direct, and re-cross examination. An index to exhibits, whether admitted or rejected, briefly identifying each exhibit, shall be included following the index to witnesses reflecting the page and line references where the exhibit was identified and offered into evidence, was admitted or rejected, and if any objection was interposed. The transcriber shall certify the transcript of proceedings as correct and shall state whether it is a complete or partial transcript of proceedings, and, if partial, indicate the parts included and the parts excluded.

(D) A party may request an audio recording of any hearing by contacting the Court and must pay an initial deposit of \$5.00 per hearing. The fee for the audio recording must be paid in advance by the party requesting the audio recording.

RULE 1.06 ACCESS TO JUVENILE PROCEEDINGS: MEDIA

(A) Definition: For purposes of these rules, the term "media" shall be understood to encompass representatives from any print, digital, or broadcast media.

(B) Superintendence Rule 12 shall govern the presence of media at hearings. Hearings governed by the Ohio Rules of Juvenile Procedure are neither presumptively open nor presumptively closed to the public and the media. Pursuant to Juv. R. 27(A)(1), the Court may not exclude media from serious youthful offender proceedings or exclude parties with a direct interest in the case and/or persons who demonstrate, at a hearing, a countervailing right to be present.

(C) Unless otherwise ordered by the Court, access to juvenile traffic, delinquency, unruly, neglect, abuse, and dependency proceedings shall be limited to persons with a direct interest in the proceedings.

(D) Other persons or entities seeking access to proceedings shall request access by written communication to the Court. Access will be granted unless an objection is filed to the request by a party. A party requesting closure of proceedings shall have the burden of persuasion. Upon the request to close proceedings, the Court will schedule an evidentiary hearing and provide the public and media with reasonable notice of the same.

(E) Requests for permission to broadcast, televise, record, or photograph in the Courtroom shall be in writing to the Court as far in advance as reasonably practical, but in no event later than seventy-two (72) hours prior to the Courtroom session to be broadcast or photographed unless otherwise permitted by the Court. Such requests shall be made a part of the record of the proceedings.

(F) If access is permitted, the Court, after consultation with the media, shall specify the place or places in the Courtroom where the operators and equipment are to be positioned.

(G) Members of the media or public shall not be permitted to enter the Judge or Magistrate's chambers or accesses without judicial approval.

(H) Revocation of Permission: Upon the failure of any media representative to comply with the conditions prescribed herein, the orders and directions of the Court, and/or the Superintendence Rules of the Supreme Court, the Court may revoke the permission to broadcast or photograph the trial or hearing.

(I) Amendments: Any future amendments to the laws governing public access to and recording of Court proceedings are incorporated herein and, to the extent that such amendments conflict with his rule they shall take precedence.

RULE 1.07 FACSIMILE FILING

(A) Filing by facsimile or other electronic means is not permitted on any matter that involves a filing fee. Permitted pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission [fax] to 419-586-4506 pursuant to the authority extended by Civil Rule 5(E) and Juvenile Rule 8. The Court adopts the following procedures for the acceptance of facsimile copies, subsequent to the original filing of the complaint, of pleadings and other papers not longer than twenty (20) pages in length. No document longer than twenty (20) pages in length shall be filed this way.

(B) A document filed by fax shall be accepted as the effective original filing. The person making the filing need not file any source document with the Juvenile Court but must, however, maintain in his or her records and have available for production upon request by the Court, the source document filed by fax, with original signatures as otherwise required and under applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.

(C) The source document filed by fax shall be maintained by the person making the filing until the case is formally closed by the Court and all opportunities for post judgment relief are exhausted. The person making the filing shall also maintain the verification receipt that the transmission was completed without problems.

(D) The person filing a document by fax shall also provide therewith a cover page containing the following information:

- (1) The name of the Court and division;
 - (2) The caption of the case;
 - (3) The case number;
 - (4) The assigned Judge/Magistrate;
 - (5) The title of the document being filed;
 - (6) The date of transmission;
 - (7) The transmitting fax number;
 - (8) An indication of the number of pages in transmission including the cover page;
 - (9) The name, address, telephone number, fax number, Supreme Court Registration Number, if applicable, and e-mail address of the person filing the fax document, if available.
 - (10) Name of attorney of record
 - (11) Name of opposing counsel, if applicable
- SEE ATTACHED FACSIMILE COVER SHEET

(E) The Clerk's Office is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk or Deputy Clerk may inform the sending party of a failed fax filing. Burden of confirming receipt of fax is on the sending party.

(F) Subject to the provisions of these rules, all documents sent by fax and accepted by the Juvenile Court Clerk or Deputy Clerk shall be considered filed with the Juvenile Court Clerk's Office as of the date the Clerk or Deputy Clerk file-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Juvenile Court will be deemed open to receive facsimile transmission of documents on the same days and times the Juvenile Court is regularly open for business as set forth in Rule 1.01. The risks of transmitting a document by fax to the Clerk's Office shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk.

RULE 1.08 INTERPRETATION OF RULES

(A) These Local Rules shall be interpreted to achieve the prompt, efficient, and fair resolution of cases. In the event that any portion of a rule is found to be ambiguous, the rule shall be interpreted as follows:

- (1) To be consistent with the Ohio and United States Constitutions, the Ohio Rules of Civil Procedure, the Ohio Rules of Criminal Procedure and the Ohio Rules of Juvenile Procedure;
- (2) To be practical and efficient in their operation;
- (3) To be taken in context with the other portions of these rules.

(B) Upon application, and for good cause shown, the Juvenile Court may grant exceptions to these rules.

(C) The Court reminds all parties that Juvenile Rule 1 (C) specifically provides that the Juvenile Rules do not apply to “proceedings to determine parent-child relationships.” As such, the Rules of Civil Procedure apply to custody proceedings in the Juvenile Court except when they are clearly inapplicable.

RULE 1.09 APPOINTED COUNSEL

(A) A list of attorneys available for appointment shall be maintained by the Court. Upon a proper affidavit of indigency, the Court shall appoint an attorney for parties in those cases for which appointed counsel is permitted.

(B) Assigned counsel shall receive compensation for professional services and be reimbursed for expenses in accordance with ORC Section 2941.51. Upon the completion of the service, it shall be the duty of such assigned counsel to submit an itemized statement of the services rendered and the time spent in connection with such services in the preparation and trial or other disposition of same, and any out-of-pocket expenses incurred therein. The Court shall determine the amount of compensation within the statutory limit thereon, in accordance with schedule of fees adopted by the Board of County Commissioners of Mercer County. No fees in excess of the maximums prescribed therein shall be approved unless prior to incurring such expenses, counsel shall make application to the Court and obtain prior approval therefore by judgment entry.

(C) **NOTE: Pursuant to ORC Section 120.33(A)(4), all requests for reimbursement are due to the Office of the Ohio Public Defender within ninety (90) days after the end of the month in which the case was finally disposed of or terminated. To provide sufficient processing time for the request at the county level and the state level, the request is due to the Court within thirty (30) days after the end of the month in which the case was finally disposed of or terminated. Failure to comply shall result in reimbursement amounts being reduced by a rate equal to the Ohio Public Defender’s current reimbursement rate.**

(D) In matters other than contempt actions – Any party who is ordered by the Court to pay their own or another party’s attorney fees, and who considers the amount of those fees to be unreasonable, may object in writing to the Court within 14 days of the order. The burden of proof of the unreasonableness of fees is on the moving party.

RULE 2 SECURITIES FOR COST

RULE 2.01 DEPOSITS FOR COSTS

(A) The Clerk's Office shall not accept any action or proceeding for filing without the requisite filing fee set forth in the attached Schedule of Filing Fees.

(B) For any action where a deposit is required, court costs shall be assessed from the deposit and the remaining balance shall be assessed to the moving party.

(C) A deposit is required to reopen a case. A deposit may be required for an open case, if a motion or complaint is filed which changes the nature of the open case. For example, if there is a pending contempt action brought by the Mercer County CSEA, and the obligor/obligee files a Complaint to Establish Parenting Rights or Motion to Modify Custody, then an additional deposit is necessary.

RULE 2.02 INABILITIES TO PRE-PAY COST

(A) In cases of indigence, the Court may waive payment of the filing fee at the time of the filing of the pleading. The party requesting waiver must file a Motion to Waive Filing Fee accompanied by a completed and sworn to affidavit of indigence (Public Defender form). The substantive pleading is submitted to the Court at the same time. The filing of the Motion to Waive Filing Fee does not relieve a party from liability for the filing fee. In determining whether to waive the requirement of a deposit, the Court will consider whether the party seeking the waiver has other outstanding cost owed to the Court. If the Motion is granted, the Court retains the authority to require a payment plan or to assess the filing fees against any party at the conclusion of the case. If the Motion is not granted, the party moving for waiver will have fourteen days after the denial to remit the filing fee to the Court. If the party fails to do so, the substantive pleading submitted with the Motion to Waive Filing Fee will be returned to the party without further action.

RULE 2.03 PAYMENT OF FINES AND COSTS

(A) In any case where fines and/or costs are assessed against a party, said fines and/or costs are due immediately unless otherwise ordered by the Court. Failure to pay can result in a citation for contempt or other collection efforts. Any over payment in excess of \$10.00 will be returned to the payer.

(B) In the interest of economy for the taxpayers of Mercer County, any money held on deposit with this Court in an amount less than Ten Dollars (\$10.00) shall be paid into the Court General Fund rather than refunded by check to the depositor.

(C) If a party is entitled to a refund on a case but owes fines and/or costs on a previous case, the refund may be applied to the fines and/or costs associated with the previous case.

RULE 2.04 DEPOSIT FOR FEES OF GUARDIANS AD LITEM

(A) Any party requesting appointment of a Guardian *Ad Litem* in a proceeding involving allocation of parental rights and/or parenting time shall, at the time of filing the request for appointment of a Guardian *Ad Litem*, deposit with the Court the sum of \$1,000.00. The Court, at its discretion, may make an order for the requesting party to pay for all of the attorney GAL, or the Court may divide the fee equally between the parties. The Court also has discretion to order a different amount of the deposit or have the party or parties make additional deposits.

(B) If there is a refund due and owing to the party who made the deposit and requested a Guardian *Ad Litem*, but the requesting party has fines and/or court costs that are due and owing, the refund for the Guardian *Ad Litem* may be used to offset the said fines and/or court costs.

RULE 3 SERVICE

RULE 3.01 SERVICE BY CIVIL RULES

(A) Service in any matter filed or pending before the Court shall be in accordance with the Rules of Civil Procedure and Rule 16 of the Ohio Rules of Juvenile Procedure.

(B) A party requesting service by the Clerk must provide the current address of all parties to be served regardless of the form of service requested.

(C) Unless otherwise requested, all service shall be by certified mail. It remains the responsibility of the party seeking the action or relief to secure service of process in accordance with the Ohio Rules of Civil Procedure.

RULE 3.02 SERVICE BY POSTING

(A) Pursuant to Rule 16 (A) of the Ohio Rules of Juvenile Procedure, in actions before the Common Pleas Court of Mercer County, Ohio, Juvenile Division, when the residence of a party is unknown and cannot be ascertained with reasonable diligence, service shall be made by any of the following methods or any combination of these methods, to wit:

- (1) By publication as set forth in Rule 16(A) of the Ohio Rules of Juvenile Procedure.
- (2) By posting and mail pursuant to this Local Rule and Rule 16(A) of the Ohio Rules of Juvenile Procedure.

(B) Before service by posting and mail can be made, a praecipe shall be filed with the Clerk requesting service by posting and mail pursuant to this rule and Rule 16(A) of the Ohio Rules of Juvenile Procedure. With the praecipe there shall be an affidavit of a party or a party's counsel, captioned in the name of the action pending before the Court stating the following:

- (1) That the affiant is a party, or counsel for a party to an action filed in the Mercer County Common Pleas Court, Juvenile Division, together with their address and telephone number.
- (2) The caption of the case, the case number, and the nature of the action before the Court.
- (3) The name and date of birth of the party whose residence is unknown and is sought to be served by posting and mail.
- (4) A chronology of the reasonable and diligent efforts used by affiant to locate the party sought to be served by posting and mail.
- (5) The last known address of the party sought to be served by posting and mail.
- (6) A certificate of service to all parties and their respective counsel as required by the Ohio Rules of Juvenile Procedure. Upon the filing of the praecipe and affidavit seeking service by posting as set forth in this rule, the Clerk shall cause a summons and accompanying pleadings to be mailed by ordinary mail, address correction requested, to the last known address of the party to be served as required by Rule 16(A) of Ohio Rules of Juvenile Procedure. The Clerk shall proceed as required by Rule 16(A) of Ohio Rules of Juvenile Procedure if notified of a corrected or forwarding address of the party sought to be served pursuant to this rule.

RULE 3.03 SERVICE BY PUBLICATION

(A) In an action where service is to be made by publication as authorized by Civil Rule 4.4, the attorney filing the necessary praecipe and affidavit shall, at the same time, furnish to the Juvenile Clerk the form of notice of publication which is to be published in a newspaper of general circulation in Mercer County, Ohio.

(B) Counsel or parties requesting publication shall pay for the costs of publication directly to the publisher.

RULE 4 CASE MANAGEMENT

The purpose of this rule is to ensure the readiness of all cases in the Juvenile Court for attorney conference, pretrial, final pretrial, and trial. Unless otherwise determined by the Court, at the initial hearing, which is not evidentiary, the Court shall determine whether a complaint/motion is contested and the basis of the complaint/motion.

RULE 4.01 PLEADINGS AND MOTIONS

(A) 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 12-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. Filings that are not legible for any reason including poor handwriting or photocopying may be refused, or if filed, may be stricken unless there is a legibly typed copy attached thereto. The Court will accept for filing only pleadings that are complete.

(B) Every pleading, motion, and memorandum filed shall be served upon all opposing counsel, or upon all parties not represented by counsel, and shall have typed or printed thereon the name, address, supreme Court number and telephone number of counsel filing the same. When counsel is a firm of attorneys, a particular attorney within the firm having primary responsibility for the case shall execute the document.

(C) Before a new party can be joined to an existing case, a motion must be filed pursuant to Civil Rule 24 requesting same.

(D) All Judgment Entries and Magistrate's Orders granting procedural motions shall be on a separate document.

(E) All motions, unless made during a hearing or trial, shall be made in writing in accordance with Civil Rule 7 through 16 and Juvenile Rule 19 and Juvenile Rule 22, unless otherwise permitted by the Court. All motions shall state with particularity the grounds and shall clearly state the relief or order sought.

(F) The Court will accept *pro se* Motions and schedule a hearing if all of the following apply:

- (1) The motion is completed in compliance with the Civil Rules, or on the Ohio Supreme Court's *pro se* form including the case name and number;
- (2) The motion is typed or prepared in a clearly legible manner;
- (3) The original motion and one copy are provided to the Court;
- (4) The motion states clearly the relief sought and with particularity the grounds for the relief;
- (5) The motion is signed by the person seeking relief and properly Notarized;
- (6) A request for service is filed; and
- (7) The motion clearly identifies any existing orders from Mercer County or any other Court.
- (8) The motion is accompanied by the necessary affidavits and supporting documents.

If the motion does not include all of the above, the Court will request a properly completed *pro se* Motion before scheduling a hearing. The Court cannot provide Notary service.

(G) Superintendence Rule 45 (D) provides that when submitting a case document to the Court, the filing party shall omit personal identifiers from the document. Additionally, the responsibility for omitting personal identifiers from a document submitted to the Court rests solely with the filing party. The Court is not required to review the document to confirm omission of personal identifiers, and shall not refuse to accept or file the document on that basis.

RULE 4.02 CONTINUANCES

(A) Unless otherwise allowed by the Court, Motions for Continuance must be in writing and state the specific reason for the continuance. All motions for continuances must be served upon the opposing party(ies) prior to the hearing as soon as possible. The Movant shall first attempt to secure consent of the opposing party(ies) and set forth in the motion whether consent was obtained or denied. No case will be continued on the day of the hearing except for good cause shown. All continuances shall contain the date on which the need for the continuance arose, the reason(s) for requesting the continuance, and the date in which all attorneys of record, parties and Guardians *Ad Litem* were notified of the requested continuance. 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.

RULE 4.03 PRETRIAL CONFERENCES

(A) The Court may, on its own motion, set any matter for pretrial hearing. Any party may move, in writing, for a pretrial. If the Judge or Magistrate determines that a case warrants a pretrial, a date and time shall be set. All parties named in the action shall be present at the pretrial unless their presence is excused, in advance, by the Judge or Magistrate. In that event, the parties shall be available by telephone.

(B) It shall be the duty of counsel to come to the pretrial fully prepared and authorized to negotiate toward settlement of the case. Failure to be prepared may result in dismissal of the case for want of prosecution, a default judgment, or other sanctions as the Judge or Magistrate deems appropriate.

(C) If requested by the Court, each party shall file pretrial memorandums or briefs with the Court stating their respective case, both factual and legal, and bring to the Court's attention any anticipated legal issues which counsel expects to arise during the trial. Said briefs or memorandums shall be filed at least one (1) week prior to pretrial and copies shall be furnished to opposing counsel.

RULE 4.04 CONFLICT OF TRIAL ASSIGNMENT DATE

(A) The Court may deny continuances because a hearing previously scheduled in this Court conflicts with the scheduled appearance of the attorney in another case when that conflict was apparent when the attorney took the case. The Court may, unless good cause is shown, deny any motion for continuance due to conflict of trial assignment dates unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than ten days prior to hearing.

RULE 4.05 SELECTION OF JURORS

(A) The Juvenile Court hereby adopts the rules of jury selection according to the Mercer County Common Pleas Court, General Division.

RULE 4.06 COST OF CIVIL JURY

(A) If a case is settled after 4:00 P.M. four calendar days immediately preceding the first day of trial, the Juvenile Court may assess the costs of the jury to each one or both parties.

RULE 4.07 JURY VIEW OF PREMISES

(A) In any case where a jury view is requested, the party making the request shall deposit with the Clerk, the sum of \$100.00 with the Clerk. This deposit will be applied by the Juvenile Clerk for transportation costs and the amount applied will be charged as Court cost against the party ordered to pay costs.

RULE 4.08. COMPETENCY PROCEEDINGS

(A) General Purpose: The purpose of this rule 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) 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 order staying the delinquency proceedings shall remain in effect until such time as the child attains competency or the proceeding is dismissed.

RULE 4.09 RETURN BINDOVER

(A) A Motion filed pursuant to Ohio Revised Code Section 2152.121 (B)(3)(b) must be filed within fourteen days of the issuance of the order of the General Division of the Common Pleas transferring a case to the Juvenile Division pursuant to Ohio Revised Code Section 2152.121 (B)(3).

RULE 4.10 FAILURE TO APPEAR

(A) If a moving party or counsel fails to appear within fifteen (15) minutes of the scheduled hearing time, the Judge or Magistrate may dismiss the action or the motion, without prejudice. If the responding party or counsel fails to appear within fifteen (15) minutes of the scheduled hearing time, the Judge or Magistrate may proceed to hear and determine all the issues. Failure of counsel or a party to appear may result in sanctions being imposed.

RULE 4.11 PREPARATION OF JUDGMENT ENTRIES AND ORDERS

(A) In Civil matters, the Court may order or direct either party to prepare a judgment entry and schedule a deadline for the entry to be presented to the Court. Upon submitting the proposed judgment entry, the Court, at its discretion, may modify any or all of the judgment entry to accurately reflect what happened in the proceedings or the agreement of the parties.

(B) Consent judgment entries may be presented to the Court on or before the date of hearing. In the event the parties notify the Court that an agreement has been reached and they wish to vacate the hearing date, the entry shall be submitted at least seven (7) days before the vacated date.

Pursuant to this rule, and the cost schedule attached to these rules, parties may file a Consent Judgment Entry without a pending action. The parties will be required to present the Court a fully executed Judgment Entry accompanied by a Motion setting forth that the entry is in contemplation of resolution of matters not before the Court on existing Motion. The Judgment Entry and Motion do require the necessary filings, as with any other complaint or motion.

(C) All Judgment Entries or other Court orders prepared by an attorney on behalf of the Court shall contain the following:

- (1) A certificate of service stating the names and address of the attorneys or parties to be served with the Court order and directing the Clerk of Courts to complete such service.
- (2) Appropriate Civil Rule 54 language if the Court order is a final appealable order.
- (3) All Judgment Entries addressing costs shall state that any costs deposited shall be applied to costs of the case. The entry shall then apportion unpaid costs between the parties and may require reimbursement.
- (4) If child support is addressed, the required statutory language, child support worksheets, and standard orders and notices of the Court must be included and attached. Standard orders and notices are attached hereto.
- (5) If child support is addressed, the appropriate SETS number should be set forth in the caption, if available.

RULE 4.12 EXHIBITS

(A) All exhibits must be marked and identified if referred to on the record. Once marked, all exhibits will be maintained in the sole possession of the Court until the conclusion of the case, including time for appeal, unless the Court otherwise Orders return of the exhibit. Upon the conclusion of the case including time for appeal, the Court may dispose of exhibits pursuant to law and at such time as it deems feasible following notice to the proponent, victim, or owner.

(B) If a party is seeking to introduce information stored on a cell phone (e-mails, texts, Facebook/Social Media Posts, etc.), such information must be printed out in an organized fashion with page numbers on the bottom right-hand corner for easy reference. Additionally, if a party is seeking to introduce evidence from a cell phone relating to voicemails, video streams, or photographs, they should be duplicated onto a flash drive so that it may be marked for identification in tangible form.

RULE 4.13 SUBPOENAS (Civil Rule 45 and Juvenile Rule 17)

The form of the subpoenas shall be in accordance with the provision of Civ. R. 45(A) and Juvenile Rule 17(A). It may be served by the sheriff, bailiff, coroner, Clerk of the Court, by an attorney at law, or by any person designated by order of Court who is not a party and is not less than eighteen years of age.

Attorneys shall be diligent in filing request for service by the Clerk of Court. Service of process shall be made in accordance with the provisions of Civ. R. 45(B) and Juvenile Rule 17(C). Any praecipe for the service of subpoenas shall be filed within the following time limit:

(A) In-County Party at least seven (7) working days before the subpoenaed party is to appear.

(B) Out of County Parties at least fifteen (15) working days before the subpoenaed party is to appear.

If this rule is not complied with, the failure of the subpoenaed party to appear because of failure of service shall not constitute grounds for continuance. This rule applies unless it can be shown that the person filing the praecipe was unaware of the name or the location of the persons sought to be subpoenaed in sufficient time to comply and that such information could not reasonably have been obtained in time.

The party or attorney responsible for the issuance of a subpoena shall comply with the provision of Civ. R. 45(C) and Juvenile Rule 17(D) and shall be responsible for attaching to each subpoena the text of the rule pertaining to the protection of persons subject to subpoenas and duties in responding to subpoenas.

Sanctions will be imposed in appropriate cases under Civ. R. 45(E) and Juvenile Rule 17(F)

RULE 5 PROCEDURES ON APPEAL

(A) All appeals are subject to the Local Rules of the 3rd District Court of Appeals. Parties are cautioned to review those rules at the time of the filing of the appeal.

RULE 6 ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES

RULE 6.01 EX PARTE ORDERS

(A) There shall be no *ex parte* orders for residential parenthood prior to non-oral temporary orders, except upon showing of good cause and supported by adequate affidavits indicating an immediate or imminent risk to the health, safety and welfare of the child if the requested relief is not granted. All *ex parte* Orders shall be at the discretion of the Court and may require the requesting party to be present at Court upon the filing and request of an *ex parte* order.

(B) All motions for *ex parte* relief shall be served upon the opposing party by personal service unless otherwise directed by the Court.

(C) A respondent may request oral-hearing, in writing, to modify such *ex parte* temporary order, which the Court may schedule for hearing at its discretion.

RULE 6.02 TEMPORARY ORDERS

(A) Request for temporary allocation of parental rights and responsibilities shall be made by either parent, with an affidavit in support. Civil Rule 75 does not apply to proceedings filed in Juvenile Court, therefore using the discretion pursuant to ORC Section 3109.043; as well as is permitted by Juvenile Rule 13 via Juvenile Rule 45, the Court may issue Orders pursuant to Juvenile Rule 13, or as it may find in the best interest of the child(ren).

(B) If either party wishes to contest a temporary order granting temporary residential parent status, the party may request a hearing on the matter. Copies of the motion shall be served in accordance with the Rules of Civil Procedure. Upon filing, the Court may schedule the matter for hearing.

RULE 6.03 WITNESS FEES

(A) A party requesting the issuance of subpoenas for a witness shall, at the time of filing the request for subpoena, submit a check or checks payable to the witness or witnesses under the Witness Fee Statute (Ohio Revised Code Section 2335.06 or as hereafter amended) for said witness with the Juvenile Court Clerk. A check must be made out for the witness fee and mileage.

RULE 6.04 PARENTAGE ACTION, MOTION TO MODIFY VISITS, CHILD SUPPORT, CUSTODY, SHARED PARENTING

(A) Any person may bring an action to establish parent-child relationship or for an Order establishing visitation and companionship before an administrative determination of the existence or nonexistence of a parent-child relationship from the Child Support Enforcement Agency.

(B) All Complaints/Motions shall be commenced by the filing of the following:

- (1) Complaint/Motion;
- (2) Proof of establishment of paternity, if available
- (3) Affidavit in Support;
- (4) Affidavit of Income and Expenses (Affidavit 1);
- (5) A Parenting Proceeding Affidavit (Affidavit 3);
- (6) A health insurance affidavit (Affidavit 4);
- (7) A IV-D form for child support services;
- (8) Request for Service;
- (9) The appropriate filing fee; and
- (10) All Shared Parenting Plans must be filed pursuant to Ohio Revised Code Section 3109.04 and Local Rule.

Upon the receipt of the proper paperwork and application fee, the Juvenile Clerk may set said Motion for pretrial. All parties are to attend the pretrial. If the matter is not settled, a trial date shall be set.

(C) Shared Parenting:

Where a party seeks shared parenting, shared parenting plans shall be filed in accordance with ORC Section 3109.04. Any request for deviation of child support shall comply with ORC Section 3119.22, Section 3119.23, and Section 3119.231. If a Court has previously determined paternity or made orders regarding child support, health insurance, medical expenses or tax exemptions, the shared parenting plan shall reference the case number and Court in which such determinations or orders were made.

All shared parenting plans must be attached to and accompanied by a Motion for Shared Parenting signed by one parent (in the event of a single plan) or both parents (if a joint plan). The plan is to be filed with the Court thirty days prior to the hearing date.

The following are those provisions which must be included in a shared parenting plan, along with the required notices of the court (attached hereto). Other provisions may be added as needed or agreed.

(1) PHYSICAL LIVING ARRANGEMENTS:

This Section needs to describe the regular living schedule of the child(ren) in each parent's home. While it is not mandatory, the parties may wish to designate one party's home as the "primary residence" and another party's home as the "secondary residence". **IT IS NOT APPROPRIATE TO DESIGNATE ONLY ONE OF THE PARENTS AS "RESIDENTIAL PARENT" IN A SHARED PARENTING PLAN.** "Residential Parent" means sole, legal custodian. In a shared parenting plan, both parents are legal custodians of the child(ren) and the use of the term "residential parent" for one parent only is contradictory to the shared parenting concept.

It is also not appropriate to state that each parent is the residential parent and legal custodian when the child(ren) is/are residing with that parent. See: ORC 3109.04(L)(6).

EXCEPTION: The statute does permit the designation of one parent as the residential parent for school purposes or as residential parent for tax exemption purposes or as residential parent for purposes if ADC eligibility but those specific designations do not affect the status of both parents as residential parents and legal custodian of the child(ren).

(2) HOLIDAYS, VACATIONS, ETC.:

In spite of the fact that the living arrangements for the child(ren) may have been fully described, a specific provision must be included in a shared parenting plan for sharing the major holidays, vacation, birthdays, etc. The Mercer County Local Rule (Rule 7) may be incorporated in part or in whole in the plan.

(3) SCHOOL:

The statutory scheme mandates the designation of a school district. Our Court recognizes the difficulty in those cases where the child(ren) are not school age and the living arrangements of the parties at the time of a new decree may be somewhat temporary and subject to change.

The provision should deal with the issue of school placement the extent that the parties can determine the most likely possibility at the time the matter is before the Court. An acceptable alternative is to designate the school district where either the mother or father resides.

TERMS THAT THE PARTIES WILL REACH AN AGREEMENT WHEN THE CHILD(REN) REACH SCHOOL AGE ARE NOT ACCEPTABLE.

(4) CHILD SUPPORT:

A support computation sheet must be prepared as part of a shared parenting plan utilizing appropriate guideline calculation. It is common to have deviations from the child support guidelines in shared parenting cases; however, it is by no means considered automatic for neither party to pay support just because it is "shared parenting." Where a disparity of income exists and/or a disparity of physical care of the child(ren) exists, the exchange of child support is still considered appropriate and equitable.

(5) OTHER CHILD-RELATED FINANCIAL MATTERS:

Where no child support is being exchanged or the child support to be exchanged is significantly less than the guideline amount, a provision for an appropriate sharing of financial expenses of the child or children, including but not limited to employment-related child care, clothing, school fees, camp or sports fees, lessons and extracurricular activities, needs to be included.

(6) PROVISION FOR CHILD/CHILDREN'S HEALTH CARE NEEDS:

A recitation of who will cover the child(ren) on medical insurance must be included in every shared parenting plan. The shared parenting plan must include: (1) designation of one or both parents to provide health insurance; and (2) designation of the percentage of each parent's responsibility for payment of uninsured medical, dental and optical expenses, and psychological expenses.

(7) CLAIMING A CHILD FOR TAX AND HEALTH INSURANCE PURPOSES:

Since both parties are custodial parents, the tax law is of little assistance for determining who will be entitled to claim the children for income tax and health insurance purposes. That issue must be addressed in the shared parenting plan. It is also appropriate to require the parent who will not be claiming the child for income tax purposes or will not be claiming the child for a particular year to cooperate and execute any and all forms required by the Internal Revenue Service.

(8) OUT-OF-STATE RELOCATION:

Both parents shall give written notice to the other parent and the court immediately upon any change of address and/or phone number. Neither parent shall relocate the children out of state without first obtaining a modified visitation order. The parties may submit an agreed order modifying visitation, with a provision for allocation of transportation expenses, to the Court for adoption by the Court as an order. If the parents are unable to agree, the moving parent shall, prior to relocation, 1) file a motion asking the Court to modify the visitation schedule; 2) set a hearing; and 3) obtain a modified visitation order. No continuances of the hearing will be granted without written permission of the assigned judge/magistrate.

(9) ACCESS TO CHILD'S/CHILDREN'S RECORDS:

Both parents shall have access to the same records, same school activities and to any daycare center which the children attend on the same basis that said records or access is legally permitted to a custodial 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.

(D) Change of Circumstances

Where a showing of a change of circumstances is required for a motion to change custody or to modify a shared parenting plan, the alleged change of circumstances shall be generally identified in the motion. It shall not be sufficient to simply state that a change of circumstances has occurred.

RULE 6.05 MOTION IN CONTEMPT

(A) A Motion in Contempt shall be commenced by the moving party filing the following:

- (1) Motion specifically stating the basis for the contempt citation;
- (2) Notice of Rights;
- (3) Brief in Support;
- (4) Supporting Affidavits;
- (5) Request for Service;
- (6) Proposed Show Cause Order
- (7) Appropriate filing fee.

(B) A Party motioning for reasonable attorney fees must articulate to the Court the legal basis for such a request and offer evidence in support of said motion. The amount of \$500 shall be deemed to be a reasonable, necessary and appropriate amount for attorney fees for representation in cases upon which a finding of contempt has been made following a contested hearing or a motion to impose jail sentence from a previous finding in contempt following a contested hearing. Any request for attorney fees in excess of that amount shall require a presentation of evidence as to the reasonableness and necessity of said fees in accordance with Ohio law. Except for those matters in which attorney fees are statutorily mandated, it is in the discretion of the Court whether to award attorney fees in such action. This is not applicable to fees for Court appointed counsel, which shall be paid upon proper application to the Court made within thirty (30) days of the last day necessary attorney services were provided, except upon approval of the Court.

(C) The party filing any contempt action shall file a supporting affidavit as required by Local Rule 6.05(A)(4). The affidavit shall set forth the claimed reason for the contempt and shall identify the specific Court Order the contemnor has allegedly violated by identifying the filing date of the order and the specific paragraph, article or Section where the order may be found. A copy of the Court Order the contemnor has violated shall be attached to the affidavit. If the claim is a failure of payment of support the affidavit shall include the amount of delinquency claimed. In the event the claim is for failure to pay medical expenses, the affidavit shall include the amount of such medical expenses.

RULE 6.06 RESIDENTIAL PARENT– NOTICE OF INTENT TO RELOCATE

(A) A residential parent shall file a notice of intent to relocate with the deputy clerk of this Court and the Child Support Enforcement Agency (herein CSEA) at least thirty (30) days in advance of said move. The notice shall contain the name and address of the residential parent, names of the child(ren), proposed residence, and the name and address of non-residential parent. See attached form.

RULE 7 -PARENTING TIME/VISITATION/COMPANIONSHIP

(A) The allocation of parenting time shall comply with this Rule unless otherwise ordered by the Court or by the mutual agreement of the parties. Any variance from the parenting time provisions of this rule must be specifically set forth in writing and adopted by the Court to be enforceable by contempt proceedings. This does not prohibit the parties from reaching agreement and accommodation regarding parenting time outside of Court. The Court encourages parties to exercise consideration and compromise in addressing parenting time with children, however only those parenting time agreements adopted and made an order of the Court can be enforced by contempt proceedings.

(B) The standard Parenting Time (visitation) rules and general rules for the Mercer County Juvenile Court follow as Appendix B. Should there be a conflict, dispute or contempt proceeding necessitating interpretation of former Rules, the Court reserves discretion to make a ruling resolving all conflicts.

RULE 8 CHILD SUPPORT

RULE 8.01 SCHEDULE OF SUPPORT

(A) All support payments for child support are ordered payable through the Child Support Enforcement Agency and shall include a poundage fee on each payment in accordance with the Ohio Revised Code.

(B) The parents' current and past income and personal earnings shall be verified by electronic means or with suitable documents, including, but not limited to, paystubs, employer statements, receipts and expense vouchers related to self-generated income, tax returns, and all supporting documentation and schedules for the tax returns.

Therefore, at hearings involving computation of support, the parties shall be prepared to submit to the Court the following:

- (1) Copies of most recent Federal Income Tax Returns, and/or W-2 wage statements.
- (2) Copy of the most recent pay stub or payroll report.
- (3) Verification of cost of health insurance for the child(ren).

(C) Support shall be computed and a copy of the Guideline worksheet shall accompany the Judgment Entry addressing the issue of support with the appropriate effective date the support is to begin being paid.

(D) All payments made by the obligor directly to the obligee shall be considered a gift, unless the payment is made to discharge an obligation other than support.

Rule 8.02 TITLE IV-D APPLICATION

(A) Whether or not a request for child support is made in either original cases or post-decree filings, the parties shall provide a completed IV-D Application for child support services to the Court, who will then forward the application to the Child Support Enforcement Agency.

(B) NO SUPPORT ORDERS WILL BE ISSUED WITHOUT AN IV-D APPLICATION FOR CHILD SUPPORT SERVICES.

RULE 9 DEFINITION OF REASONABLE AND ORDINARY HEALTH RELATED EXPENSES

(A) The total annual cash medical support obligation owed by both parents shall be deemed reasonable and ordinary health related expenses of a minor child.

(B) Health related expenses exceeding the total cash medical support obligation owed by both parents shall be deemed extraordinary and shall be allocated between the parties on a case-by-case basis based upon the income shares established and any other factors that the Court deems to be relevant.

(C) Health related expenses shall be defined as hospital, doctor visits, dental, orthodontic, laboratory testing, optical, optometric, pharmaceutical, psychiatric and psychological expenses pre-approved by both parents, ordered by the Court, or reasonable and necessary under the circumstances. Health related expenses do not include those for purely cosmetic reasons or nonprescription items.

(D) The custodial parent shall promptly notify the other parent by written statement of the date, cost, service provided, and by whom for each child of all medical, dental or other health related expenses. After the total sum of the cash medical support obligations owed by both parents has been paid for that year, pursuant to the income shares established, the non-custodial parent shall either reimburse the custodial parent or pay the bill directly to the creditor within thirty (30) days of receipt of said expense. If the custodial parent does not submit the bill to the other party within 30 days of receipt of

the bill, the parent waives reimbursement and shall be 100% responsible for payment unless he/she can demonstrate good cause otherwise.

(E) The Juvenile Court expressly reserves jurisdiction to apportion payment of exceptional medical, dental, etc. expenses between the parties, which are not covered by insurance, upon motion of either party.

(F) The parent obligated to provide insurance coverage shall promptly provide the other parent the insurance cards and forms for all dependents for all coverage available for the use and benefit of the minor child(ren), unless the Court deems it is not in the best interests of the minor child(ren).

RULE 10 – EXTRACURRICULAR ACTIVITIES

(A) In the absence of orders to the contrary, extracurricular activities and the costs of those activities will be governed by this Section.

(B) Regardless of where the child is living, his/her continued participation in extracurricular activities, school related or otherwise, shall continue uninterrupted. It shall be the responsibility of the parent providing the physical care and supervision of the child at the time of the activity to provide the physical and economic cost of transportation to these activities. Both parents shall provide each other with notice of all extracurricular activities, school related or otherwise, in which the child participates, schedules of all extracurricular (handwritten if no formal schedule is provided by the activity) and the name of the activity leader (including address and telephone number if reasonably available).

(C) The parents shall notify each other about any and all expenses arising from the child's extracurricular activities.

(D) Extracurricular expenses shall include, but are not limited to, all sports activities, fees to play, necessary equipment, uniform and spirit wear, necessary specialized footwear such as cleats, theatre, dance, music and performance groups, personalized lessons and clubs, teams or individual involvement, karate, 4-H, FFA and school projects not required in the curriculum of any offered class. Extracurricular fees do not include individual lessons, books, fees and required costs associated with school classes.

(E) The child support recipient shall pay the first \$100.00 per season per extracurricular activity. Thereafter, extracurricular activities shall be paid according to the percentages of the parent's income. Any fees in excess of \$100.00 for extracurricular activities or for specialized involvement or enhancement of said activities such as camps, club teams, competitive groups or field trips shall be discussed by the parents before the child is enrolled.

The parent incurring the expense will advance payment and forward a copy of the bill or invoice immediately to the other parent, who will in turn reimburse the first parent the appropriate sum upon presentation of the bill or invoice, but in no event later than thirty (30) days from receiving the bill or invoice.

(F) The parents shall give careful consideration of the child's best interests and the child's wishes in scheduling activities, and neither parent will unreasonably withhold agreement to any particular activity. The parents shall be reasonable with respect to this provision and take into consideration the needs and interest of the child at all times. The scheduling of events, appointments and activities shall not be done in a manner to cause undue inconvenience or harassment to another parent; however, both parents must understand that the child needs to be able to participate in regular activities without interference and with the support of both parents.

RULE 11 CASA/GUARDIAN AD LITEM

Rule 11.01 GENERAL

(A) The Court may appoint a CASA/Guardian *Ad Litem* or Attorney Guardian *Ad Litem* to represent the best interest of a minor child in Delinquency/Unruly, Dependent, Neglected and/or Abuse proceedings consistent with the Ohio Rules of Juvenile Procedure. Whenever feasible, the same CASA/Guardian *Ad Litem* shall be appointed for a specific child in any subsequent case relating to the best interest of that child.

(B) Any party requesting appointment of an Attorney Guardian *Ad Litem* in a proceeding involving parentage, custody, parenting time or visitation shall, at the time of filing of the written motion, deposit with the Clerk the amount of \$1,000.00 to be applied toward the satisfaction of the fees for the Guardian *Ad Litem*. Deposit may be subject to change by separate Court order. The Court may order the deposit of additional funds upon its own motion or upon motion by the GAL.

(C) No deposit for fees of a Guardian *Ad Litem* shall be required in cases alleging a minor child to be delinquent, unruly, dependent, neglected or abused.

(D) All Guardians *Ad Litem* shall comply with the provisions set forth in Superintendence Rules 48 - 48.07.

RULE 11.02 QUALIFICATIONS

(A) The Court shall maintain a public list of attorneys and volunteers willing to accept appointment as a Guardian *Ad Litem* while maintaining individual privacy under Rules 48 - 48.07 of the Rules of Superintendence.

(B) All Guardians *Ad Litem* must successfully complete a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education in each succeeding year as established in Rules 48 - 48.07 of the Rules of Superintendence. All Guardians *Ad Litem* are required to file proof of compliance with the Clerk of Court each year.

RULE 11.03 DUTIES

Refer to Superintendence Rules 48 - 48.07 as set forth by the Supreme Court.

RULE 11.04 RECORD KEEPING AND MONTHLY BILLING

(A) All Guardians *Ad Litem* shall keep accurate records of the time spent, services rendered, and expenses incurred in each case while performing the responsibilities of a Guardian *Ad Litem*.

(B) In allocation of parental rights and responsibilities cases, a Guardian *Ad Litem* shall provide a monthly statement of fees and expenses to all parties.

(C) All Guardians *Ad Litem* shall file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment upon order of the court or upon the conclusion of those responsibilities.

RULE 11.05 REPORT

The Guardian *Ad Litem* shall prepare a written report, including recommendations to the Court pursuant to statute, Superintendence Rules 48 - 48.07, by Court Rule, and in the Court's Order of Appointment.

A Guardian *Ad Litem* may file a written request to restrict public access to the Guardian *Ad Litem* Report or a portion of the report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the person for whom the Guardian *Ad Litem* was appointed in accordance with Rule 45 of the Rules of Superintendence for the Courts of Ohio.

A Guardian *Ad Litem* shall be available to testify at hearing regarding the report and may orally supplement the report at the conclusion of the hearing.

Rule 11.06 TERMINATION OF APPOINTMENT

The Guardian *Ad Litem* shall represent the best interest of the minor child(ren) until discharged by the Court.

RULE 12 MAGISTRATE

(A) The power and duties of Magistrate's are defined in Rule 40 (Ohio Rules of Juvenile Procedure); Rule 19 (Ohio Rules of Criminal Procedure); and Rule 53 (Ohio Rules of Civil Procedure). All decisions of the Magistrate shall be in writing. Magistrate's Orders shall take effect immediately unless stayed by a Court order. Magistrate's Decisions shall have full force and effect upon being adopted by the Court unless a timely written objection is filed.

(B) Upon the Magistrate hearing a matter, if all parties and counsel of record execute the appropriate Waiver of Magistrate's Decision, the preparation of a Magistrate's Decision shall not be required as stated in Juvenile Rule 40, Civil Procedure Rule 53, and Criminal Rule 19. A judgment entry may be immediately adopted by the Court.

RULE 12.01 OBJECTION TO THE MAGISTRATE'S DECISION

(A) Any party to the action may file written objections to a Magistrate's Decision. The filing date of the Objection shall be within fourteen (14) days of the file stamped date of the Magistrate's Decision. Objections to the Magistrate's Decision may not be filed by facsimile.

(B) The Judge may affirm, reject, or modify the Magistrate's Decision only upon the timely filing of an objection or appeal. The Judge may hear additional evidence at his/her discretion. The objection or appeal should be accompanied by a supporting memorandum. If a finding of fact or weight of the evidence argument is part or all of the basis for the objection, a transcript of testimony is necessary to support the objection to the Magistrate's Decision or Magistrate's Order and must be filed with the Court by the moving party within thirty (30) days after the filing of the objections, unless the Judge, in writing, extends the time period. Pursuant to Local Rule 1.05(C), it is the responsibility of the objecting party to provide a typed transcript of the hearing to the Court pursuant to Ohio Rules of Civil Procedure 53 (D)(3)(b)(iii) and Ohio Rules of Juvenile Procedure 40(D)(3)(b)(iii). If you fail to provide the Court with an acceptable reason why a transcript is not needed; the motion or objection will be dismissed. If the Court determines that a transcript is needed and the objecting party has failed to provide the Court with a transcript, the Court may summarily dismiss the objections.

(C) A memorandum in response may be filed by any party within seven (7) days of the filing of the memorandum in support of the objections or appeal.

(D) The Court may enter an interim order on the basis of a magistrate's decision without waiting for or ruling on timely objections by the parties where immediate relief is justified. The timely filing of objections does not stay the execution of an interim order, but an interim order shall not extend more than twenty-eight days from the date of entry, subject to extension by the Court in increments of twenty-eight additional days for good cause shown.

RULE 12.02 MOTION TO SET ASIDE MAGISTRATE'S ORDER

(A) Magistrates may issue Orders as provided by Civil Rule 53 and Juvenile Rule 40. Parties may file a Motion to Set Aside Magistrate's Order, which shall be heard by a Judge or Magistrate. The Motion shall be filed no later than ten (10) days after the Magistrate's Order is entered.

(B) The Motion shall be accompanied by a memorandum stating the party's position with particularity. The filing of a Motion to Set Aside does not automatically stay the Magistrate's Order. A separate Motion to Stay may be filed, and may be approved or modified by either the Judge or the Magistrate who issued the Order.

RULE 13 DIVERSION

(A) The Court may, in its discretion, divert any case, pursuant to Juvenile Rule 9, that is felt to be in the best interest of the juvenile. The juvenile and/or parent shall be assessed a fee for each case (See Appendix A) diverted and complete all requirements set forth by the Diversion Officer.

(B) Actions that are diverted are subject to prosecution in the event that the diversion was deemed not successful by the Court. Such a finding may be made by the Court, in its discretion, upon the Court's own motion and without hearing or notice to the parties or counsel.

RULE 14 JUVENILE CIVIL PROTECTION ORDERS

Rule 14.01 PURPOSE AND PROCEDURE

(A) Juvenile Civil Protection Order cases before this Court shall be administered in accordance with Ohio Revised Code Section 2151.34, and Juvenile Domestic Violence Civil Protection Order cases before this Court shall be administered in accordance with Ohio Revised Code Section 3113.31, for the statutory purpose of bringing about a cessation to violence.

(B) There are no costs or fees for filing or obtaining a protection order under these provisions.

Rule 14.02 STANDARD FORMS

(A) The Court shall use substantially similar petitions and protection order forms to those promulgated by the Supreme Court of Ohio in Rule Section 10.05 of the Ohio Rules of Superintendence.

Rule 14.03 SERVICE

(A) Service of process is required for a full hearing in accordance with the Ohio Rules of Civil Procedure. Further, the Court shall direct that any Juvenile Civil Protection Order or Juvenile

Domestic Violence Civil Protection Order or Consent Agreement issued by the Court be delivered the same day, as reasonably possible, upon the Respondent, all the law enforcement agencies that have jurisdiction to enforce the Order, and the parent, Guardian or legal custodian of the Respondent the same day, as reasonably possible, that the Order is entered.

Rule 14.04 ADDITIONAL FORMS OF RELIEF

(A) The remedies and procedures provided in Ohio Revised Code Section 2151.34 and Ohio Revised Code Section 3113.31 are in addition to, and not in lieu of, any other available civil or criminal remedies or any other remedies available under Ohio law.

(B) If a respondent is currently on Probation, the Court may determine that a modification of probation can serve in lieu of a Civil Protection Order.

RULE 15 SEALING AND EXPUNGEMENT OF RECORDS

(A) In most cases, application may be made to the Mercer County Juvenile Court for an Order to seal a juvenile record under Section 2151.356 of the Ohio Revised Code, or to expunge the record under Section 2151.358 of the Ohio Revised Code.

(B) Any delinquency/unruly case which is handled as a diversion pursuant to Juvenile Rule 9 may be sealed upon successful completion of terms and conditions of diversion.

(C) Juvenile Civil Protection Orders and Juvenile Domestic Violence Civil Protection Orders may be sealed when the Respondent turns 19 unless the Petitioner provides the Court with evidence that the Respondent did not comply with the Order

(D) Juvenile Civil Protection Orders and Juvenile Domestic Violence Civil Protection Orders may be sealed after two years from expiration even if Respondent did not completely comply with the Order.

RULE 16 PUBLIC RECORDS POLICY

(A) It is the policy of the Mercer County Common Pleas Court, Juvenile Division, to adhere to Ohio's Public Records Act and to those portions of the Ohio Revised Code and the Ohio Rules of Juvenile Procedure, and the Rules of Superintendence (and any amendments thereto), that require certain records to remain confidential. Any denial of public records in response to a valid request must be accompanied by an explanation. If the request is in writing, the explanation must also be in writing.

APPENDIX A

**MERCER COUNTY COMMON PLEAS COURT
JUVENILE DIVISION
DEPOSITS AND COURT COSTS**

DEPOSITS:

New Custody/Support/Visitation/Paternity Cases (complaint or counterclaim) (copies provided by filing party)	\$200.00
Any Motion, Request or Complaint to reactivate a case previously opened	\$200.00
Motion for Citation in Contempt	\$200.00
Any party requesting appointment of a guardian <i>ad litem</i> in a proceeding involving parentage, custody, parenting time or visitation shall deposit	\$1,000.00
No deposit for fees of guardian <i>ad litem</i> shall be required in cases alleging a child to be dependent, neglected, abused, unruly, or delinquent.	

INITIAL COURT COSTS:

Unruly	\$100.00
Delinquent (misdemeanor)	\$100.00
Delinquent (felony)	\$130.00
Adult Criminal (Misdemeanor)	\$ 110.00
Traffic (moving)	\$110.00
Traffic (non-moving)	\$80.00
Seat Belt - Driver (includes \$30 fine)	\$110.00
Seat Belt - Passenger (includes \$20 fine)	\$100.00
Diversion	\$75.00
Cost per page copied	\$0.25
Cost for certification (in addition to costs for copying)	\$5.00

APPENDIX B

LOCAL RULE 7 -PARENTING TIME/VISITATION/COMPANIONSHIP

Standard Parenting Time (Visitation) Guidelines and Rules

These rules set forth specific times for Parenting Time (visitation) to enable child(ren) to spend an equitable amount of time with both their parents in consideration of their age, educational and extracurricular obligations and their parents' work schedules. The times designated are designed to give the child(ren) specific periods that they can plan on to be with their parents and to provide them with stability, order and continuity.

These rules are not created to give parents legal weapons to use against each other. The Court will consider a parent's breach of an obligation, first in the light of the effect it has on the child(ren), and secondly, its effect on the other parent. Parenting Time (visitation) is a time for child(ren) to spend with the parent they do not live with. Liberal visiting arrangements are encouraged, as contact with both parents is important to the child(ren). **Specific items in the Journal Entry of the Court or a parenting plan adopted by the Court will take precedence over this schedule.**

At the outset, **visitation should be at such times and places as the parents can agree.** If the parents are unable to agree, then visitation shall be no less than the following:

REGULAR PARENTING TIME (VISITATION):

Visitation by the non-residential parent shall be on alternating weekends from Friday at 7:00 p.m. to Sunday at 7:00 p.m. (the beginning and ending times may vary to accommodate the work schedules of the parties). This alternating weekend schedule shall not change, even if interrupted by holiday and birthday, and/or summer parenting time.

The non-residential parent shall have weekly parenting time from 5:30 p.m. to 8:30 p.m. (at least one evening per week). The beginning and ending times may be varied by agreement to accommodate the work schedules of the parties, the schedule of the children and the appropriate bedtime for children during the school year. If the parties are unable to agree upon the day of the week for this time, Wednesday will be used unless otherwise ordered by the Court.

Additionally, there shall be visits at such other times as the parents may agree. Although the parents are not obligated to do so, the Court encourages additional visitation.

HOLIDAYS AND DAYS OF SPECIAL MEANING:

Unless otherwise indicated, holiday visitations shall commence at the regular hour as set for the commencement of weekend visitation and shall end at the regular hour set for the ending of weekend visitation. Listed holiday and days of special meaning visitation shall take precedence over regular and summer visitations.

The child(ren) shall spend **Mother's Day** in the companionship of the mother commencing at 7:00 p.m. the Friday before Mother's Day and concluding at 7:00 p.m. on Mother's Day. The child(ren) shall spend **Father's Day** in the companionship of the father commencing at 7:00 p.m. the Friday before Father's Day and concluding at 7:00 p.m. on Father's Day.

The child's birthday shall be spent with the mother in even numbered years and the father in odd-numbered years, provided that the visiting parent gives one week's notice of his or her intent to exercise such birthday visitation. Such visitation shall take place from 5:00 p.m. to 8:00 p.m. Visitation for the child's birthday shall take precedence over all other visitation schedules.

The parents shall have the child(ren) on the holidays as follows:

EVEN YEARS

MOTHER	FATHER
Martin Luther King Day- Friday at 7:00 p.m. to Monday at 7:00 p.m.	President's Day- Friday at 7:00 p.m. to Monday at 7:00 p.m.
Memorial Day- Friday at 7:00 p.m. to Monday at 7:00 p.m.	Easter- Thursday at 7:00 p.m. to Sunday at 7:00 p.m.
Labor Day- Friday at 7:00 p.m. to Monday at 7:00 p.m.	July 4 th – If the 4 th falls on Tuesday, Wednesday, or Thursday, the time shall commence at 7:00 p.m. on July 3 until 9:00 a.m. on July 5. If the 4 th falls on Sunday or Monday, the time shall commence on Friday night at 7:00 p.m. and conclude July 5 at 9:00 a.m. If the 4 th falls on Friday or Saturday, parenting time shall commence at 7:00 p.m. on July 3 rd and conclude Sunday at 7:00 p.m.
Veteran's Day Friday at 7:00 p.m. to Monday at 7:00 p.m.	Thanksgiving Day- Wednesday at 7:00 p.m. to Sunday at 7:00 p.m.
Christmas – December 22 or the Beginning of the Christmas school holiday (whichever is earlier and even if the child(ren) is/are not of school age) at 7:00 p.m. to noon on December 25	Christmas-Noon on December 25 for the remainder of the Christmas holiday until 7:00 p.m., being the evening before school resumes (whether the children are of school age or not)

During the ODD YEARS this shall be reversed.

Holiday visitation shall take precedence over regular parenting time and summer visitation.

SUMMER VISITATION:

Each parent shall have summer visitation with the child(ren). The non-residential parent shall not be permitted to exercise his/her right to summer visitation with the child(ren) unless he/she has maintained a consistent and regular visitation schedule with the child(ren).

Each parent shall be entitled to five (5) weeks of uninterrupted parenting time each year to be exercised in blocks of time consisting of fourteen (14) or seven (7) consecutive days per time period.

(1) Unless otherwise ordered, the uninterrupted parenting time shall be used during the summer months, which shall begin the Sunday after the school year ends and end the Sunday before may new school year begins. This uninterrupted parenting time shall not interfere with the child(ren)'s school, school-related activities, and extracurricular activities.

(2) Absent the agreement of the parties, a seven (7) period shall commence on Friday at 7:00 p.m., at the beginning of the requesting parent's regularly scheduled weekend, and terminate on the following Friday at 7:00 p.m.

(3) Unless otherwise agreed in writing or ordered by the Court, the parent intending to exercise uninterrupted parenting time shall give at least thirty (30) days advanced written notice to the other parent. If both parties desire the same week(s), then the parent that gave advanced notice first shall be entitled to said week(s).

(4) Unless otherwise ordered, holiday parenting time and days of special meaning shall take precedence over weekend parenting time and summer visitation.

GENERAL GUIDELINES AND RULES REGARDING PARENTING TIME:

Waiver of Visitation:

Failure to give notice of not exercising visitation is a waiver of that visitation.

The non-residential parent must give 24-hour advance notice of intent NOT to exercise parenting time. Unless prior arrangements are made, a parent who does not exercise the parenting time forfeits that time. Failure to exercise scheduled time is upsetting to the child(ren). A parent who continually fails to exercise this right may have parenting time modified and may be subject to other legal remedies by motion of the other parent. Visitation shall not terminate support for that period of time, unless by specific order, since the weekly rate is adjusted for those periods of visitation and summer visitation at the non-custodial residence.

Transportation:

With the exception of midweek parenting time, the receiving parent shall transport the child at the start of his/her parenting time period. This means that the parents, unless otherwise agreed to by both parents or unless ordered by the Court, shall share the transportation of the child equally. The non-residential parent shall be solely responsible for transporting the minor child(ren) to and from the midweek parenting time. A parent, if unavailable for the pick-up of the child, shall have a responsible adult, well-known to the child, provide substitute transportation for the child. All child restraint laws must be complied with by any person driving with the child. No person transporting the child may be under the influence of drugs or alcohol. Only licensed drivers may transport the child. Unless otherwise ordered by the Court or agreed to by the parties, the child shall be dropped off/picked up at the parent's homes. If the child is to be picked up from a daycare or school facility which requires written consent for the pickup, the residential parent shall sign such written consent prior to the commencement of any parenting time period.

Both parties shall be diligent in having the child(ren) ready and available at the appointed times and the non-residential parent shall be prompt in picking up the child(ren), provided however, that the non-residential parent shall have a grace period of thirty (30) minutes for pickup. In the event that the non-residential parent exceeds the grace period, the visitation for the weekend is forfeited, unless prior notification and arrangements have been made.

Clothing:

The residential parent shall send with the child(ren) on visitation sufficient clothing and outer wear appropriate for the season to last the period of visitation. In the case of infants, sufficient bottles, formula and diapers to last the weekend or for the travel time plus one day for summer vacation.

Schoolwork:

A parent must provide time for any child to study and complete homework assignments, papers or other school assigned projects, even if the completion of this work interferes with a parent's plans with the child.

School and Day Care records, and notices:

The residential parent shall contact the administrator of the school that the child(ren) attends and cause the school to enter in its student records the name, residence address and telephone number of the non-residential parent and any information the school may need to reach the non-residential parent for routine or emergency reasons.

The residential parent shall direct and authorize the school to release any and all information concerning the child(ren) to the non-residential parent. The non-residential parent shall be responsible to contact the school to make such arrangements as are necessary to timely provide to the non-residential parent copies of all grade reports, notices and bulletins that the residential parent would routinely receive from the school.

Child(ren)'s Activities:

Regardless of where the child is living, the child's participation in extracurricular activities, whether school-related or otherwise, shall not be interrupted because of parenting time. The parent with whom the child is residing at the time of an activity shall transport the child to the activity, unless otherwise agreed by the parties, in advance of the parenting time period. Each parent shall fully inform the other parent of any organized activities of the child, in advance, complete with a schedule and the name and contact information for any activity leader, if available.

The purpose of visitation and companionship schedules is to provide the child(ren) time to spend with their non-residential parent. The Court will not look favorably on any parent who consistently leave the child(ren) with baby-sitters or other non-family persons while the parent pursues their own pleasures or entertainment and will consider the same a violation of these Rules.

Medical, dental and optical care:

The child(ren) shall continue to be cared for by the same health care providers that attended them during the time prior to a filing with the Court unless otherwise agreed to by the parties, or for geographic reasons is not practical. If a child is ill, requiring medication or consultation with a doctor/dentist, each parent must notify the other as soon as possible. If the child becomes ill or injured while with the residential parent prior to a scheduled parenting time period, the parent must contact the other parent and discuss the advisability of parenting time while considering the best interest of the child as the primary concern.

Routine medical, dental and optical care will be arranged by, and be the responsibility of, the residential parent. Consulting with the non-residential parent is not required before such routine care is undertaken. Either parent who has the physical custody of the child(ren) at the time, shall promptly notify the other of any illness or injury that requires the child(ren) to be seen or treated by a doctor or other health care provider.

Neither parent shall subject the child(ren) to a piercing or tattooing of any part of their anatomy, or allow the child(ren) to do so on their own, without the consent of the other parent.

Make-Up Parenting time:

Any make-up parenting time required by this schedule shall occur the first weekend of the other parent immediately following the missed parenting time and shall continue during the other parent's weekends until made up in full, including partial weekends.

Relocation:

Either parent must notify the other in writing at least thirty (30) days in advance of his/her intent to change residence. Each parent shall provide a current address and telephone number to the other parent at all times. The parties shall also comply by notifying the Court and Child Support on any change in address within thirty (30) days prior to moving.

Address and Telephone Numbers:

Unless the Court orders otherwise, each parent shall keep the other parent informed of his/her current address and telephone/cell/text number, and an alternate telephone number in the event of an emergency. Absent an order of the Court, no parent shall put a block on his/her phone prohibiting the other parent from calling. Voicemails for both parents are encouraged, in order to facilitate communication. If either parent takes the child outside the county in which that parent resides, for a period of 48-hours or more, that parent must provide the other parent with the destination, times of arrival and departure, and method of travel and a telephone number where the child can be reach in case of an emergency.

Obligations imposed on both parents

When exercising parenting time, a child may exhibit a strong emotional reaction when saying good-bye to either parent. Child mental health professionals concur that this emotional response is generally quite normal, especially with young child(ren), and does not mean that the child does not love the other parent or does not want to spend time with the other parent. Both parents need to calmly reassure the child that the child will see the other parent soon. The length of the adjustment will vary. If a child indicates strong opposition to being with the other parent, it is the responsibility of each parent to appropriately deal with the situation. Parents should comfort and calmly talk with the child, and provide reassurance. Confrontation and unpleasant scenes are to be avoided. If the matter is not settled, either parent should seek the immediate assistance of a mental health professional, or file a motion with the Court. As uncomfortable as this issue may be for a parent, this issue should not remain unresolved. **IT IS THE DUTY OF THE RESIDENTIAL PARENT TO TAKE ALL REASONABLE MEASURES TO MAKE SURE THAT THE CHILD GOES FOR THE PARENTING TIME PERIOD.**

Mutual respect:

Neither parent shall criticize the other or allow a subsequent spouse or significant other to do so in the presence of the child(ren). A parent should not, nor permit any other person to, suggest, encourage or require a child to refer to any person other than the child's parents as "mom" or "dad", etc.

Discipline:

It is presumed that the parents will use consistent discipline between the households and will communicate with each other concerning the need for discipline of the child(ren). If the parents disagree over the appropriate discipline or solutions to the child(ren)'s behavior, they should seek the help of a professional. Examples of concern are decline in grades, truancy problems, delinquency, or drastic changes in behavior.

Communication between parents:

Both parents will communicate directly with each other regarding any matters involving their child(ren). Neither parent will communicate with the other through subsequent spouses, significant others, relatives or the minor child(ren) unless such communications are amicable and are of minor significance. **UNDER NO CIRCUMSTANCES SHALL A PARENT USE THE CHILD(REN) TO COMMUNICATE WITH THE OTHER PARENT.**

It is the parent's responsibility, not the child(ren), to make all parenting time arrangements. It is not the child's responsibility to mediate or become involved in parental differences over parenting times, dates or activities. If the parties are unable to communicate with each other, they may use other adults or the

OurFamilyWizard program to make parenting time arrangements. The best solution is to seek professional help to improve their ability to communicate for the best interest of their child(ren).

Communication between parent and child(ren):

Both parents shall encourage free communications between the child(ren) and the other parent. Neither parent shall do anything to impede or restrict communications by E-mail, text, fax, or regular mail between the child(ren) and the other parent, whether the same is initiated by the child(ren) or the other parent.

The non-residential parent shall have the right to reasonable telephone access to the child(ren) when they are with the residential parent. The residential parent shall have the right to reasonable telephone access to the child(ren) when they are with the non-residential parent.

Non-Compliance:

Any of the rights or responsibilities outlined in this schedule may be enforced by the Court after the filing of the appropriate motion of either party. A parent may not withhold parenting rights because the other party does not obey another Court Order, including, but not limited to, the payment of child support. A parent who willfully fails to comply with this schedule may be found guilty of contempt of Court.

The parents are advised that it is a violation of law for any person to obtain or attempt to obtain from a child a written or recorded statement setting forth the child's wishes and concerns regarding the allocation of parental rights. ORC 3109.04(B)(3).

In all cases that involve minor child(ren), it shall be the responsibility of the Attorney of record to cause a copy of these Rules to be delivered to his/her client. Said attorney shall make reasonable efforts to make sure his/her client reads and understands these Rules.

These are guidelines concerning parental rights and responsibilities and they will be changed or modified by the Court if it is shown that there is a need for such change. The Court also recognizes that it is impossible to devise a set of rules that will apply in each and every case and therefore encourages the parties to attempt to work out their differences on their own keeping in mind, the best interests of their child(ren).

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PHASE-IN PARENTING TIME SCHEDULE

If the parties and child(ren) have never lived as a family unit, or have not lived as a family unit for over one (1) year, the visitation with the non-residential parent shall be phased in using the following schedule. After the introduction phase is concluded, visitation would be extended to the standard visitation schedule.

(A) Unless the parties agree otherwise, or subject to a modifying order, the phase-in parenting time schedule shall be as follows:

(1)Phase 1:

- (a) Visitation shall occur for once a week for three (3) hours away from the residential parent's home at a neutral site, such as a suitable relative of the non-residential parent or Our Home in Celina, Ohio.
 - i. The non-residential relative must agree to the supervision.
- (b) The child will not be removed from the agreed upon visitation site during the visitation period.
- (c) These visits shall take place on a day and time of the residential parent's choice, unless this conflicts with the non-residential parent's work schedule. In such case, if the residential parent cannot choose another non-conflicting day and time, then the non-residential parent may choose the day and time.
- (d) No alcoholic beverages, non-prescribed medications, or substances of abuse shall be used during or in the 24 hours prior to any visitation.
- (e) This introductory visitation phase shall continue for a period of four (4) weeks. If the non-residential parent misses any visits, the introductory period will continue beyond four (4) weeks until three (3) consecutive weeks have occurred.
- (f) The non-residential parent shall be responsible for transporting the child(ren) to and from his/her visits.

(2)Phase 2:

- (a) Visitation shall occur for once a week for six (6) hours away from the residential parent's home at a place of non-residential's choosing.
- (b) These visits shall take place on a day and time of the residential parent's choice, unless this conflicts with the non-residential parent's work schedule. In such case, if the residential parent cannot choose another non-conflicting day and time, then the non-residential parent may choose the day and time.
- (c) No alcoholic beverages, non-prescribed medications, or substances of abuse shall be used during or in the 24 hours prior to any visitation.
- (d) This phase shall continue for a period of four (4) weeks. If the non-residential parent misses any visits, this phase shall continue beyond the four (4) weeks until three (3) consecutive weeks have occurred.
- (e) The non-residential parent shall be responsible for transporting the child(ren) to and from his/her visits.

(3)Phase 3:

- (a) Visitation shall occur for once a week for three (3) hours away from the residential parent's home at a place of non-residential parent's choosing, and for one (1) overnight every other weekend from 7:00 p.m. to the following day at 10:00 a.m., unless agreed to otherwise.

- (b) These visits shall take place on a day and time of the residential parent's choice, unless this conflicts with the non-residential parent's work schedule. In such case, if the residential parent cannot choose another non-conflicting day and time, then the non-residential parent may choose the day and time.
- (c) No alcoholic beverages, non-prescribed medications, or substances of abuse shall be used during or in the 24 hours prior to any visitation.
- (d) This phase shall continue for a period of six (6) weeks. If the non-residential parent misses any visits, this phase shall continue beyond the six (6) weeks until four (4) consecutive weeks have occurred.
- (e) The non-residential parent shall be responsible for transporting the child(ren) to and from his/her visits.

(4) Final Phase:

- (a) After the successful completion of Phase 3, the parents shall exercise visitation in accordance with the standard visitation schedule.

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**MERCER COUNTY COURT OF COMMON PLEAS
PROBATE/JUVENILE DIVISION
FACSIMILE FILING COVER PAGE**

RECIPIENT INFORMATION:

PROBATE or JUVENILE DIVISION (circle one)

FAX NUMBER: (419) 586-4506

SENDING PARTY INFORMATION:

NAME: _____

ATTORNEY OF RECORD: _____

SUPREME COURT REGISTRATION NO. (if applicable): _____

OFFICE/FIRM: _____

ADDRESS: _____

TELEPHONE NO. _____

FAX NUMBER: _____

E-MAIL ADDRESS (if available): _____

CASE INFORMATION:

TITLE OF THE CASE: _____

CASE NUMBER (if available): _____

TITLE OF THE DOCUMENT: _____

JUDGE/MAGISTRATE (if available): _____

OPPOSING COUNSEL (if applicable): _____

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (including this page): _____

NO DOCUMENT LONGER THAN 20 PAGES AND/OR REQUIRES A FILING FEE WILL BE ACCEPTED BY FAX.

**IN THE MERCER COUNTY COURT OF COMMON PLEAS
JUVENILE DIVISION**

NAME: _____

CASE NO. _____

ADDRESS: _____

PLAINTIFF/PETITIONER

JUDGE MATTHEW L. GILMORE

VS

NAME: _____

**NOTICE OF INTENT TO
RELOCATE (O.R.C. SECTION
3109.051(G))**

ADDRESS: _____

DEFENDANT/RESPONDENT

NOW COMES THE RESIDENTIAL PARENT, PURSUANT TO O.R.C. SECTION
3109.051(G), AND NOTIFIES THE COURT AND NON-RESIDENTIAL/RESIDENTIAL PARENT OF
RELOCATION TO THE FOLLOWING RESIDENCE ON _____
(DATE)

NEW ADDRESS: _____

NEW PHONE #: _____

NAME AND ADDRESS OF NEW SCHOOL DISTRICT:

NOTICE

THE NON-RESIDENTIAL/RESIDENTIAL PARENT IS HEREBY NOTIFIED THAT IF NO
OBJECTION IS FILED WITH THE COURT WITHIN FOURTEEN (14) DAYS AFTER RECEIPT OF THIS
NOTICE, THE COURT MAY APPROVE SAID MOVE AND NO HEARING WILL BE SCHEDULED. IF AN
OBJECTION IS FILED, THE COURT MAY SCHEDULE A HEARING WITH NOTICE TO BOTH PARENTS TO
DETERMINE WHETHER IT IS IN THE BEST INTEREST OF THE CHILD(REN) TO REVISE THE
PARENTING TIME SCHEDULE FOR THE CHILD(REN).

SIGNATURE
RESIDENTIAL PARENT

DATE

PRINT
RESIDENTIAL PARENT

**THE CLERK OF COURTS SHALL SERVE THE NON-RESIDENTIAL PARENT BY UNITED STATES
CERTIFIED MAIL AND NOTE THE SAME ON THE DOCKET HEREIN.**

JUDGE MATTHEW L. GILMORE **MAGISTRATE RICHARD M. DELZEITH**
MERCER COUNTY COMMON PLEAS COURT
PROBATE/JUVENILE DIVISION
STANDARD ORDERS AND REQUIRED NOTICES
(Revised July, 2021)

I. HEALTH INSURANCE ORDERS:

With regard to health insurance coverage, the Court finds it is in the best interests of the parties' minor child(ren) that health insurance be provided for the child(ren). The Obligor and Obligee are both liable for the health care expenses for the child(ren) who are not covered by private health insurance according to a formula established by the Court with respect to the Court's child support Order.

The Court finds that **Obligee/Custodial parent** shall provide health insurance coverage, unless rebutted for the following reason marked below at which time Obligor shall provide health insurance for the minor child(ren):

- Obligor already has health insurance coverage for the child(ren) that is reasonable in cost
- Obligor already has health insurance coverage for the child(ren) that is NOT reasonable in cost, but wants to be named health insurance Obligor and provide coverage for the child(ren)
- Obligor can obtain health insurance coverage for the child(ren) that is reasonable in cost through an employer or other source. If through work, length of time at work and stability of insurance is considered by Court.
- Obligee is a 3rd party caretaker or children service agency with no duty to provide medical support.

The Court makes the following orders:

a. If private health insurance coverage for the child(ren) is not available at reasonable cost* to the Obligor or the Obligee at the time of the order, Obligee shall obtain it within thirty (30) days after it becomes available to Obligee at reasonable cost and notify the CSEA at P.O. Box 649, Celina, Ohio 45822, that private health insurance has been obtained. If private health insurance becomes available to the Obligor at a reasonable cost, the Obligor shall inform the CSEA at the above address within thirty (30) days and may seek a modification of the health insurance coverage from the Court or CSEA with respect to an Order. *Reasonable cost is defined as 5% or less of gross income.

b. The parent who is required to provide private health insurance coverage for the child(ren) shall provide to the other party, within thirty (30) days of the Order being issued, written information regarding the following: benefits, limitations and exclusions of any health insurance coverage; copies of any insurance forms necessary to receive reimbursement; payment or other benefits under the coverage; and a copy of the necessary insurance cards and shall continue to so provide upon the issuance of new information, forms and cards. If coverage changes, that parent shall, within thirty (30) days, notify the other party and the Mercer County CSEA and comply with the above orders with regard to the exchange of written insurance coverage information.

c. The parent who is required to provide private health insurance coverage for the child(ren) shall designate the child(ren) as covered dependents under any of that parent's private health insurance policy, contract, or plan.

d. The parent who is required to provide private health insurance coverage for the child(ren) shall submit a copy of this order to the insurer at the time application is made to enroll the child(ren) in the health insurance policy and no later than thirty (30) days after the issuance of this order, furnish written proof of compliance to the CSEA.

e. In the event health insurance coverage is no longer available through employment or is no longer available at a reasonable cost through employment, a parent must report that to the CSEA within thirty (30) days.

f. Obligor shall pay 50% and Obligee shall pay 50% of the uncovered extraordinary medical expenses for the parties' child(ren), unless otherwise ordered in the court order.

g. The parent who is to be reimbursed for medical expenses, whose address and telephone number are provided to CSEA, shall be reimbursed by the other party for the uncovered medical care expenses they paid on behalf of the child(ren) above their obligation.

1. Within thirty (30) days, the custodial parent shall promptly notify the other parent by written statement of the date, cost, service provided, and by whom for each child of all medical, dental or other health related expenses. After the total sum of the cash medical support obligations owed by both parents has been paid for that year, pursuant to the income shares established, the non-custodial parent shall either reimburse the custodial parent or pay the bill directly to the creditor within ten (10) days of receipt of said expense. If the custodial parent does not submit the bill to the other party within thirty (30) days of receipt of the bill, the parent waives reimbursement and shall be 100% responsible for payment unless he/she can demonstrate good cause otherwise.

h. The administrator of the health care plan that provides health insurance coverage for the child(ren) may continue making payment for medical, optical, hospital, dental or prescription services directly to any health care provider in accordance with the applicable health insurance policy, contract, or plan.

i. Upon written request by either parent, the employer of the person required to obtain health insurance coverage is required to release to the parties or the CSEA, any necessary information on the health insurance coverage, including the name and address of the health plan administrator and any policy, contract or plan number, and to otherwise comply with any order or notice issued herein.

j. NOTICE: If the person required to obtain private health care insurance coverage for the child(ren) subject to this child support order obtains new employment, the agency shall comply with the requirements of §3119.34 of the Revised Code, which may result in the issuance of a notice requiring the new employer to take whatever action is necessary to enroll the child(ren) in private health care insurance coverage provided by the new employer, when insurance is not being provided by any other source. (ORC §3119.32) Specifically, ORC §3119.34 mandates that no later than the business day after receipt of a notice of new hire, a CSEA shall send to a person's new employer a national medical support notice if that person is required to provide health insurance coverage for child(ren) who are the subject of a child support order.

k. Pursuant to ORC §3119.32(F): The names and year of birth of each child(ren) subject to this child support-health insurance order is:

Name	Year of Birth
_____	_____
_____	_____
_____	_____
_____	_____

l. In any action where a parent responsible for health care of child(ren) is determined, each party shall provide to the Court or CSEA a list of any group health insurance policies, contracts, or plans available to the party and the cost for self-only and family coverage under the available policies, contracts, or plans.

THIS ORDER IS ISSUED PURSUANT TO THE OHIO REVISED CODE §3119.30, et al.

If cash medical orders issued, the following applies:

"Cash medical support" means an amount ordered to be paid in a child support order toward the ordinary medical expenses incurred during a calendar year.

"Ordinary medical expenses" includes copayments and deductibles, and uninsured medical-related cost for the child(ren) of the order.

Extraordinary medical expenses" means any uninsured medical expenses incurred for a child during the calendar year that exceed the total cash medical support amount owed by the parents during that year, including orthodontia, dental, optical, and psychological services.

A cash medical support order shall be administered, reviewed, modified, and enforced in the same manner as the underlying child support order.

In the event the child(ren) are a recipient of any form of Medicaid coverage, the medical support order shall be redirected to the State of Ohio. The cash medical order may be implemented by the Child Support Enforcement Agency (CSEA) without a hearing or additional notice to the parties.

II. CHILD SUPPORT ORDERS

Any payment of money by the person responsible for the support payments under a support order to the person entitled to receive the support payment that is not made to the Mercer County Child Support Enforcement Agency in accordance with the support order shall not be considered as a payment of support. Any payment made to discharge an obligation other than support shall be deemed a gift. The obligor shall not voluntarily terminate employment or cause himself to be terminated through action or inaction of his own, without new employment or arranging for the uninterrupted payment of child support.

The Mercer County Child Support Enforcement Agency shall administer this order on a monthly basis in accordance with Ohio Revised Code §§3121.51 to 3121.54. If payments are made other than on a monthly basis, the required monthly administration by the agency does not affect the frequency or the amount of the support payments to be made under this order. All payments shall be made by wage withholding, if applicable, or direct payments.

Until such time as support payments are withheld from the Obligor's pay, the Obligor shall be responsible for making these payments by check, certified check, or money order to Ohio Child Support Payment Central. (ORC §3121.28)

All support payments shall be made to:
Ohio Child Support Payment Central
PO Box 182394
Columbus, OH 43218-2394.

Pursuant to ORC §3121.28(C), payments under the order are to be made in the manner ordered by the court or agency and if the payments are to be made other than on a monthly basis, the required monthly administration by the agency does not affect the frequency of the amount of the support payments to be made under the order.

In the event obligor becomes unemployed and is eligible to receive unemployment benefits, a benefits deduction shall issue to the Bureau of Employment Services.

The parties shall notify the Mercer County Child Support Enforcement Agency of any reason why child support should terminate.

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 THE 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 OR OBLIGEE AND YOU FAIL TO GIVE THE REQUIRED NOTICES TO THE CHILD SUPPORT ENFORCEMENT AGENCY, YOU MAY NOT RECEIVE NOTICE OF THE CHANGES AND REQUESTS TO CHANGE THE CHILD SUPPORT AMOUNT, HEALTH CARE PROVISIONS, OR TERMINATION OF THE CHILD SUPPORT ORDER.

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. (ORC §3121.29)

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 Chapters 3119, 3121, 3123, and 3125, of the Revised Code or a withdrawal directive issued pursuant to Sections 3123.24 to 3123.38 of the Revised Code and shall be forwarded to the Obligee in accordance with Chapters 3119, 3121, 3123, and 3125 of the Revised Code. (ORC §3121.27). The withholding or deduction notices and other orders issued under ORC §§3121.03, 3121.04, to 3121.06, and administrative orders issued under §3121.12 of the Ohio Revised Code, and the notices that require the Obligor to notify the child support enforcement agency administrating the support order of any change in the Obligor's employment status or of any other change in the status of the Obligor's assets, are final and enforceable by the Court. (ORC §3121.33).

Pursuant to ORC §§3119.87 and 3119.88, each party will notify the Child Support Enforcement Agency of any reason for which a child support order should terminate. Failure of the residential parent or person who has custody of the child to do so is contempt of Court.

If Obligor is unemployed, and each time they are unemployed or working less than 30 hours per week, the Obligor shall take part in this Court's Seek Work Program and shall immediately commence seeking work and report to the Mercer County Common Pleas Court, Juvenile/Probate Division, Third Floor, Courthouse, Celina, Ohio at 8:15 a.m. on the second Tuesday of each month, or as ordered, with proof of four (4) job applications per day. The Obligor shall comply with all the directions and orders of the Judge/Magistrate of the Court of Common Pleas in matters relative to the seek work program. **FAILURE OF OBLIGOR TO APPEAR MAY RESULT IN A BENCH WARRANT FOR THEIR ARREST.**

If the parties fail to comply with any order of this Court, a contempt action may be filed. If either party is found guilty of contempt, the Court may impose any of the following penalties: **First Offense:** a fine of not more than \$250.00, a definite term of imprisonment of not more than 30 days in jail, or both; **Second Offense:** a fine of not more than \$500.00, a definite term of imprisonment of not more than 60 days in jail, or both; **Third or Subsequent Offenses:** a fine of not more than \$1,000.00, a definite term of imprisonment of not more than 90 days in jail, or both.

NOTICES:

- III. RELOCATION NOTICE:** Pursuant to Ohio Revised Code §3109.051(G), the parties are notified as follows:

If the residential parent intends to move to a residence other than the residence specified in the court order, the residential parent shall file a notice of intent to relocate with this court. Unless otherwise ordered pursuant to ORC §§3109.051(G)(2), (3), and (4), a copy of such notices shall be mailed by the court to the parent who is not the residential parent. Upon receipt of the notice, the court, on its own motion or the motion of either party, may schedule a hearing with notice to both parties to determine whether it is in the best interest of the child(ren) to revise the parenting time schedule.

- IV. RECORDS ACCESS NOTICE:** Pursuant to Ohio Revised Code §§3109.051(H) and 3319.321(B)(5)(a) the parties are notified as follows:

Excepting as specifically modified or otherwise limited by court order, and subject to ORC §§3125.16 and 3319.321(F), the parent who is not the residential parent is entitled to access to any record that is related to the child(ren), under the same terms and conditions as the residential parent, and to which said residential parent is legally provided access. Any keeper of a record who knowingly fails to comply with this order is in contempt of court.

- V. DAY CARE CENTER ACCESS NOTICE:** Pursuant to Ohio Revised Code Section 3109.051(I), the parties are notified as follows:

Excepting as specifically modified or otherwise limited by court order, and in accordance with ORC §5104.039, the parent who is not the residential parent is entitled to access to any day care center that is or will be attended by the child(ren) with whom parenting time is granted, to the same extent that the residential parent is granted access to the center, unless ordered otherwise by the court.

- VI. SCHOOL ACTIVITIES NOTICE:** Pursuant to ORC §3109.051(J), the parties are notified as follows:

Excepting as specifically modified or otherwise limited by court order, and subject to ORC §3319.321(F), the parent who is not the residential parent is entitled to access, under the same terms and conditions as the residential parent, to any student activity that is related to the child(ren) and to which the residential parent of the child(ren) legally is provided access. Any school employee or official who knowingly fails to comply with this order is in contempt of court.