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PREFACE

The foundation of our government rests upon the confidence of the people in the ability of their courts to achieve liberty and justice for all under the law. The fair, impartial, and speedy resolution of cases without unnecessary delay maintains this confidence, safeguards the rights of litigants to the just processing of their causes, and earns the trust of the public.

To secure these ends, the Supreme Court of Ohio adopts the following Rules of Superintendence for the Courts of Ohio to serve the public interest that mandates prompt disposition of all causes, at all times, in all courts of this state.

RULE 1. Applicability; Authority; Citation.

(A) Applicability. Except where otherwise provided, these Rules of Superintendence for the courts of Ohio are applicable to all courts of appeal, courts of common pleas, municipal courts, and county courts in this state.

(B) Authority. These rules are promulgated pursuant to Article IV, Section 5(A)(1) of the Ohio Constitution.

(C) Citation. These rules shall be known as the Rules of Superintendence for the Courts of Ohio and shall be cited as "Sup. R. __."

Commentary (July 1, 1997)

Rule 1 is patterned after Rule 1 of the Rules of Superintendence for Courts of Common Pleas and has been revised to reflect the adoption of uniform superintendence rules. The Rules of Superintendence for the Courts of Ohio are intended to apply to all trial and appellate courts, except the Court of Claims, unless a rule clearly is intended to apply only to a specific court or division of a court.

RULE 2. Definitions.

As used in these rules:

(A) "Case" means a notice of appeal, petition, or complaint filed in the court of appeals and any of the following when filed in the court of common pleas, municipal court, and county court:

(1) A civil complaint, petition, or administrative appeal;

(2) A criminal indictment, complaint, or other charging instrument that charges a defendant with one or more violations of the law arising from the same act, transaction, or series of acts or transactions;

(3) A petition, complaint, or other instrument alleging that a child is delinquent, unruly, or a juvenile traffic offender based on conduct arising out of the same act, transaction, or series of acts or transactions or a petition alleging that a child is dependent, neglected, or abused;

(4) An estate, trust, guardianship, petition for adoption or other miscellaneous matter as defined in Sup. R. 50.

(B) "Court" means a court of appeals, court of common pleas, municipal court, or county court.

(C) "Division" means the general, domestic relations, juvenile, or probate division of the court of common pleas, any combination of the general, domestic relations, juvenile, or probate divisions of the court of common pleas, or the environmental or housing divisions of the municipal court.

Commentary (July 1, 1997)

This rule contains definitions of several terms used throughout the Rules of Superintendence. Because the Rules of Superintendence relate primarily to the internal operation of Ohio courts, these definitions are not intended to apply to questions of statutory interpretation. For example, the definition of "case" is designed as a benchmark for statistical reporting purposes that will allow for some uniform measure of the workload of the courts. The definition is not designed to address statutory issues such as the proper assessment of court costs or filing fees in civil and criminal cases. Reference should be made to Sup. R. 37(A)(4) and 43, and the Case Management Section of the Supreme Court's implementation manual for further information pertaining to the definition of "case."

RULE 3. Designation or Election of Presiding Judge.

(A) Single-judge courts

In a single-judge court of common pleas or a single-judge municipal or county court, the judge shall serve as the presiding judge of the court.

(B) Multi-judge courts

(1) In a court of appeals, a multi-judge court of common pleas, or a multi-judge municipal or county court, the judges of the court shall elect by a majority vote a presiding judge of the court from the judges of the court.

(2) If the judges of a court are unable to elect a presiding judge of the court pursuant to division (B)(1) of this rule, the presiding judge shall be determined as follows:

(a) The judge having the longest total service on the court shall serve as the presiding judge;

(b) If two or more judges have equal periods of total service on the court, the judge having the longest total service as an Ohio judge shall serve as the presiding judge;

(c) If two or more judges have equal periods of total service as an Ohio judge, the judge having the earliest date of admittance to the practice of law in Ohio shall serve as the presiding judge;

(d) If two or more judges were admitted to the practice of law in Ohio on the same date, the Chief Justice of the Supreme Court shall designate one of the judges of the court to serve as the presiding judge.

(C) Term

The term of a presiding judge of a court shall be one year beginning on January 1st. A presiding judge may serve consecutive terms.

(D) Designation or election date

The designation or election of a presiding judge of a court shall occur on or before December 31st of the year preceding the term.

(E) Notification of designation or election

A presiding judge of a court shall notify the Administrative Director of the Supreme Court of judge's designation or election as the presiding judge by January 15th of the year of the term.

RULE 3.01. Powers and Duties of Presiding Judge.

In addition to the powers and duties set forth in the Revised Code that do not conflict with the powers and duties of the administrative judge of a court or division of a court set forth in Sup.R. 4.01, a presiding judge of a court shall do all of the following:

(A) Call and conduct an annual meeting, and other meetings as necessary, of the judges of the court for the purpose of discussing and resolving administrative problems common to all divisions of the court;

(B) Assign judges of the court on a temporary basis to serve in another division of the court as required by the business of the court.

RULE 3.02. Presiding Judge Service as Administrative Judge.

A presiding judge of a court may serve as an administrative judge of a court or division of a court pursuant to Sup.R. 4.

RULE 4. Designation or Election of Administrative Judge.

(A) Single-judge courts and divisions

In a single-judge court of common pleas, a single-judge division of a court of common pleas, or a single-judge municipal or county court, the judge shall serve as the administrative judge of the court or division.

(B) Multi-judge courts and divisions

(1) In a court of appeals, a multi-judge division of a court of common pleas, or a multi-judge municipal or county court, the judges of the court or division shall elect by a majority vote an administrative judge of the court or division from the judges of the court or division.

(2) If the judges of a court or division are unable to elect an administrative judge of the court or division pursuant to division (B)(1) of this rule, the administrative judge shall be determined as follows:

(a) The judge of the court or division having the longest total service on the court or in the division shall serve as the administrative judge;

(b) If two or more judges have equal periods of total service on the court or in the division, the judge of the court or division having the longest total service as an Ohio judge shall serve as the administrative judge;

(c) If two or more judges have equal periods of total service as an Ohio judge, the judge of the court or division having the earliest date of admittance to the practice of law in Ohio shall serve as the administrative judge;

(d) If two or more judges were admitted to the practice of law in Ohio on the same date, the Chief Justice of the Supreme Court, for courts of appeals or multi-judge municipal and county courts, or the presiding judge of the court of common pleas, for multi-judge divisions of courts of common pleas, shall designate one of the judges of the court or division to serve as the administrative judge.

(C) Term

The term of an administrative judge of a court or division shall be one year beginning on January 1st. An administrative judge may serve consecutive terms.

(D) Designation or election date

The designation or election of an administrative judge of a court or division shall occur on or before December 31st of the year preceding the term.

(E) Notice of designation or election

An administrative judge of a court or division shall notify the Administrative Director of the Supreme Court of the judge's designation or election as the administrative judge by January 15th of the year of the term.

RULE 4.01. Powers and Duties of Administrative Judge.

An administrative judge of a court or a division of a court shall do all of the following:

(A) Be responsible for and exercise control over the administration, docket, and calendar of the court or division;

(B) Be responsible to the Chief Justice of the Supreme Court in the discharge of the administrative judge's duties, for the observance of the Rules of Superintendence for the Courts of Ohio, and for the termination of all cases in the court or division without undue delay and in accordance with the time guidelines set forth in Sup.R. 39;

(C) Pursuant to Sup.R. 36, assign cases to individual judges of the court or division or to panels of judges of the court in the court of appeals;

(D) In municipal and county courts, assign cases to particular sessions pursuant to Sup.R. 36;

(E) Require timely and accurate reports from each judge of the court or division concerning the status of individually assigned cases and from judges and court personnel concerning cases assigned to particular sessions;

(F) Timely file all administrative judge reports required by the Case Management Section of the Supreme Court;

(G) Develop accounting and auditing systems within the court or division and the office of the clerk of the court that ensure the accuracy and completeness of all required reports;

(H) Request, as necessary, the assignment of judges to the court or division by the Chief Justice or the presiding judge of the court;

(I) Administer personnel policies established by the court or division;

(J) Perform other duties as required by the Revised Code, the Rules of Superintendence of the Courts of Ohio, local rules of the court or division, or the Chief Justice;

(K) Perform any other duties in furtherance of the responsibilities of the administrative judge.

RULE 4.02. Modification or Vacation of Administrative Judge Actions.

The judges of a court or a division of a court, by majority vote, may modify or vacate the actions of the administrative judge of the court or division.

RULE 4.03. Administrative Judge Relief From Case or Trial Duties.

By local rule of the court or a division of the court, the administrative judge of a court or division may be relieved of a portion of the judge's case or trial duties in order to manage the calendar and docket of the court or division.

RULE 4.04. Administrative Judge Service as Presiding Judge.

An administrative judge of a court or a division of the court may serve as a presiding judge pursuant to Sup.R. 3.

RULE 5. Local Rules.

(A) Adoption of local rules. (1) Nothing in these rules prevents the adoption of any local rule of practice that promotes the use of any device or procedure to facilitate the expeditious disposition of cases. Local rules of practice shall not be inconsistent with rules promulgated by the Supreme Court.

(2) A local rule of practice shall be adopted only after the court or division provides appropriate notice and an opportunity to comment on the proposed rule. If the court or division determines that there is an immediate need for the rule, the court or division may adopt the rule without prior notice and opportunity for comment, but promptly shall afford notice and opportunity for comment.

(3) Upon adoption, the court or division shall file a local rule of practice with its clerk and the clerk of the Supreme Court. On or before the first day of February of each year, each court or division of a court shall do one of the following:

(a) File with the clerk of the Supreme Court a complete copy of all local rules of the court or division in effect on the immediately preceding first day of January;

(b) Certify to the clerk of the Supreme Court that there were no changes in the immediately preceding calendar year to the local rules of the court or division.

(B) In addition to local rules of practice adopted pursuant to division (A)(1) of this rule and any other Rule of Superintendence, each court or division, as applicable, shall adopt the following by local rule:

(1) A case management plan for the purposes of ensuring the readiness of cases for pretrial and trial, and maintaining and improving the timely disposition of cases. In addition to any other provisions necessary to satisfy the purposes of division (B)(1) of this rule, the plan shall include provisions for an early case management conference, referral to appropriate and available alternative dispute resolution programs, establishment of a binding case management schedule, and a pretrial conference in cases where the trial judge determines a conference is necessary and appropriate. A municipal or county court may establish separate provisions or exceptions from the plan for small claims, traffic, and other types of cases that the court determines would not benefit from the case management plan.

(2) A jury management plan for purposes of ensuring the efficient and effective use and management of jury resources. In addition to any other provisions necessary to satisfy the purposes of division (B)(2) of this rule, the plan shall address the provisions of the Ohio Trial Court Jury Use and Management Standards adopted by the Supreme Court of Ohio on August 16, 1993.

Commentary (July 1, 1997)

This rule consolidates several former provisions relating to the adoption of local rules of court. Division (A)(1) recognizes the rule-making authority granted to local courts by Article IV, Section 5(B) of the

Ohio Constitution. Division (A)(2) incorporates provisions of the rules of practice and procedure adopted by the Supreme Court that mandate notice and an opportunity to comment prior to the adoption of local rules of court. See the following rules and accompanying 1994 staff notes: Rule 83(B) of the Ohio Rules of Civil Procedure; Rule 57(A)(2) of the Ohio Rules of Criminal Procedure; Rule 45(A) of the Ohio Rules of Juvenile Procedure; and Rule 31(B) of the Ohio Rules of Appellate Procedure.

The first sentence of division (A)(3) incorporates and modifies the former requirement that a court or division file local rules upon adoption with the clerk of the Supreme Court. The remainder of division (A)(3) contains a new requirement that each court and division annually file a complete set of its local rules with the clerk of the Supreme Court or certify that there were no changes to the local rules in the prior calendar year. Together with the requirement that local rules be filed with the Supreme Court upon adoption, this provision will ensure that the Supreme Court has a current, comprehensive set of local rules adopted by each court or division.

Division (B) retains two former requirements that courts and divisions adopt case management and jury management plans as local rules of court. While each court and division must have a case management plan, the requirement of a jury management plan applies only to those courts or divisions that use juries in the hearing and disposition of cases.

Court Security Plans

The former requirement that each court adopt a security plan has been moved to Rule 9 since the plans no longer are required to be included in local rules of court.

RULE 5.01. Local Child Restraint Rule.

Each court or division of a court shall adopt a local rule governing the use of physical restraints on children appearing in court proceedings before the court or division. The local rule shall do all of the following:

(A) Create a presumption that physical restraint shall not be utilized unless the judge or magistrate before whom the child is appearing makes an individualized determination on the record that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because of either of the following:

(1) The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom;

(2) There is a significant risk the child will flee the courtroom.

(B) Require the judge or magistrate to permit any party, as defined in Juv.R. 2(Y), to be heard on the issue of whether the use of physical restraint is necessary for that particular child at that particular proceeding;

(C) If physical restraint is found necessary by the judge or magistrate, require the restraint be the least restrictive necessary to meet the risk requiring the restraint and in a manner which does not unnecessarily restrict the movement of the child's hands.

RULE 6. Attorney or Pro Hac Vice Registration Number.

Each court shall require an attorney to include the attorney or pro hac vice registration number issued by the Supreme Court on all documents filed with the court. Each court shall use the attorney or pro hac vice registration number issued by the Supreme Court as the exclusive number or code to identify attorneys who file documents with the court.

Commentary (July 1, 1997)

This rule is analogous to former C.P. Sup. R. 9.01 relating to the use of attorney registration numbers assigned by the Supreme Court.

RULE 6.01. Appearance Pro Hac Vice.

A request by an out-of-state attorney for permission to appear pro hac vice in a proceeding of a court shall be governed by Rule XII of the Rules for the Government of the Bar.

RULE 7. Filing of Judgment Entries.

The judgment entry specified in Civil Rule 58 and in Criminal Rule 32 shall be filed and journalized within thirty days of the verdict, decree, or decision. If the entry is not prepared and presented by counsel, it shall be prepared and filed by the court.

Commentary

This rule implements the provisions of Civ. R. 58, which places the burden on the court to "* * * promptly cause the judgment to be prepared * * *." The purpose of the rule is to assure the entry of judgment in a civil case is not delayed by failure of counsel to prepare and file the entry. The court need not wait thirty days before acting to make the entry.

Crim. R. 32(B) does not explicitly place the burden for preparation of the judgment entry on the court. In criminal cases, Rule 7 explicitly places the burden on the court to prepare a judgment entry when not otherwise prepared within thirty days of judgment. As in civil cases, the court need not wait thirty days before acting to journalize the judgment.

RULE 8. Court Appointments.

(A) Definitions

As used in this rule:

(1) "Appointment" means the selection by a court or judicial officer of any person or entity designated pursuant to constitutional or statutory authority, rule of court, or the inherent authority of the court to represent, act on behalf or in the interests of another, or perform any services in a court proceeding. The term "appointment" does not include the selection by a court or judicial officer of the following:

(a) An acting judge pursuant to R.C. 1901.121(A)(2)(a), (B)(1), or (C)(1) or R.C. 1907.141(A)(2)(a), (B)(1), or (C)(1);

(b) A receiver pursuant to R.C. 2735.01;

(c) An arbitrator, mediator, investigator, psychologist, interpreter, or other expert in a case following independent formal or informal recommendations to the court or judicial officer by litigants;

(d) Any individual who is appointed by any court pursuant to the Revised Code or the inherent authority of the court to serve in a non-judicial public office for a full or unexpired term or to perform any function of an elected or appointed public official for a specific matter as set forth in the entry of appointment;

(e) A guardian ad litem pursuant to Sup.R. 48;

(f) A guardian pursuant to Sup.R. 66.

(2) "Appointee" means any person, other than a court employee, receiving an appointment by a court or judicial officer. "Appointee" does not include a person or entity who is selected by someone other than the court.

(3) "Equitable distribution" means a system through which appointments are made in an objectively rational, fair, neutral, and nondiscriminatory manner and are widely distributed among substantially all persons from the list maintained by the court or division of persons pre-qualified for appointment.

(4) "Judicial officer" means a judge or magistrate.

(B) Local rule

(1) Each court or division of a court shall adopt a local rule governing appointments made in the court or division.

(2) The local rule required by division (B)(1) of this rule shall include all of the following:

(a) For appointments frequently made in the court or division, a procedure for selecting appointees from a list maintained by the court or division of persons pre-qualified to serve in the capacity designated by the court or division. The procedure shall ensure an equitable distribution of appointments. To ensure an equitable distribution of appointments, the court or division may utilize a rotary system from a graduated list that pairs the seriousness and complexity of the case with the qualifications and experience of the person to be appointed. The court or division may maintain separate lists for different types of appointments.

(b) A procedure by which all appointments made in the court or division are reviewed periodically to ensure the equitable distribution of appointments;

(c) If not addressed by the Revised Code or Supreme Court rule, the compensation appointees will receive for services provided and expenses incurred as a result of the appointment, including, if applicable, a fee schedule.

(3) The local rule required by division (B)(1) of this rule may include the following:

(a) Qualifications established by the court or division for inclusion on the appointment list;

(b) The process by which persons are added to or removed from the appointment list;

(c) Other provisions considered appropriate by the court or division.

(C) Compensation review and report

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

(D) Factors in making appointments

In making appointments, a court or judicial officer shall take into account all of the following:

(1) The anticipated complexity of the case in which appointment will be made;

(2) Any educational, mental health, language, or other challenges facing the party for whom the appointment is made;

(3) The relevant experience of those persons available to accept the appointment, including proficiency in a foreign language, familiarity with mental health issues, and scientific or other evidence issues;

(4) The avoidance of conflicts of interest or other situations that may potentially delay timely completion of the case;

(5) Intangible factors, including the court or judicial officer's view of a potential appointee's commitment to providing timely, cost-effective, quality representation to each prospective client.

(E) Payment of fees

(1) Except as provided in division (E)(2) of this rule, if a party or other person is required to pay all or a portion of the fees payable to an appointee, the appointee promptly shall notify that party or person of the appointment and the applicable fee schedule. The court or division shall require the appointee to file with the court or division and serve upon any party or other person required to pay all or a portion of the fees itemized fee and expense statements on a regular basis as determined by the court or division. If the party or other person required to pay all or a portion of the fees claims that the fees are excessive or unreasonable, the burden of proving the reasonableness of the fees is on the appointee.

(2) Division (E)(1) of this rule shall not apply to the repayment of all or part of the costs of indigent defense by a criminal defendant as a condition of probation.

(3) The notification requirement of division (E)(1) of this rule may be satisfied with service upon counsel of record as provided in the applicable rules of procedure.

(F) Code of Judicial Conduct

In making appointments, a court or judicial officer shall conform to all applicable ethical and campaign finance restrictions and requirements of the Ohio Code of Judicial Conduct.

(G) Effect of inclusion on appointment list

Persons on a list maintained by the court or division of persons pre-qualified to serve are not assured a substantially equal number of appointments. No person is granted a legal right or claim by virtue of this rule.

Commentary (July 1, 1997)

Rule 8 requires each court or division of a court to adopt a local rule outlining the procedures to be followed within the court or division for making court appointments. Division (B)(2) of the rule specifies three general items that must be included in each local appointment rule. Together with division (B)(3), division (B) provides courts and divisions with flexibility as to the specific content of the local rule in recognition of the different types of appointments that are made in various courts and divisions.

The rule contemplates that each court or division will maintain a list from which appointments will be made. Lists of potential appointees would be required only for appointments frequently made in a court or division, such as the appointment of counsel in criminal cases. However, a list would not be required for appointments rarely made in the court or division, such as the appointment by a probate court of an appraiser for a rare art collection.

Commentary (January 1, 2017)

The 2017 amendments to this rule primarily address questions that have arisen about appointment of counsel for indigent criminal defendants, but in key respects also apply to all court appointments. The amendments are intended to make the following clarifications:

- The rule does not apply to appointments made by a public defender office or other entity outside the control of a court or judicial officer;

- The rule applies to post-sentencing selection by a court or judicial officer;

- That all applicable ethical and campaign finance restrictions and requirements in Ohio's Judicial Conduct Rules apply to every appointment made by a court or judicial officer;

- That the appointment system used by courts or divisions ensures the equitable distribution of appointments, but does not require a blind rotation system among all those available for appointment or a substantially equal number of appointments to everyone on an appointment list. The goal of equitable distribution is to distribute appointments as widely as reasonably possible among available appointees, but without limiting the discretion used in individual courts and individual cases. Studies show the availability of potential appointees across the state varies widely and that a large majority of responding judges seek to maintain their discretion in making appointments. As has been true for nearly two decades, individual courts remain obligated to adopt an appointment system by local rule. In addition, this amendment clarifies that all appointments are to be made in an objectively rational, fair, neutral, and nondiscriminatory manner, even though judicial officers may take into account many factors including the complexity of individual cases, special needs of a party, avoidance of conflicts of interest, time constraints in a case, and the judicial officer's experience with a potential appointee, including current or prior representation of the client, and the perception of the appointee's commitment to providing quality representation to each client.

RULE 9. Court Security Plans.

(A) Court Security Plan

For purposes of ensuring security in court facilities, each court shall develop and implement a court security plan. If more than one court occupies a court facility, the courts shall collectively develop and implement a single court security plan. In addition to any other provisions necessary to satisfy the purposes of this rule, the plan shall address the provisions of the Ohio court security standards adopted by the Supreme Court and as set forth in Appendix C to this rule.

(B) Public Access

For purposes of ensuring security in court facilities, a court security plan, including any security policy and procedures manual, emergency preparedness manual, and continuity of operations manual adopted as part of the court security plan, shall not be available for public access.

RULE 10. Notifying Law Enforcement Agencies of Criminal or Civil Protection Orders.

(A) Upon issuance of a civil or criminal protection order by a court pursuant to section 2151.34, 2903.213, 2903.214, division (E)(2) of 2919.26, or 3113.31 of the Revised Code, the court shall complete "Form 10-A." "Form 10-A" and a copy of the order shall be filed by the court with the local enforcement agency for entry in the "National Crime Information Center" database and nationwide dissemination. To accommodate local court or law enforcement procedures, the format of "Form 10-A" may be modified, provided the modification does not affect the substantive content of "Form 10-A."

(B) A court shall follow the instructions in "Form 10-B" for thorough and accurate completion of "Form 10-A" and to facilitate correct entry of criminal or civil protection orders in the "National Crime Information Center" database.

Commentary (July 1, 1997)

This rule was adopted, effective July 1, 1996, and implements R.C. 2919.26 and 3113.31.

Commentary (March 1, 2000)

This rule was amended, effective March 1, 2000 to implement R.C. 2903.213 and 2903.214.

PROTECTION ORDER NOTICE TO NCIC (Required fields appear in bold print)

☐ **Initial NCIC Form** ☐ **Modification of Previous Form**

Pursuant to Rules 10.01, 10.02, 10.03, and 10.05 of the Rules of Superintendence for the Courts of Ohio, this information shall be promptly entered into the National Crime Information Center index.

SUBJECT NAME _____
(LAST) (FIRST) (M.I.)

ADDRESS _____
(STREET) (CITY) (STATE) (ZIP)

PHYSICAL DESCRIPTION: HGT _____ WGT _____ HAIR _____
EYES _____ **RACE** _____ **SEX** ☐**M** ☐**F**

NUMERICAL IDENTIFIER (NOTE: Only ONE of the 4 numerical identifiers is needed.)

1. SSN _____-_____-_____ 2. DOB _____/_____/_____

3.* DRIVER'S LIC. NO. _____ STATE _____ EXPIRATION YR. _____

4.* VEHICLE LIC. NO. _____ STATE _____ EXPIRATION YR. _____

(* If #3 or #4 is used as a numerical identifier, entire line MUST be completed.)

BRADY DISQUALIFIERS:
Pursuant to 18 U.S.C. 922(g)(8), a "yes" response to all three Brady questions disqualifies the subject from purchasing or possessing any firearms, including a rifle, pistol, revolver, or ammunition.

- Does the Order protect an intimate partner or child(ren)? ☐ YES ☐ NO
- Did the subject have an opportunity to participate in the hearing regarding the Order? ☐ YES ☐ NO
- Does the Order find the subject a credible threat or explicitly prohibit physical force? ☐ YES ☐ NO

CASE / ORDER NO. _____ (15 DIGIT MAXIMUM)

COURT ORIGINATING AGENCY IDENTIFIER _____ (9 DIGIT ORI ASSIGNED BY NCIC)

☐ R.C. 2903.213 ☐ R.C. 2903.214 ☐ R.C. 2151.34 ☐ R.C. 2919.26 ☐ R.C. 3113.31

NAME OF JUDGE/MAGISTRATE _____

DATE OF ORDER _____/_____/_____ **EXPIRATION OF ORDER** _____/_____/_____
(IN R.C. 2919.26 AND 2903.213 CASES, "NONEXP" MAY BE USED)

TERMS AND CONDITIONS OF ORDER (Mark all that are applicable):

☐01 The subject is restrained from assaulting, threatening, abusing, harassing, following, interfering, or stalking the protected person and/or the child(ren) of the protected person.

☐02 The subject shall not threaten a member of the protected person's family or household.

☐03 The protected person is granted exclusive possession of the residence or household.

☐04 The subject is required to stay away from the residence, property, school, or place of employment of the protected person or other family or household member.

OHP DATA ONLY #EPO

☐05 The subject is restrained from making any communication with the protected person, including but not limited to, personal, written, or telephone contact, or their employer, employees, or fellow workers, or others with whom the communication would be likely to cause annoyance or alarm the victim.

☐06 The subject has visitation or custody rights of the children named in this Order.

☐07 The subject is prohibited from possessing and/or purchasing a firearm or other weapon as identified in the Miscellaneous Field.

☐08 See the Miscellaneous Field for comments regarding the specific terms and conditions of this Order.
Miscellaneous comments: _____

_____

_____

☐09 The protected person is awarded temporary exclusive custody of the children named.

Subject's Name_____ **Case/Order No.** _____

LIST ALL PROTECTED PERSONS (Total of 9 allowed. **SSN is NOT necessary if DOB is given.**)

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

PROTECTED PERSON _____
(LAST) (FIRST) (M.I.)
DOB ____/____/____ SSN ____-____-____ RACE _____
SEX ☐M ☐F

Authorized by (signature): _____ **Date** ____/____/____
Judge/Magistrate (circle one)

FORM 10-B: HOW TO COMPLETE A PROTECTION NOTICE TO NCIC

These instructions are contemplated in light of Form 10-A, Protection Notice to NCIC, to ensure the court's protection order or consent agreement entry is accepted into the protection order database of the National Crime Information Center ("NCIC"). Thorough and accurate completion of Form 10-A is critical, as this form is the sole method to enter the terms and conditions of a protection order into the computerized index of criminal justice information. Inaccurate or inconsistent information in Form 10-A will result in delay in entering the protection order into the NCIC index and enforcing the order. Form 10-A must be completed each time the court approves, issues, modifies, renews, or terminates a protection order or consent agreement, regardless of whether it is an *ex parte* or full hearing order.

Courts are encouraged to verify with law enforcement that orders are being entered in a timely fashion. The delay in entering a protection order or consent agreement may not only result in the failure to enforce the order, but may also result in the improper authorization of the subject of a protection order to possess or purchase a firearm or ammunition.

ELEMENTS OF FORM 10-A

(A) The required fields in Form 10-A appear in **BOLD.**

(B) Form 10-A is the primary method used to inform law enforcement of the terms and conditions of the protection order. The court must mark the appropriate box "Initial NCIC Form" or "Modification of Previous Form."

The court must check "Initial NCIC Form" anytime the court is issuing a protection order for the first time based on a current filing, i.e., an *ex parte* order or a full hearing order where an *ex parte* order was not issued. The court must check "Modification of Previous NCIC" for any subsequent change in the terms and conditions of a protection order, including modifications due to a clerical or orthographical correction or termination of the order.

(C) **SUBJECT'S INFORMATION.** The subject's full name, including first and last name; race; and sex are mandatory identifiers pursuant to federal guidelines. The other identifiers, i.e., height ("HGT"), weight ("WGT"), hair, and eyes, are not mandatory, yet they are helpful information to ensure the correct person is identified. Similarly, the address is not mandatory information.

(D) **NUMERICAL IDENTIFIER.** Pursuant to federal guidelines, the court must provide at least **one** of four numerical identifiers to properly identify the subject of the protection order:

1. SOCIAL SECURITY NUMBER ("SSN");

2. DATE OF BIRTH ("DOB");

3. DRIVER'S LICENSE NUMBER ("DRIVER'S LIC. NO."): In the instance the driver's license number is provided, the state that issued the driver's license and the expiration date of the driver's license must also be included;

4. VEHICLE LICENSE NUMBER ("VEHICLE LIC. NO."): In the instance the vehicle's license plate is provided, the state that issued the license plate and the expiration date of the license plate must also be included.

The court should consider providing additional numerical identifiers, if information is available.

(E) **BRADY DISQUALIFIERS.** Pursuant to 18 U.S.C. 922(g)(8), all three factors must be met to be federally disqualified from possessing or purchasing firearms or ammunition due to the issuance of a protection order:

(1) The parties have an intimate relationship:

- Spouse of the person;
- Former spouse of the person;
- An individual who cohabits or has cohabited with the person;
- An individual who is a parent of a child of the person.

(2) The court observed the parties' due process rights, i.e., notice of hearing and opportunity to be heard; **AND**

(3) A finding that the person subject to the order poses a credible threat of harm to the protected party.

The subject of a protection order may be Brady disqualified pursuant to 18 U.S.C. 922(g)(1) through (9), state law, or a court order.

(F) **CASE/ORDER NO.** The case/order number of the protection order is a required element. It is particularly relevant when the court modifies, renews, or terminates a protection order. Law enforcement and NCIC will use the case/order number to cross-reference the appropriate order. In addition, law enforcement also uses this information to verify the currency of an order.

(G) **COURT ORIGINATING AGENCY IDENTIFIER.** To accept a Form 10-A entry into the federal protection order database, NCIC mandates the court issuing the protection order to include its agency identifier (a.k.a. "ORI"). This is a unique 9 digit alphabetic and numeric series issued by the FBI to identify the court issuing the order.

Although the "Name of Judge/Magistrate" is not a mandatory field, it is prudent to include the name of the judicial officer issuing the protection order. Similarly, NCIC does not require a court to indicate under which Revised Code section the order is being issued. However, this information is captured through the Ohio Courts Network and is useful for law enforcement to quickly determine the possible scope of the order and assess risk.

(H) **DATE OF ORDER AND EXPIRATION OF ORDER.** The court must note on the form the date the protection order was issued and the date when it will expire. Civil protection orders expire on a date certain within 5 years of being issued. The protection order database will automatically purge the orders on their expiration date.

In a Criminal Protection Order (R.C. 2903.213) or Temporary Domestic Violence Protection Order (R.C. 2919.26), the order terminates by operation of law upon the disposition of the criminal case. The court may indicate "NONEXP" as the expiration date when the court does not know the exact date the order will expire. The court must submit to law enforcement another Form 10-A indicating "Modification of Previous Form" stating the expiration of the order when such a date is known so that the order can be purged from the NCIC protection order file.

If a protection order or consent agreement is terminated before the original expiration, the court must also submit to law enforcement another Form 10-A indicating "Modification of Previous Form" and state the new expiration date for removal of the order from the protection order file.

(I) **TERMS AND CONDITIONS OF ORDER.** The court must check every box that corresponds to terms of the protection order. Note that the numbering next to each term and condition in Form 10-A does not correspond to the sequence of the remedies in a protection order or consent agreement. However, the remedies in the protection order forms are cross-referenced with the terms and conditions listed in Form 10-A, e.g. NCIC 01.

The court should submit a new Form 10-A indicating "Modification of Previous Form" to law enforcement in every instance that a term of the court order, i.e., divorce decree or custody order, results in a modification of the protection order.

(J) **LIST ALL PROTECTED PERSONS.** A maximum of 9 persons, including the petitioner, may be listed as protected parties in a protection order. The full name and date of birth for each protected person must be provided. The protected person's social security number, race, and gender are not required entries in Form 10-A.

(K) **AUTHORIZED SIGNATURE.** The judge or magistrate who issued the protection order must sign and date Form 10-A. Pursuant to Civ.R. 65.1, an ex parte civil protection order issued by a magistrate and filed with the clerk of court has the full force and effect of a court order.

RULE 10.01. Standard Civil Protection Order Forms -- Domestic Relations Division.

(A) The domestic relations division of a court of common pleas shall distribute, upon request, a forms and instructions packet for use in civil protection order proceedings under section 3113.31 of the Revised Code. The packet shall include, at a minimum, forms and instructions that are substantially similar to "Forms 10.01-A through 10.01-H."

(B) An action for a civil protection order pursuant to section 3113.31 of the Revised Code shall be commenced by filing a petition form that is substantially similar to "Form 10.01-D."

(C) In every case in which the domestic relations division of a court of common pleas issues or approves an ex parte civil protection order, a full hearing civil protection order, or a consent agreement pursuant to section 3113.31 of the Revised Code, the court shall use, as applicable, forms that are substantially similar to "Forms 10.01-H through 10.01-J."

(D) Every ex parte civil protection order, full hearing civil protection order, and consent agreement that the domestic relations division of a court of common pleas issues or approves pursuant to section 3113.31 of the Revised Code shall include a cover sheet that is substantially similar to "Form 10.01-G."

(E) In every case in which the domestic relations division of a court of common pleas modifies the terms of a full hearing civil protection order or a consent agreement pursuant to section 3113.31 of the Revised Code, it shall use the applicable forms that are substantially similar to "Forms 10.01-L and 10.01-M."

(F) In every case in which the domestic relations division of a court of common pleas terminates a full hearing civil protection order or a consent agreement before its original expiration date pursuant to section 3113.31 of the Revised Code, it shall use the applicable form that is substantially similar to "Form 10.01-L."

Commentary (January 1, 1998)

On December 9, 1994, Am.Sub.H.B. No. 335 became effective, which made significant changes to Ohio's domestic violence laws. Section 4 of Am.Sub.H.B. No. 335, states as follows:

> The General Assembly hereby requests the Supreme Court, in consultation with the Department of Human Services, to prescribe a form that is to be filed by a petitioner seeking a civil protection order under section 3113.31 of the Revised Code and that makes reference to all the forms of relief that a court is authorized to grant under division (E) of section 3113.31 of the Revised Code, as amended by this act, contains space for the petitioner to request any of those forms of relief, and includes instructions for completing the form so that a petitioner may file the form without the assistance of an attorney.

The Supreme Court, in consultation with its Domestic Violence Task Force, developed Forms 10.01-C and 10.01-D in response to the General Assembly's request in Am.Sub.H.B. No. 335.

During its eighteen months of study, the Supreme Court's Domestic Violence Task Force determined that *pro se* victims of domestic violence often do not have access to the forms necessary to

obtain a civil protection order pursuant to section 3113.31 of the Revised Code. The Task Force also found that due to the variety of protection order forms used by Ohio courts, it can be difficult for law enforcement officers to recognize valid protection orders and understand the pertinent provisions of such orders. Further, the Task Force discovered that misconceptions exist in regard to the penalties for violating protection orders. The Court developed this rule and Forms 10.01-A, 10.01-B, and 10.01-E through 10.01-J to address these concerns.

This rule applies to all courts of common pleas that have jurisdiction over civil protection orders and consent agreements pursuant to section 3113.31 of the Revised Code.

FORM 10.01-A: GENERAL INFORMATION ABOUT DOMESTIC VIOLENCE PROTECTION ORDERS

DEFINITIONS YOU NEED TO KNOW

Domestic violence is when a family or household member uses physical violence, threats, intimidation, and/or emotional, sexual, and economic abuse to maintain power and control over the other person, usually within an intimate relationship. Domestic violence is most often a combination of psychological and physical actions; the physical results are just the most visible. Domestic violence is a pattern of conduct in which one intimate partner uses force or threats of force to control the other person.

State law has determined that some forms of abuse do not constitute criminal behavior or behavior requiring the Court's intervention. For example, psychological battering, economic abuse, or verbal harassment without evidence of threats or physical harm are not recognized by Ohio law as domestic violence that allows a petitioner to obtain a protection order or request that criminal charges be filed.

When a family or household member tries to cause you bodily harm by hitting, pushing, beating, or physically hurting you, that is domestic violence. When a family or household member makes you afraid that you will be harmed, that is domestic violence. When a family or household member stalks, commits sexually oriented offenses against you, or forces sexual relations on you, that is domestic violence. When a family or household member abuses your children, that is domestic violence.

IN A **CIVIL** DOMESTIC VIOLENCE CASE:

Petition for Domestic Violence Civil Protection Order ("CPO") is the document a domestic violence victim, the victim's parent, or an adult household member of the victim must file with the domestic relations court to obtain a civil protection order against an alleged offender.

Domestic Violence Civil Protection Order ("CPO") ***Ex Parte*** is an emergency order the Court issues in response to the Petition for a Civil Protection Order after an *ex parte* hearing. The *ex parte* hearing is described in this form on page 3.

Domestic Violence Civil Protection Order ("CPO") Full Hearing is the final order the Court issues after a full hearing. The full hearing is described in this form on page 3. The full hearing CPO replaces the e*x parte* CPO. Sometimes the final order issued by the Court is a **Consent Agreement and Domestic Violence Civil Protection Order**, Form 10.01-J, upon terms agreed to by the parties.

Petitioner is the person asking or "petitioning" the Court for protection. By filing the Petition for a CPO, YOU are the Petitioner.

Respondent is the alleged domestic violence offender. Petitioner seeks protection from the Respondent by filing for a CPO.

IN A **CRIMINAL** DOMESTIC VIOLENCE CASE:

Motion for a Criminal Domestic Violence Temporary Protection Order ("DVTPO") is the document that must be filed in a criminal case if a victim of domestic violence or victim of a sexually oriented offense wishes to obtain a protection order against an alleged offender, who is a family or household member. The criminal case must allege the offender committed negligent assault, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, endangering children, any offense of violence, or any sexually oriented offense against a family or household member. The prosecutor has a form for this purpose.

Domestic Violence Temporary Protection Order ("DVTPO") is the order the Court issues in response to the Motion for Temporary Protection Order. The DVTPO requires the offender to stop abusing and to stay away from the victims named in the Motion for Temporary Protection Order. A DVTPO expires when the alleged offender's criminal case ends or when a new CPO is issued based on the same facts.

Alleged Victim is the person asking the Court for protection in the Motion for a DVTPO.

Defendant is the person the Motion for a DVTPO is filed against. The Defendant is the person accused of the crimes of negligent assault, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, endangering children, any sexually oriented offense, or any offense of violence against a family or household member.

FEES

You **cannot** be charged any costs or fees for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, serving, or obtaining a protection order.

DOMESTIC VIOLENCE CIVIL PROTECTION ORDERS (CPO)

What is a Domestic Violence Civil Protection Order ("CPO")?

A CPO is issued by a domestic relations court to protect a victim of domestic violence. A CPO is intended to prevent further domestic violence. It orders someone who has been abusive to do or not do certain things in the future. You may want to consider getting a CPO even if you have a DVTPO from a criminal court because a CPO lasts longer and provides more benefits – such as child custody and support orders. Domestic violence includes the commission of sexually oriented offenses.

Violating a CPO is a crime. If the Respondent violates the CPO, he or she may be arrested, jailed, and fined for disobeying the CPO. A CPO can remain in effect for up to 5 years. If the Respondent violates the CPO, you can call the police, go back to the domestic relations court to file a contempt charge, and go to the prosecutor's office to have the Respondent charged with the crime of violating the CPO.

Why get a Domestic Violence Civil Protection Order?

If you are a victim of domestic violence, a CPO may help you. Once domestic violence starts, the violence often happens more often and gets increasingly severe. A CPO may stop this cycle of violence because the Court orders the Respondent to stop hurting or threatening you and your family or household members. The Court can use a CPO to order the Respondent to stay away from you for up to five years. A CPO can give you time to "sort things out" and decide what you want to do next without having to be afraid all of the time. If your children have seen domestic violence, a CPO may give all of you a chance to get some help so that you and your children are safe.

Domestic violence is a crime. A CPO tells the Respondent you and the Court are serious about requiring the Respondent to stop his or her abusive behavior and not to hurt or threaten you again.

A CPO sets some "rules" that the Respondent must obey while the CPO is in effect. These rules may require the Respondent to pay child or spousal support; give up possession of a home or car; and/or obey the Court's orders about visitation.

A CPO issued by a domestic relations court may last longer than a DVTPO issued by a criminal court and can provide more kinds of help. You should know that if you get a CPO based upon the same facts as the DVTPO, the DVTPO from the criminal court will automatically end, even if the criminal case continues.

Who can get a Domestic Violence Civil Protection Order?

You can apply for a CPO if you are related to the Respondent by blood or marriage AND have lived with Respondent at any time; OR you are living with or have lived with the Respondent during the past five years; OR you used to be married to the Respondent; OR you have a child with the Respondent, whether or not you ever married or lived together.

You can also get a CPO for any member of your household.

You <u>may</u> be able to get a CPO if you have been dating the Respondent; if you share family or financial responsibilities with the Respondent; AND you have an intimate relationship with the Respondent.

<u>Remember</u> that a CPO has limits. If you suspect that the Respondent will not obey the terms of a CPO, contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840.

Do I need an attorney for me to obtain a Domestic Violence Civil Protection Order?

No, but you are often better off having legal representation in your CPO proceeding. Neither the Clerk of Court nor other Court employees can give you legal advice. Having an attorney represent you is especially helpful when your case involves contested custody and visitation and/or when an attorney represents the Respondent. If you cannot afford an attorney, contact your local legal aid office at 866-LAWOHIO (toll free), bar association, or Ohio State Legal Services (800-589-5888) for information on low cost or free legal representation.

Must there be a court hearing for me to obtain a Domestic Violence Civil Protection Order?

Yes. There are two hearings involved in a CPO case: the *ex parte* hearing and the full hearing.

***Ex Parte* Hearing:** At this hearing, only you are present. The Respondent is not present.

An *ex parte* hearing is held on the same day a Petition for Civil Protection Order is filed. If a Petition for a CPO is filed early enough in the day, an *ex parte* hearing is held that same day. At the *ex parte* hearing, you take an oath to tell the truth and a judge or magistrate hears your statement of what happened. If the judge or magistrate finds that the events you described meet the requirements of the law, the Court will issue an *Ex Parte* CPO and schedule a full hearing. If the Respondent is asked to vacate the home in which you live, there will be a full hearing within 7 business days. Otherwise, a full hearing will be set within 10 business days. The Court can hold a full hearing only after the Respondent has been served with the *Ex Parte* CPO. You may need to fill out forms for the Clerk of Court to cause service.

Full Hearing: The full hearing is the final hearing.

At this hearing, both you and the Respondent can testify. You must be present at the full hearing. You should bring any witnesses and other evidence to support your case. If the Court issues a Full Hearing CPO, it remains in force until the date indicated in the CPO, with 5 years being the maximum.

If the Respondent does not show up for the full hearing, you can still obtain a final CPO. However, if the Respondent is not served with the *Ex Parte* CPO before the full hearing, the Court postpones the full hearing until the Respondent is served. If the full hearing is postponed, the *Ex Parte* CPO remains in effect until the full hearing is held.

You may bring an advocate with you to the *ex parte* and full hearings for support. Some domestic violence shelters and victim assistance programs can provide advocates to go with you to these hearings. Contact your local domestic violence program or the Ohio Domestic Violence Network, 800-934-9840, for program and shelter information.

CRIMINAL DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDERS (DVTPO)

Your local criminal court grants a DVTPO. You ask the Court for a DVTPO when a criminal complaint is filed alleging someone has committed domestic violence or a sexually oriented offense against you. The DVTPO orders someone who has abused you to do or stop doing certain things in the future. Violating a DVTPO is a crime. If the Defendant violates the DVTPO, the Defendant may be arrested, jailed, and fined for disobeying the DVTPO. Violating a DVTPO is also a reason for the Court to revoke the Defendant's bail. A DVTPO lasts only until the criminal case is ended or a CPO, based on the same facts, is issued by a domestic relations court.

RESOURCES

You can find information about Domestic Violence Civil Protection Orders in R.C. 3113.31 and information about Domestic Violence Temporary Protection Orders in R.C. 2919.26.

You may be able to find additional information about domestic violence at the following web sites:

Ohio Domestic Violence Network	www.odvn.org
Ohio State Legal Services Association's DV Resource Center	www.ohiodvresources.org
National Resource Center on Domestic Violence	www.nrcdv.org
Supreme Court of Ohio – Domestic Violence Program	www.supremecourt.ohio.gov/domviol

PLEASE NOTE: Computer use can be monitored. It is impossible to completely clear all website footprints. If you are in danger, please use a safer computer that your abuser cannot access directly or remotely. For example, computers at a public library, internet café, domestic violence shelter, or community technology center, may be safer computers.

FORM 10.01-B: HOW TO OBTAIN A DOMESTIC VIOLENCE CIVIL PROTECTION ORDER ("CPO")

FORMS TO FILL OUT FOR A DOMESTIC VIOLENCE CPO

To obtain a CPO, you need the following documents. You can get all of these documents from the Clerk of Court's office:

1. Petition for Domestic Violence Civil Protection Order, Form 10.01-D.

2. Domestic Violence Civil Protection Order *Ex Parte*, Form 10.01-H.

3. If you are requesting temporary custody of a child, Information for Parenting Proceeding Affidavit, Form 10.01-F.

4. If you request financial support, you <u>might</u> need to fill out additional forms that the Clerk of Court's office will provide you.

Complete the Petition for a CPO form. Complete additional forms, if applicable. Take these documents to the Clerk of Court's office.

FILING THE PETITION FOR A DOMESTIC VIOLENCE CPO FORM

Present your completed forms to the filing window/counter of the Clerk of Court's office for filing. Do **<u>NOT</u>** file the *Ex Parte* CPO form at this time.

A Clerk of Court's office employee helps you file your documents. You should know that neither the Clerk of Court nor other Court employees can provide you with legal advice.

There is **NO FEE** for filing the Petition for a CPO form.

Ask a Clerk of Court's office employee or your local domestic violence assistance group about local Court procedures.

VICTIM ADVOCATE

State law permits you to have a victim advocate with you at all times in court during protection order proceedings. "Victim advocate" means a person who provides support and assistance for a victim of an offense during Court proceedings. Contact your local victim assistance program, local domestic violence program, or the Ohio Domestic Violence Network, 800-934-9840, for advocate information.

ATTENDING THE *EX PARTE* COURT HEARING

You must appear in front of a judge or magistrate for the *ex parte* hearing. The judge or magistrate listens to your testimony.

You should tell the judge or magistrate what the Respondent did to make you fear that you or a family member may be in danger. Tell the judge or magistrate if the Respondent injured you, attempted to injure you, or threatened you.

Tell the judge or magistrate what you would like the Court to do to help keep you and other family members safe and to protect the children. For example, you might ask the judge or magistrate to:

1. Order the Respondent to stay away from you;

2. Order the Respondent to be removed from your home;

3. Order the Respondent to get counseling;

4. Award you custody of any children;

5. Order the Respondent to have visitation only under conditions that will keep you and the children safe;

6. Order the Respondent to pay you child support and/or spousal support (alimony);

7. Order the Respondent to be prohibited from having any weapons;

8. Award you possession of a car for your use;

9. Award you possession of your personal property and the children's personal property.

If the judge or magistrate determines that you or your family or household members are in danger of domestic violence, the judge and/or magistrate signs an *Ex Parte* CPO.

The judge or magistrate then schedules a second hearing (called a "full hearing") within 7 to 10 business days to give the Respondent a chance to be heard. You must appear at the full hearing. Some issues, such as support, may be postponed until this second hearing.

Take the signed *Ex Parte* CPO to the Clerk of Court's office and have it filed. Tell the Clerk's office where law enforcement officers can find the Respondent to serve him or her with the *Ex Parte* CPO and other necessary papers.

DISCOVERY

Unless you have received an order from the Court regarding discovery, you have **no** obligation to comply with a deposition notice, interrogatories, request for production of documents, physical or mental examination, or request for admissions.

If ordered, the Court will indicate each of the following:

1. The time and place where discovery will be held;

2. The names of persons who can be in the room during discovery, including a victim advocate;

3. The necessary terms and conditions to keep everyone safe, including keeping the Petitioner's address confidential.

Discovery must be completed prior to the full hearing.

YOU MUST ATTEND THE FULL HEARING

The full hearing on the Petition for a CPO will be set within 7 to 10 business days after the *ex parte* hearing. You **must** attend the full hearing. You may have an attorney present with you at the full hearing.

At the full hearing you must tell what happened again. This time you tell what happened in more detail. Bring with you any witnesses and evidence you have, such as photographs, answering machine tapes, other audio and video recordings, papers such as police reports, hospital records, etc, and any other evidence that will help you prove that the Respondent committed domestic violence against you or another family or household member. Tell the judge or magistrate why you fear the Respondent. You may call the Respondent as a witness to help you prove your case. Tell the judge or magistrate again what you want the Court to do to help keep you and your family members safe.

The Respondent may have an attorney. You may want to ask for a continuance in order to get an attorney. The Respondent may also present evidence and call you as a witness. You may be asked questions by the Respondent or the Respondent's attorney.

After the hearing, if the judge or magistrate decides you are entitled to a CPO, the Court issues a new CPO called a "Domestic Violence Civil Protection Order 'CPO' Full Hearing." This CPO is usually more detailed than the *Ex Parte* CPO issued after the first hearing. The judge or magistrate could also deny your Petition for a CPO if the

Court decides you are not entitled to a CPO. The law does not allow the Court to issue a protection order against you, unless the Respondent has filed a separate action against you.

At the full hearing, you and the Respondent can decide to enter into a Consent Agreement instead of having a hearing in front of the judge or magistrate. If you and the Respondent decide to enter into a Consent Agreement, complete Form 10.01-J: Consent Agreement and Domestic Violence Civil Protection Order, which is contained in the Protection Order packet, and give it to the judge or magistrate. The Consent Agreement and Domestic Violence Civil Protection Order form is also available from your local court web site, the Supreme Court of Ohio web site, or your local court clerk of courts.

ENFORCING YOUR CPO

Your CPO remains in effect for 5 years, unless the Court sets a different expiration date.

Violating a CPO is a crime. If the Respondent violates the CPO, it is a crime. Immediately contact the police.

You may also bring a contempt action in domestic relations court for CPO violations. A contempt action is brought because the Respondent is disregarding the Court's order. You must complete and file a contempt motion with the Clerk of Court's office to begin a contempt action against the Respondent.

CRIMINAL COURT

In addition to the *ex parte* hearing and full hearing in domestic relations court, you should attend all meetings and hearings as requested by the prosecutor and the Court related to any criminal case filed against the Respondent.

Tell the domestic relations court about any pending criminal cases. Tell the criminal court about any pending domestic relations court cases.

Any Domestic Violence Temporary Protection Order ("DVTPO") issued by a criminal court expires as soon as the criminal case is ended. A DVTPO issued by a criminal court also expires when a CPO is issued by the domestic relations court based upon the same facts.

FORM 10.01-C: HOW TO COMPLETE A PETITION FOR A DOMESTIC VIOLENCE CIVIL PROTECTION ORDER

These instructions will help you to prepare the Petition for Domestic Violence Civil Protection Order. Only the domestic relations division of the Court in your county hears a Petition for a Domestic Violence Civil Protection Order. **Throughout the Petition, you (the party to be protected) are called *Petitioner* and the person you are filing this Petition against (the alleged domestic violence offender) is called *Respondent.***

SOME HINTS BEFORE YOU BEGIN

- All forms must be typed or printed.
- When you write your name on the Petition, use the same name you use when you write your signature.
- Write your name and the Respondent's name the same way throughout the Petition.
- Fill out the Petition as completely and accurately as possible.
- If you have any questions about completing the Petition, contact your local victim assistance program, domestic violence program, or the Ohio Domestic Violence Network at 800-934-9840.

FILLING OUT THE PETITION: Mark each instruction below after you read and complete it

☐ **On the front page, leave the "Case No." line and "Judge/Magistrate" lines BLANK.** The Clerk of Court's office fills in this information.

☐ **On the top left-hand side of the front page, fill in the requested information about yourself.** If you do not want your present address to be known, write "confidential" in the space for your address. Do not write your address anywhere on the Petition if you want it to be confidential. However, you must provide another mailing address where you can safely receive notices from the Court.

☐ **On the top left-hand side of the front page, fill in the requested information about the Respondent as best you can.** You may use the Respondent's work address if you do not know Respondent's home address. If you do not know the Respondent's date of birth, leave that line blank. Do not attempt to obtain this information unless it is safe to do so.

☐ **Paragraph 1:** If you are filing the Petition to protect yourself, mark the first box and the box that describes your relationship to the Respondent.

☐ **Paragraph 2:** If you are filing the Petition to protect a family or household member, mark the box and fill in their name(s) and the other information requested in the chart. You may attach additional pages if you need more room.

☐ **Paragraph 3:** State the date(s) of the incident(s) that caused you to file the Petition. Provide a brief description of what happened. You may attach additional pages if you need more room to complete your description. You may attach an affidavit instead of or in addition to the written description.

☐ **Paragraph 4:** Indicate what action you want the Court to take by marking the boxes next to the numbered paragraphs that apply to your situation.

☐ **Paragraph 4(b):** Provide the address of the residence that you want the Respondent to stay away from. If you do not want your present address known, write "address confidential."

☐ **Paragraphs 4(d) and (e):** If you want temporary custody of your minor children or want the Court to establish temporary visitation rights, list the names and birth dates of the children. If you have children whose custody or visitation will be at issue in this domestic violence case, you must also complete and file a Parenting Proceeding Affidavit, Form 10.01-F. There is a separate form and instructions for the Parenting Proceeding Affidavit, Form 10.01-E and Form 10.01-F.

☐ **Paragraph 4(i):** If you want the Court to grant you use of a motor vehicle, describe that vehicle.

☐ **Paragraph 4(j):** Write any special court orders you believe would help protect you and your family or household members.

☐ **Paragraph 5:** If you need an emergency ("*ex parte*") protection order mark the box next to Paragraph 5.

☐ **Paragraph 9:** List ALL present and pertinent past court cases or investigations that involve the Respondent, you, or a family or household member. This includes all civil, criminal, divorce, juvenile, custody, visitation, and bankruptcy cases that may have a bearing on your or your family or household members' safety. Write the case name, the court, the case number, if known, the type of case, and the result of the case. If the case is not over, write "pending." You may attach additional pages if you need more room.

SIGNING THE PETITION

Try to fill out the Petition before you go to the courthouse. AFTER YOU HAVE FILLED OUT THE PETITION, TAKE THE PETITION TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. ***DO NOT SIGN THE PETITION UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC.*** **An employee of the Clerk of Court's office may be available to notarize the petition for you.**

FILING THE PETITION

After you have your signature notarized, file your Petition at the Clerk of Court's office. The Clerk of Court's office will tell you when and where your *ex parte* hearing will take place, if one has been requested.

FEES

You **cannot** be charged any costs or fees for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, serving, or obtaining a protection order.

DISCOVERY

Unless you have received an order from the Court regarding discovery, you have no obligation to comply with a deposition notice, interrogatories, request for production of documents, physical or mental examination, or request for admissions.

If ordered, the Court will indicate each of the following:

1. The time and place where discovery will be held;

2. The names of persons who can be in the room during discovery, including a victim advocate;

3. The necessary terms and conditions to keep everyone safe, including keeping the Petitioner's address confidential.

<u>Discovery must be completed prior to the full hearing.</u>

IN THE _____ COURT
_____ COUNTY, OHIO

_____ **Petitioner**	:	**Case No.** _____
_____ Address	:	**Judge/Magistrate** _____
_____ City, State, Zip Code	:	
Date of Birth _____ / _____ / _____	:	**PETITION FOR DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (R.C. 3113.31)**
v.	:	
_____ **Respondent**	:	
_____ Address	:	
_____ City, State, Zip Code	:	
Date of Birth _____ / _____ / _____	:	

CHECK EVERY ☐ THAT APPLIES. IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

☐ 1. Petitioner is a family or household member of Respondent and a victim of domestic violence and seeks relief on Petitioner's own behalf. The relationship of Petitioner to Respondent is that of:

- ☐ Spouse of Respondent
- ☐ Former spouse of Respondent
- ☐ Natural parent of Respondent's child
- ☐ Other relative (by blood or marriage) of Respondent/ Petitioner who has lived with Respondent at any time
- ☐ Child of Respondent
- ☐ Parent of Respondent
- ☐ Foster Parent
- ☐ Person "living as a spouse of Respondent" is defined as:
  - now cohabiting;
  - or cohabited within five years before the alleged act of domestic violence

☐ 2. Petitioner seeks relief on behalf of the following family or household members:

NAME	DATE OF BIRTH	HOW RELATED TO PETITIONER	HOW RELATED TO RESPONDENT	RESIDES WITH

Case No._____

3. Respondent has engaged in the following act(s) of domestic violence: (Describe the acts as fully as possible. **Attach additional pages if necessary.**)

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

4. Petitioner requests that the Court grant relief under R.C. 3113.31 to protect the Petitioner and/or the family or household members named in this Petition from domestic violence by granting a civil protection order that:

☐ (a) Directs Respondent to not abuse Petitioner and the family or household members named in this Petition by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them.

☐ (b) Requires Respondent to leave and not return to or interfere with the following residence and grants Petitioner exclusive possession of the residence:

_____
_____

☐ (c) Divides household and family personal property and directs Respondent to not remove, damage, hide, or dispose of any property or funds that Petitioner owns or possesses.

☐ (d) Temporarily allocates parental rights and responsibilities for the care of the following minor children and suspends Respondent's visitation rights until a full hearing is held (include names and birth dates of the minor children):

_____
_____

☐ (e) Establishes temporary visitation rights with the following minor children and requires visitation to be supervised or occur under such conditions that the Court determines will ensure the safety of Petitioner and the minor children (include names and birth dates of the minor children):

_____
_____

Case No._____

☐ (f) Requires Respondent to provide financial support for Petitioner and the other family or household members named in this Petition.

☐ (g) Requires Respondent to complete batterer counseling, substance abuse counseling, or other counseling as determined necessary by the Court.

☐ (h) Requires Respondent to refrain from entering, approaching, or contacting (by any means) the residence, school, business, and place of employment of or approaching or contacting (by any means) Petitioner and the family or household members named in this Petition.

☐ (i) Requires Respondent to permit Petitioner or other family or household member to have exclusive use of the following motor vehicle: _____

☐ (j) Includes the following additional provisions: _____

_____

☐ 5. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order under R.C. 3113.31(D) and (E) and this Petition.

6. Petitioner further requests that the Court issue no mutual protection orders or other orders against Petitioner unless all of the conditions of R.C. 3113.31(E)(4) are met.

7. Petitioner further requests that if Petitioner has a victim advocate, the Court permit the victim advocate to accompany Petitioner at all stages of these proceedings as required by R.C. 3113.31(M).

8. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.

9. Petitioner lists here all present court cases and pertinent past court cases (including civil, criminal, divorce, juvenile, custody, visitation, and bankruptcy cases) that relate to the Respondent, you, your children, your family, or your household members:

CASE NAME	CASE NUMBER	COURT/COUNTY	TYPE OF CASE	RESULT OF CASE

I hereby swear or affirm that the answers above are true, complete, and accurate to the best of my knowledge. I understand that falsification of this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury under R.C. 2921.11.

DO NOT SIGN THIS FORM UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PETITON FOR YOU.

_____

SIGNATURE OF PETITIONER

Sworn to and subscribed before me on this _____ day of _____ , _____

_____

NOTARY PUBLIC

Case No._____

IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

Petitioner's Safe Address:

_____

_____

_____

_____
Signature of Attorney for Petitioner (if applicable)

_____
Name of Attorney (if applicable)

_____
Attorney's Address

_____

_____
City, State, Zip Code

_____
Attorney's Registration Number

_____
Attorney's Telephone

_____
Attorney's Fax

_____
Attorney's Email

FORM 10.01-E: HOW TO COMPLETE THE INFORMATION FOR PARENTING PROCEEDING AFFIDAVIT

These instructions will help you prepare the Information for Parenting Proceeding Affidavit. The Affidavit must be filed if you are requesting a parenting (custody) order in a Petition for a Domestic Violence Civil Protection Order. **IF ANOTHER COURT IS ADDRESSING OR HAS ADDRESSED CUSTODY ISSUES INVOLVING THE CHILDREN, CUSTODY ISSUES MAY BE HANDLED IN THAT CASE, NOT IN THE DOMESTIC VIOLENCE CASE.**

FILLING OUT THE FORM: Check each instruction below after you read and complete it

☐ **Print or type only.** Attach an additional page to the Affidavit for your answers if you need more room.

☐ **At the top of the front page, fill in the names.** YOU are the "Petitioner." The person you want protection from is the "Respondent." Leave the Case No. and Judge lines blank for the Clerk of Court to complete.

☐ **First Paragraph.** Fill in your legal name in the blank line.

☐ **Paragraph 1:** Check this box if you wish your current address to remain confidential.

☐ **Paragraph 2:** On the blank line fill in the number of children that are subject to this court case. For each table at the top write in the child's name, place of birth, date of birth, sex, and address unless confidential. As you write on each line going across the table, start with the length of time, the address unless confidential, the adult the child lived with at that time, and the relationship of that adult to the child. There are three tables. If you have more than three children that are subject to this court case, attach additional pages containing the requested information for each of those additional children.

☐ **Paragraph 3:** Mark the box showing whether or not you have participated as party, witness, or in any capacity concerning any civil or criminal case regarding custody or visitation of any of the children that are subject to this court case. If you have been involved in such a case fill in the details requested in lines a, b, c, and d.

☐ **Paragraph 4:** Mark the box showing whether or not you have any information concerning any case that could affect the current case including any case relating to custody, domestic violence and or protection orders, dependency, neglect, or abuse allegations or adoptions other than those listed in paragraph 3. If you do have such information, fill in the details requested in lines a, b, c, and d.

☐ **Paragraph 5:** List the criminal background and history of yourself and members of your household including any convictions or guilty pleas of any offense resulting in a child being an abused or neglected child, any offense that is a violation of R.C. 2919.25, any sexually oriented offense defined by R.C. 2950.01, and any offense involving a victim who was a family or household member at the time of the offense and caused physical harm to the victim during the commission of the offense.

☐ **Paragraph 6:** Check the first box if you do not know of any person not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case. Check the second box if you do know anyone who is not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case. If you check the second box you will fill in the required information for each person that you know who is not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case.

☐ **Paragraph 7:** You have an on-going duty to notify the Court of any custody, visitation, parenting time, divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, parentage, termination of parental rights, or domestic violence case concerning the children that are subject to this case.

SIGNING THE FORM

AFTER YOU HAVE FILLED OUT THE FORM, TAKE THE FORM TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. DO NOT SIGN THE FORM UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PARENTING PROCEEDING AFFIDAVIT FOR YOU.

IN THE _____ COURT
_____ COUNTY, OHIO

_____	:	
Petitioner		**Case No.** _____
	:	
	:	**Judge:** _____
v.		
	:	**INFORMATION FOR PARENTING PROCEEDING AFFIDAVIT (R.C. 3127.23(A))**
_____		
Respondent	:	

NOTE: By law, an affidavit **must** be filed and served with the first pleading filed by each party in every parenting (custody/visitation) proceeding in this Court. Therefore, an affidavit must be filed with a Petition for Domestic Violence Civil Protection Order if children are involved. Each party has a continuing duty while this case is pending to inform the Court of any parenting proceeding concerning the children in any other court in this or any other state. **If more space is needed, attach an additional page.**

I (full legal name) _____, being sworn according to law, certify these cases involve the custody of a child or children and the following statements are true:

1. ☐ I am requesting the Court to not disclose my current address or that of the children. My address is confidential pursuant to R.C. 3127.23(D) and should be placed under seal in that the health, safety, or liberty of myself and/or the children would be jeopardized by the disclosure of the identifying information.

2. (**Number):** _____ **Minor child/children is/are subject to this case as follows:**

(Insert the information requested below. The residence information must be given for the last 5 years.)

a. Child's name		**Place of birth**	**Date of birth**	**Sex ☐M ☐F**
Period of residence	☐ Address Confidential	Person child lived with (name & address)		Relationship
to present				
to				
to				
to				

Case No._____

b. Child's name		Place of birth	Date of birth	Sex ☐M ☐F
Period of residence	☐ Address Confidential	Person child lived with (name & address)		Relationship
to present				
to				
to				
to				

c. Child's name		Place of birth	Date of birth	Sex ☐M ☐F
Period of residence	☐ Address Confidential	Person child lived with (name & address)		Relationship
to present				
to				
to				
to				

d. Additional children are listed on Attachment 2(d). (Provide requested information for additional children on an attachment labeled 2d.)

3. **Participation in custody case(s): (check only one)**

☐ I **HAVE NOT** participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of or visitation (parenting time) with any child subject to this case.

☐ I **HAVE** participated as a party, witness, or in any capacity in any other case, in this or any other state, concerning the custody of or visitation (parenting time) with any child subject to this case. Explain:

Case No._____

a. Name of each child _____
b. Type of case _____
c. Court and State _____
d. Date of court order or judgment (if any): _____

4. **Information about custody case(s): (check only one)**

☐ **I HAVE NO INFORMATION** of any cases that could affect the current case, any cases relating to custody, domestic violence or protection orders, dependency, neglect or abuse allegations, or adoptions concerning any child subject to this case.

☐ **I HAVE THE FOLLOWING INFORMATION** concerning cases that could affect the current case, including any cases relating to custody, domestic violence or protection orders, dependency, neglect or abuse allegations, or adoptions concerning any child subject to this case, other than listed in Paragraph 3. Explain:

a. Name of each child _____
b. Type of case _____
c. Court and State _____
d. Date of court order or judgment (if any): _____

5. List all of the criminal convictions including guilty pleas for you and the members of your household for the following offenses: any criminal offense involving acts that resulted in a child being abused or neglected; any offense that is a violation of R.C. 2919.25; any sexually oriented offense as defined in R.C. 2950.01; and any offense involving a victim who was a family or household member at the time of the offense and caused physical harm to the victim during the commission of the offense.

NAME	CASE NUMBER	COURT/STATE/COUNTY	CHARGE

6. **Persons not a party to this case: (check only one)**

☐ I **DO NOT KNOW OF ANY PERSON** not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case.

☐ I **KNOW THAT THE FOLLOWING NAMED PERSON(S)** not a party to this case has/have physical custody or claim(s) to have custody or visitation rights with respect to any child subject to this case:

a. Name and address of person _____
has ☐ physical custody ☐ claims custody rights ☐ claims visitation rights.
Name of each child _____

b. Name and address of person _____
☐ has physical custody ☐ claims custody rights ☐ claims visitation rights.
Name of each child _____

Case No._____

c. Name and address of person _____
has ☐ physical custody ☐ claims custody rights ☐ claims visitation rights.
Name of each child _____

7. **I understand that I have a continuing duty to advise this Court of any custody, visitation, parenting time, divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, parentage, termination of parental rights, or protection from domestic violence case concerning the children in this state or any other state about which information is obtained during this case.**

OATH OF AFFIANT

I hereby swear or affirm that the answers above are true, complete, and accurate to the best of my knowledge. I understand that falsification of this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury under R.C. 2921.11.

DO NOT SIGN THE FORM UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PARENTING PROCEEDING AFFIDAVIT FOR YOU.

_____
AFFIANT

Sworn to and subscribed before me on this _____ day of _____

_____
NOTARY PUBLIC

FORM 10.01-G:
WARNING CONCERNING THE ATTACHED DOMESTIC VIOLENCE PROTECTION ORDER

NOTE: *Rules 10.01 and 10.02 of the Rules of Superintendence for the Courts of Ohio require this Warning to be attached to the FRONT of all civil and criminal domestic violence protection orders issued by the courts of the State of Ohio. TO BE USED WITH FORMS 10.01-H, 10.01-I, 10.01-J, 10.01-M, and 10.02-A.*

WARNING TO RESPONDENT / DEFENDANT

Violating the attached Protection Order is a crime, punishable by imprisonment or fine or both, and may cause your bond to be revoked or result in a contempt of court citation against you.

This Protection Order is enforceable in all 50 states, the District of Columbia, tribal lands, and U.S. Territories pursuant to the Violence Against Women Act, 18 U.S.C. 2265. Violating this Protection Order may subject you to federal charges and punishment.

Only the Court may change this Protection Order. The Petitioner/Alleged Victim cannot give you legal permission to change this Order. If you go near the Petitioner/Alleged Victim or other protected person, even with their permission, you may be arrested. Only the Court may modify or terminate this Protection Order. Unless the Court modifies or terminates this Order, you may be arrested for violating this Protection Order. **You act at your own risk if you disregard this WARNING**.

WARNING TO PETITIONER / ALLEGED VICTIM

You **cannot** change the terms of this Order by your words or actions. Only the Court may allow the Respondent/Defendant to contact you or return to your residence. This Protection Order **cannot** be changed by either party without obtaining a written court order.

NOTICE ABOUT FIREARMS AND OTHER DEADLY WEAPONS

As a result of this Protection Order or Consent Agreement, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law, 18 U.S.C. 922(g)(8). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm or ammunition, you should consult with a lawyer.

This Protection Order may be subject to the exceptions pursuant to 18 U.S.C. 925(a)(1) **only** with respect to the official use of government-issued firearms or ammunition for the use of any department or agency of the United States, Ohio, or its political subdivision. This exception does not apply if the Defendant/ Respondent has been convicted of an offense of violence, for example, domestic violence, menacing by stalking, etc. against a family or household member.

NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS

The attached Protection Order is enforceable in all jurisdictions. Violation of this Protection Order, whether it is a criminal or civil Protection Order, is a crime under R.C.2919.27. Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.26, 2919.27, and 3113.31. If you have reasonable grounds to believe that Respondent/Defendant has violated this Protection Order, it is the preferred course of action in Ohio under R.C. 2935.03 to arrest and detain Respondent/ Defendant until a warrant may be obtained. Federal and state law prohibits charging a fee for service of this Order.

IN THE COURT OF COMMON PLEAS

_____ **COUNTY, OHIO**

Order of Protection

Case No.

Per R.C. 3113.31(F)(3), this Order is indexed at

Judge/Magistrate _____

State **OHIO**

_____
LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -
PHONE NUMBER

DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (CPO) *EX PARTE* (R.C. 3113.31)

PETITIONER:

First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: _____ DOB: _____

Petitioner's Family or Household Members:
(☐ Additional forms attached.)

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

RESPONDENT:

First Middle Last

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
		/ /	
DRIVER'S LIC. NO.	EXP. DATE	STATE	

Relationship to Petitioner: _____

Address where Respondent can be found:

_____

_____

Distinguishing features: _____

_____

☐ **WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:
That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:
That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ (**DATE CERTAIN)**

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came on for an *ex parte* hearing on _____/_____/_____ (Respondent not being present), upon the filing of a Petition by Petitioner for a domestic violence civil protection order (CPO) against the Respondent, pursuant to R.C. 3113.31. In accordance with R.C. 3113.31(D)(1), the Court held an *ex parte* hearing on the same day that the Petition was filed.

The Court finds that the protected persons herein are in immediate and present danger of domestic violence and for good cause shown, the following temporary orders are necessary to protect the persons named in this Order from domestic violence.

RESPONDENT SHALL NOT ABUSE, harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐**1.** **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence:

_____

_____

☐**2.** **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at:

_____

_____

is granted to: _____ . Respondent shall not interfere with this individual's right to occupy the residence including, but not limited to canceling utilities or Insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐**3.** **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

☐**4.** **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐**5.** **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

☐**6.** **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care

providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications, or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

☐ **7. RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE,** _____ , to the law enforcement agency that served Respondent with the Order or as follows:

_____

_____

and Petitioner is granted exclusive use of this motor vehicle.

☐ **8. RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order. Personal property shall be apportioned as follows:

_____

_____

☐ **9. RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

10. RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON at any time while the Order remains in effect unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE** in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

☐ **11. PARENTAL RIGHTS AND RESPONSIBILITIES ARE TEMPORARILY ALLOCATED AS FOLLOWS:** [NCIC 09] _____

_____

This Order applies to the following child(ren):

_____

_____

☐ **12. VISITATION ORDERS DO NOT PERMIT RESPONDENT TO VIOLATE THE TERMS OF THIS ORDER.**

☐ (A) Respondent's visitation rights are suspended; or

☐ (B) As a limited exception to paragraphs 5 and 6, temporary visitation rights are established as follows: [NCIC 06]

_____

_____

_____

Case No._____

This Order applies to the following child(ren):

_____

_____

☐13. **LAW ENFORCEMENT AGENCIES**, including but not limited to, _____ are ordered to assist Petitioner in gaining physical custody of the child(ren), if necessary.

☐14. **RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows:

_____

_____

☐15. **RESPONDENT MAY PICK UP CLOTHING** and personal effects from the above residence only in the company of a uniformed law enforcement officer within seven days of the filing of this Order. Arrangements may be made by contacting:

_____

_____

☐16. **RESPONDENT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.

☐17. **IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

18. **ALL DISCOVERY SHALL STRICTLY COMPLY** with Civ.R. 65.1(D).

19. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed against the Petitioner for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this protection order.

20. **ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL** _____/_____/_____ unless earlier modified by or dismissed by order of this Court. Except for paragraphs 11, 12, 13, and 14 above, this Order survives a divorce, dissolution of marriage, or legal separation.

IT IS SO ORDERED.

_____

JUDGE/MAGISTRATE

Case No._____

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERM OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

A FULL HEARING on this Order, and on all other issues raised by the Petition, shall be held before Judge or Magistrate:

_____

on the _____ day of _____ , 20 _____

at _____ a.m./p.m. at the following location:

_____

_____

_____

_____

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner

☐ Respondent

☐ Police Department Where Petitioner Resides:

_____

☐ Sheriff's Office:

_____

☐ Police Department Where Petitioner Works:

_____

☐ CSEA

☐ Other:

IN THE COURT OF COMMON PLEAS

_____ **COUNTY, OHIO**

Order of Protection

Case No.

Per R.C. 3113.31(F)(3), this Order is indexed at

Judge _____

State **OHIO**

_____

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (CPO) FULL HEARING (R.C. 3113.31)

☐ **WITH SUPPORT ORDER**

PETITIONER:

First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner _____ DOB: _____

Petitioner's Family or Household Members :
(☐ Additional forms attached)

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

RESPONDENT:

First Middle Last

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT

EYES	HAIR	DATE OF BIRTH
		/ /

DRIVER'S LIC. NO.	EXP. DATE	STATE

Relationship to Petitioner: _____

Address where Respondent can be found:

_____

_____

Distinguishing features: _____

_____

☐ **WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration : Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent was provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ **(DATE CERTAIN – 5 YEARS MAXIMUM)**

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came on for a hearing on _____/_____/_____ before the Court and the *Ex Parte* Order filed on _____/_____/_____ . The following individuals were present:

_____

_____

The Court hereby makes the following findings of fact:

_____

_____

_____

_____

_____

_____

The Court further finds by a preponderance of the evidence: 1) that the Petitioner or Petitioner's family or household members are in danger of or have been a victim of domestic violence or sexually oriented offenses as defined in R.C. 3113.31(A) committed by Respondent; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from domestic violence.

RESPONDENT SHALL NOT ABUSE harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐**1.** **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence:

_____

_____

☐**2.** **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at:

_____

_____

is granted to: _____ . Respondent shall not interfere with this individual's right to occupy the residence including, but not limited to canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐**3.** **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

☐**4.** **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐**5.** **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or _____ (distance) of any protected

persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

☐ **6. RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

☐ **7. RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE:** _____
to the law enforcement agency that served Respondent with the Order or as follows:

_____

_____

and Petitioner is granted exclusive use of this motor vehicle.

☐ **8. RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order. Personal property shall be apportioned as follows:

_____

_____

☐ **9. RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

10. RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON at any time while this Order remains in effect, unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEAL CARRY WEAPON LICENSE** in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

Upon the expiration of this Order, any deadly weapons, including firearms and ammunition, held in protective custody by law enforcement pursuant to this Order shall be disposed of as unclaimed property pursuant to R.C. 2981.12 unless the Respondent files a motion for return with this Court within 30 days before the expiration of this Order.

☐ **11. PARENTAL RIGHTS AND RESPONSIBILITIES ARE TEMPORARILY ALLOCATED AS FOLLOWS:** [NCIC 09]

_____

_____

_____

This Order applies to the following child(ren):

_____

_____

_____

☐ **12. VISITATION ORDERS DO NOT PERMIT RESPONDENT TO VIOLATE THE TERMS OF THIS ORDER.**

☐ (A) Respondent's visitation rights are suspended; or

☐ (B) As a limited exception to paragraphs 5 and 6, temporary visitation rights are established as follows: [NCIC 06]

_____

_____

This Order applies to the following child(ren):

_____

_____

☐ **13. LAW ENFORCEMENT AGENCIES**, including but not limited to, _____ are ordered to assist Petitioner in gaining physical custody of the child(ren), if necessary.

☐ **14. RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows:

_____

_____

☐ **15. RESPONDENT MAY PICK UP CLOTHING** and personal effects from the above residence only in the company of a uniformed law enforcement officer within seven days of the filing of this Order. Arrangements may be made by contacting:

_____

_____

☐ **16. RESPONDENT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.

☐ **17. IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

☐ **18. RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM:**

_____

_____

Respondent shall contact this program within _____ days after receiving this Order and immediately arrange for an initial appointment. The counseling program is requested to provide the Court a written notice when Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when Respondent completes the program. Respondent is required to sign all necessary waivers to allow the Court to receive information from the counseling program.

Case No._____

☐ **Respondent is ordered to appear before Judge or Magistrate** _____ **on** _____/_____/_____ **at** _____ ☐**a.m.** ☐ **p.m. to review Respondent's compliance with this counseling order. Respondent is warned: If you fail to attend the counseling program you may be held in contempt of court. If you fail to appear at this hearing, the Court may issue a warrant for your arrest.**

19. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this Order.

20. **ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL** _____/_____/_____ unless earlier modified or terminated by order of this Court. Except for paragraphs 11, 12, 13, and 14 above, this Order survives a divorce, dissolution of marriage, or legal separation. Until this Order is served upon the Respondent pursuant to Civ.R. 65.1, the terms of the E*x Parte* CPO remain in effect.

21. **IF THE FULL HEARING PROCEEDING WAS REFERRED TO A MAGISTRATE,** the Court has reviewed the magistrate's granting of this Order and finds no error of law or other defect evident on the face of the Order. Accordingly, the Court adopts the magistrate's granting of the Order.

IT IS SO ORDERED.

_____ _____

MAGISTRATE **JUDGE**

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

NOTICE OF FINAL APPEALABLE ORDER

Copies of this Order, which is a final appealable order, were served on the parties indicated pursuant to Civ. R. 65.1(C)(3) on _____ day of _____, 20 _____

By: _____

CLERK OF COURT

TO THE CLERK:

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner ☐ Attorney for Petitioner

☐ Respondent ☐ Attorney for Respondent

☐ Counseling Program: _____

☐ Sheriff's Office:

_____

☐ Police Department Where Petitioner Resides:

_____

☐ Police Department Where Petitioner Works:

_____

☐ CSEA

☐ Other:

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO

Order of Protection

Case No.

Per R.C. 3113.31(F)(3),this Order is indexed at

Judge _____

State **OHIO**

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

CONSENT AGREEMENT AND DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (R.C. 3113.31)

☐ **WITH SUPPORT ORDER**

PETITIONER:

First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: _____ DOB: _____

Petitioner's Family or Household Members:
(☐ Additional forms attached.)

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

RESPONDENT:

First Middle Last

Relationship to Petitioner: _____

Address where Respondent can be found:

_____

_____

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT

EYES	HAIR	DATE OF BIRTH
		/ /

DRIVER'S LIC. NO.	EXP. DATE	STATE

Distinguishing features: _____

_____

☐ **WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent was provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ (**DATE CERTAIN – 5 YEARS MAXIMUM)**

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came on for a hearing on _____/_____/_____ before the Court and the *Ex Parte* Order filed on _____/_____/_____ . The following individuals were present:

_____

_____

☐ The parties agree to waive their notice and hearing rights.

RESPONDENT SHALL NOT ABUSE harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐**1.** **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence:

_____

_____

☐**2.** **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at:

_____

_____

is granted to: _____ . Respondent shall not interfere with this individual's right to occupy the residence including, but not limited to canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐**3.** **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

_____

☐**4.** **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐**5.** **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

Case No._____

☐6. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC05]

☐7. **RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE:** _____ to the law enforcement agency that served Respondent with the Order or as follows:

_____

_____

and Petitioner is granted exclusive use of this motor vehicle.

☐8. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order. Personal property shall be apportioned as follows:

_____

_____

_____

☐9. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

10. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** at any time while this Order remains in effect, unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE** in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

Upon the expiration of this Order, any deadly weapons, including firearms and ammunition, held in protective custody by law enforcement pursuant to this Order shall be disposed of as unclaimed property pursuant to R.C. 2981.12 unless the Respondent files a motion for return with this Court within 30 days before the expiration of this Order.

Case No._____

☐**11. PARENTAL RIGHTS AND RESPONSIBILITIES ARE TEMPORARILY ALLOCATED AS FOLLOWS:** [NCIC 09]

_____

_____

_____

This Order applies to the following child(ren):

_____

_____

☐**12. VISITATION ORDERS DO NOT PERMIT RESPONDENT TO VIOLATE THE TERMS OF THIS ORDER.**

☐ (A) Respondent's visitation rights are suspended; or

☐ (B) As a limited exception to paragraphs 5 and 6, temporary visitation rights are established as follows: [NCIC 06]

_____

_____

_____

This Order applies to the following child(ren):

_____

_____

☐**13. LAW ENFORCEMENT AGENCIES**, including but not limited to, _____ are ordered to assist Petitioner in gaining physical custody of the child(ren), if necessary.

☐**14. RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows:

_____

_____

_____

☐**15. RESPONDENT MAY PICK UP CLOTHING** and personal effects from the above residence only in the company of a uniformed law enforcement officer within seven days of the filing of this Order. Arrangements may be made by contacting:

_____

_____

_____

☐**16. RESPONDENT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.

☐**17. IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

Case No._____

☐**18. RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM:**

_____

_____

Respondent shall contact this program within _____ **days after receiving this Order and immediately arrange for an initial appointment.** The counseling program is requested to provide the Court a written notice when Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when Respondent completes the program. Respondent is required to sign all necessary waivers to allow the Court to receive information from the counseling program.

☐ **Respondent is ordered to appear before Judge or Magistrate** _____ **on** _____/_____/_____ **at** _____ ☐**a.m.** ☐**p.m., to review Respondent's compliance with this counseling order. Respondent is warned: If you fail to attend the counseling program you may be held in contempt of court. If you fail to appear at this hearing, the Court may issue a warrant for your arrest.**

19. IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy of this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed against the Petitioner for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this Order.

20. ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL _____/_____/_____ unless earlier modified or terminated by order of this Court. Except for paragraphs 11,12, 13, and 14 above, this Order survives a divorce, dissolution of marriage, or legal separation. Until this Order is served upon the Respondent pursuant to Civ.R. 65.1, the terms of the *Ex Parte* CPO remain in effect.

21. IF THE FULL HEARING PROCEEDING WAS REFERRED TO A MAGISTRATE, the Court has reviewed the magistrate's granting of this Order and finds no error of law or other defect evident on the face of the Order. Accordingly, the Court adopts the magistrate's granting of the Order.

IT IS SO ORDERED.

_____ _____

MAGISTRATE **JUDGE**

Case No._____

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

I have read this Consent Agreement and Civil Protection Order and agree to its terms.

_____

SIGNATURE OF PETITIONER

_____

_____

Address of Petitioner (Safe Mailing Address)

_____

Signature of Attorney for Petitioner

_____

_____

Address of Attorney for Petitioner

I have read this Consent Agreement and Civil Protection Order and agree to its terms.

_____

SIGNATURE OF RESPONDENT

_____

_____

Address of Respondent

_____

Signature of Attorney for Respondent

_____

_____

Address of Attorney for Respondent

NOTICE OF FINAL APPEALABLE ORDER

Copies of this Order, which is a final appealable order, were to be served on the parties indicated pursuant to Civ.R. 65.1(C)(3) on

_____ day of _____ , 20 _____

By: _____

CLERK OF COURT

TO THE CLERK:

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner ☐ Attorney for Petitioner

☐ Respondent ☐ Attorney for Respondent

☐ Counseling Program: _____

☐ Sheriff's Office:

_____

☐ Police Department Where Petitioner Resides:

_____

☐ Police Department Where Petitioner Works:

_____

☐ CSEA

☐ Other:

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO

Petitioner	:	Case No. _____
Address	:	Judge/Magistrate _____
City, State, Zip Code	:	
v.	:	**MOTION TO MODIFY OR TERMINATE DOMESTIC VIOLENCE PROTECTION ORDER OR CONSENT AGREEMENT**
Respondent	:	
Address	:	
City, State, Zip Code		

CHECK EVERY ☐ THAT APPLIES. IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

☐Petitioner ☐Respondent moves this Court to modify or terminate the Domestic Violence Civil Protection Order or Consent Agreement issued on _____/_____/_____ . In the original proceeding, I was the ☐Petitioner ☐Respondent.

1. The terms of the civil protection order or consent agreement to be modified or terminated are:

   _____

   _____

   _____

2. The reasons for the modification or termination are:

   _____

   _____

   _____

3. Court fees cannot be assessed against the Petitioner for filing a Motion to Modify or Terminate Domestic Violence Civil Protection Order or Consent Agreement, which is in connection with a previously issued protection order or approved consent agreement.

Case No._____

Respectfully submitted,

_____

SIGNATURE OF PETITIONER/RESPONDENT

Safe mailing address where the Court may contact the moving party (YOU).

_____

_____

_____

_____

_____

Signature of Attorney for Petitioner/Respondent (if applicable)

_____

Name

_____

_____

_____

Address

_____

Attorney Registration

_____

Telephone

_____

Fax

_____

Email

REQUEST FOR SERVICE

Please serve a copy of this Motion upon the ☐Petitioner ☐Respondent, _____

_____

pursuant to Civ.R. 65.1(C)(3) at the following address:

_____

_____

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

Petitioner	:	Case No. _____
Date of Birth: ____/____/____	:	Judge _____
v.	:	**JUDGMENT ENTRY ON MOTION TO MODIFY OR TERMINATE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER OR CONSENT AGREEMENT**
Respondent	:	
Date of Birth: ____/____/____	:	

Upon the motion of ☐Petitioner ☐Respondent, this proceeding came on for a hearing on ____/____/____ before the Court to ☐modify ☐terminate the Domestic Violence Civil Protection Order or Consent Agreement issued on ____/____/____ .

☐ The Petitioner was ☐present ☐not present, but had reasonable notice and opportunity to be heard.

☐ The Respondent was ☐present ☐not present, but had reasonable notice and opportunity to be heard.

The Court has considered the following factors:

1. Petitioner ☐consents ☐does not consent to the ☐modification ☐termination of the Domestic Violence Civil Protection Order or Consent Agreement.

2. Petitioner ☐continues to fear ☐does not fear the Respondent.

3. The current nature of the relationship between the Petitioner and Respondent is as follows:

   _____

   _____

4. Relative proximity of the Petitioner's and Respondent's workplaces and residences.

5. Petitioner and Respondent ☐have ☐do not have minor children together.

6. Respondent has ☐complied ☐failed to comply with the terms and conditions of the original civil protection order or consent agreement.

Case No._____

7. Respondent ☐has ☐does not have a continuing involvement with illegal drugs or alcohol.

8. Respondent ☐has been ☐has not been convicted of or pleaded guilty to an offense of violence since the protection order was issued or the consent agreement was approved.

9. Other protection orders, consent agreements, restraining orders, or no contact orders ☐have been ☐have not been issued against the Respondent pursuant to R.C. 3113.31 or 2919.26, any other provision of state law, or the law of any other state.

10. Respondent ☐participated ☐has not participated in a domestic violence treatment, intervention program, or other counseling addressing domestic violence.

11. Respondent ☐completed ☐has not completed the domestic violence treatment, intervention program, or other counseling addressing domestic violence.

12. _____ (time) has elapsed since the protection order was issued or the consent agreement was approved.

13. The age and health of the Respondent is as follows:

_____

_____

14. The last incident of abuse, threat of harm, or commission of a sexually oriented offense occurred on:

_____

_____

15. Other information considered concerning the safety and protection of the Petitioner or other protected parties:

_____

_____

16. Based on all relevant factors, including those set forth in R.C. 3113.31(E)(8), the Court finds:

☐ The terms of the original civil protection order or consent agreement are no longer appropriate. The Order shall be **modified** as follows:

_____

_____

_____

☐ The civil protection order or consent agreement is no longer needed. **The Order is terminated**.

☐ The civil protection order or consent agreement remains in full force and effect. **The Motion is denied**.

Case No._____

17. **A new Protection Notice to NCIC, Form 10-A, has been prepared to show the modification or termination of the prior order. In the event of modification, a Modified Domestic Violence Civil Protection Order (Form10.01-M) has been filed with this entry.**

    The costs of this action are ☐assessed against the Respondent ☐waived.

18. **IF THE FULL HEARING PROCEEDING WAS REFERRED TO A MAGISTRATE,** the Court has reviewed the magistrate's granting of the Order and finds no error of law or other defect evident on the face of the Order. Accordingly, the Court adopts the magistrate's granting of the Order.

IT IS SO ORDERED.

_____ _____

MAGISTRATE **JUDGE**

TO THE CLERK:

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner
☐ Attorney for Petitioner
☐ Respondent
☐ Attorney for Respondent
☐ Counseling Program: _____
☐ Sheriff's Office: _____
☐ Police Department Where Petitioner Resides: _____
☐ Police Department Where Petitioner Works: _____
☐ CSEA
☐ Other: _____

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

Order of Protection

Case No.

Per R.C. 3113.31(F)(3), this Order is indexed at

Judge _____

State **OHIO**

_____
LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -
PHONE NUMBER

MODIFIED DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (R.C. 3113.31)

PETITIONER:

First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: _____ DOB: _____
Petitioner's Family or Household Members:
(☐ Additional forms attached)

_____ DOB: _____
_____ DOB: _____
_____ DOB: _____
_____ DOB: _____

RESPONDENT:

First Middle Last

Relationship to Petitioner: _____
Address where Respondent can be found:

_____

_____

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT

EYES	HAIR	DATE OF BIRTH
		/ /

DRIVER'S LIC. NO.	EXP. DATE	STATE

Distinguishing features: _____

_____

☐ **WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until ____/____/____ **(SHALL BE SAME EXPIRATION DATE AS IN CIVIL PROTECTION ORDER OR CONSENT AGREEMENT)**

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came on for a hearing on _____/_____/_____ . Based on the evidence presented and consideration of factors set forth in R.C. 31131.31(E)(8), the Court finds that the motion to modify the prior Domestic Violence Civil Protection Order issued on _____/_____/_____ is well taken.

RESPONDENT SHALL NOT ABUSE, harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐**1.** **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence:

_____

_____

☐**2.** **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at:

_____

_____

is granted to: _____ . Respondent shall not interfere with this individual's right to occupy the residence including, but not limited to canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐**3.** **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

_____

☐**4.** **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐**5.** **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

☐**6.** **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or

child care providers. Contact includes, but is not limited to, landline, cordless, cellular, or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

☐ **7. RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE:** _____ to the law enforcement agency that served Respondent with this Order or as follows:

_____

_____

and Petitioner is granted exclusive use of this motor vehicle.

☐ **8. RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order. Personal property shall be apportioned as follows:

_____

_____

_____

☐ **9. RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

10. RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON at any time while this Order remains in effect, unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE** in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

Upon the expiration of this Order, any deadly weapons, including firearms and ammunition, held in protective custody by law enforcement pursuant to this Order shall be disposed of as unclaimed property pursuant to R.C. 2981.12 unless the Respondent files a motion for return with this Court within 30 days before the expiration of this Order.

☐ **11. PARENTAL RIGHTS AND RESPONSIBILITIES ARE TEMPORARILY ALLOCATED AS FOLLOWS:** [NCIC 09]

_____

_____

Case No._____

This Order applies to the following child(ren):

_____

_____

_____

☐ **12. VISITATION ORDERS DO NOT PERMIT RESPONDENT TO VIOLATE THE TERMS OF THIS ORDER.**

☐ (A) Respondent's visitation rights are suspended; or

☐ (B) As a limited exception to paragraphs 5 and 6, temporary visitation rights are established as follows: [NCIC 06]

_____

_____

This Order applies to the following child(ren):

_____

_____

☐ **13. LAW ENFORCEMENT AGENCIES**, including but not limited to, _____ are ordered to assist Petitioner in gaining physical custody of the child(ren), if necessary.

☐ **14. RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows:

_____

_____

☐ **15. RESPONDENT MAY PICK UP CLOTHING** and personal effects from the above residence only in the company of a uniformed law enforcement officer within seven days of the filing of this Order. Arrangements may be made by contacting:

_____

_____

_____

☐ **16. RESPONDENT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.

☐ **17. IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

_____

_____

☐ **18. RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM:**

_____

_____

Respondent shall contact this program within _____ days after receiving this Order and immediately arrange for an initial appointment. The counseling program is requested

Case No._____

to provide the Court a written notice when Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when Respondent completes the program. Respondent is required to sign all necessary waivers to allow the Court to receive information from the counseling program.

☐ **Respondent is ordered to appear before Judge or Magistrate _____ on _____/_____/_____ at _____ ☐a.m. ☐p.m. to review Respondent's compliance with this counseling order. Respondent is warned: If you fail to attend the counseling program you may be held in contempt of court. If you fail to appear at this hearing, the Court may issue a warrant for your arrest.**

19. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed against the Petitioner for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this Order.

20. **ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL _____/_____/_____** unless earlier modified or terminated by order of this Court. Except for paragraphs 11, 12, 13, and 14 above, this Order survives a divorce, dissolution of marriage, or legal separation. Until this Order is served upon the Respondent pursuant to Civ.R. 65.1, the terms of the previous CPO remain in effect.

21. **IF THE HEARING WAS REFERRED TO A MAGISTRATE,** the Court has reviewed the magistrate's granting of this Order and finds no error of law or other defect evident on the face of the Order. Accordingly, the Court adopts the magistrate's granting of the Order.

IT IS SO ORDERED.

_____	_____
MAGISTRATE	**JUDGE**

Case No._____

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

NOTICE OF FINAL APPEALABLE ORDER

Copies of the foregoing Order, which is a final appealable order, were served on the parties indicated pursuant to Civ. R. 65.1(C)(3) on _____ day of _____, 20 _____

By: _____
CLERK OF COURT

TO THE CLERK:

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner ☐ Attorney for Petitioner
☐ Respondent ☐ Attorney for Respondent
☐ Counseling Program: _____
☐ Sheriff's Office:
_____
☐ Police Department Where Petitioner Resides:
_____
☐ Police Department Where Petitioner Works:
_____
☐ CSEA
☐ Other: _____

FORM 10.01-N: HOW TO COMPLETE A MOTION FOR CONTEMPT FOR VIOLATING A DOMESTIC VIOLENCE CIVIL PROTECTION ORDER

ENFORCING YOUR CIVIL PROTECTION ORDER

Violating a Domestic Violence Civil Protection Order ("CPO") is a crime. If the Order is violated, call the police or prosecutor. You may also bring a contempt action in the Court that issued your CPO if the other party is not obeying the Order. You may hire an attorney to assist you. You must file a contempt motion with the Clerk of Court to begin a contempt action.

SOME HINTS BEFORE YOU BEGIN

- All forms must be typed or printed.
- When you write your name on the Motion for Contempt of a Domestic Violence Civil Protection Order, use the same name that is on your CPO.
- Fill out the Motion as completely and accurately as possible.

FORM YOU WILL NEED

You can get the Motion from the Clerk of Court. Complete the Motion as explained below:

☐ Fill in the name of the Court, the case number and the judge's last name.

☐ **If you obtained the CPO, you are the Petitioner.** Fill in your name and address. If you want your address to be confidential, do not write your address anywhere on the Motion. However, you must include someone's mailing address to allow the Court to send you legal notices about your case.

☐ **If the Court issued the CPO against you, you are the Respondent.** Fill in your name and address.

☐ Fill in the other party's name and address.

☐ Complete the first paragraph.

☐ In the numbered paragraphs, check every box that applies. There is space at the end of the Motion for any facts or explanations that you want to tell the Court. Attach additional pages, if needed.

☐ **Signing the Motion:** Try to fill out the Motion before you go to the courthouse. AFTER YOU HAVE FILLED OUT THE MOTION, TAKE IT TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. ***DO NOT SIGN THE MOTION UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC.*** **An employee of the Clerk of Court may be available to notarize your Motion.**

☐ Complete the Instructions for Service at the end of the Motion. This tells the Clerk of Court how you want the Motion delivered.

FILING THE MOTION FOR CONTEMPT OF A DOMESTIC VIOLENCE CPO

- Present your completed Motion to the filing window/counter of the Clerk of Court's office for filing.
- A Clerk of Court's office employee helps you file the Motion.
- The Court shall not charge a fee for filing a contempt motion to you if the CPO was issued for your protection.
- Ask a Clerk of Court's office employee or your local domestic violence assistance provider about your local court procedures.

VICTIM ADVOCATE

State law permits you to have a victim advocate with you at all times in Court during protection order proceedings. Victim advocate means a person who provides support and assistance for a victim of an offense during Court proceedings. Contact your local victim assistance program, local domestic violence program, or the Ohio Domestic Violence Network, 800-934-9840, for advocate information.

ATTENDING THE CONTEMPT HEARING

At the hearing, you should tell the judge or magistrate what the other party did to fail to obey the CPO. If you have any physical evidence (photographs, documents, broken property, etc), bring it to this hearing. If you have any witnesses to the violations, bring them to this hearing. If you want the Court to order any witness to appear at the hearing, you can ask the Clerk of Court to issue a subpoena. This needs to be done as far in advance of the hearing as possible.

The Court will give each party the opportunity to present evidence and witnesses.

After all the evidence is presented at the contempt hearing, the Court may find that the Respondent or Petitioner has failed to comply with the CPO. If so, the Court may order the offending party to do or stop certain acts to comply with the terms of the CPO. The Court can also order the offending party to serve time in jail, pay a fine, or both.

RULE 10.02. Standard Domestic Violence Criminal Temporary Protection Order Forms.

(A) A court that has jurisdiction to issue a temporary protection order pursuant to section 2919.26 of the Revised Code shall distribute upon request a forms and instructions packet for use in domestic violence temporary protection order proceedings. The packet shall include, at a minimum, forms and instructions that are substantially similar to Forms 10.01-A, 10.01-B, 10.01-G, 10.02-A, and the motion for temporary protection order form set forth in section 2919.26 of the Revised Code.

(B) In every case in which the court issues a temporary protection order pursuant to section 2919.26 of the Revised Code, it shall use a form that is substantially similar to Form 10.02-A.

(C) Every temporary protection order that the court issues pursuant to section 2919.26 of the Revised Code shall include a cover sheet that is substantially similar to Form 10.01-G.

Commentary (January 1, 1998)

During its eighteen months of study, the Supreme Court's Domestic Violence Task Force determined that due to the variety of protection order forms used by Ohio courts, it can be difficult for law enforcement officers to recognize valid protection orders and understand the pertinent provisions of such orders. The Task Force also discovered that misconceptions exist in regard to the penalties for violating protection orders. Upon recommendation of the Task Force, the Court developed this rule and Forms 10.02-A and 10.01-G to address these concerns.

IN THE _____ COURT
_____ COUNTY, OHIO

Order of Protection

Per R.C. 2919.26(G)(3), this Order is indexed at

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -
PHONE NUMBER

STATE OF OHIO/
CITY OF _____

v.

DEFENDANT

Case No.

Judge _____

State **OHIO**

DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDER (DVTPO) (R.C. 2919.26)

☐ New Order ☐ Modification of Previous Order

ALLEGED VICTIM:

First Middle Last

v.

DEFENDANT:

First Middle Last

Address where Defendant can be found:

_____

_____

PERSON(S) PROTECTED BY THIS ORDER:

Alleged Victim _____ DOB: _____

Alleged Victim's Family or Household Members :
(☐ Additional forms attached)

_____ DOB: _____
_____ DOB: _____
_____ DOB: _____
_____ DOB: _____

DEFENDANT IDENTIFIERS

SEX	RACE	HT	WT

EYES	HAIR	DATE OF BIRTH
		/ /

DRIVER'S LIC. NO.	EXP. DATE	STATE

Distinguishing features: _____

_____

☐ **WARNING TO LAW ENFORCEMENT: DEFENDANT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**
☐ ***Ex Parte* DVTPO Granted: _____ / _____ / _____ (Date)**
☐ **DVTPO Granted: / / (Date)**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:
That it has jurisdiction over the parties and subject matter, and the Defendant was provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:
That the above named Defendant be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

WARNING TO DEFENDANT: See the warning page attached to the front of this Order.

Case No._____

Upon a hearing held on _____/_____/_____ (Ex Parte DVTPO) OR _____/_____/_____ (DVTPO) the Court finds that the Motion for a Domestic Violence Temporary Protection Order is well taken. The Court finds that the safety and protection of the protected persons named in this Order may be impaired by the continued presence of the Defendant. Therefore, the following orders, which are designed to ensure the safety and protection of the protected person named in this Order, are issued to Defendant as pretrial conditions in addition to any bail set under Crim. R. 46.

DEFENDANT SHALL NOT ABUSE harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐ **1.** **DEFENDANT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐ **2.** **DEFENDANT SHALL NOT INTERFERE** with the protected persons' right to occupy any residence by canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐ **3.** **DEFENDANT SHALL SURRENDER** all keys and garage door openers to the following residence

_____

_____

at the earliest possible opportunity after service of this Order to the law enforcement agency that serves the Defendant with this Order or as follows:

_____

_____

_____

☐ **4.** **DEFENDANT SHALL STAY AWAY FROM THE PROTECTED PERSONS NAMED IN THIS ORDER,** and shall not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Defendant knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If the Defendant accidentally comes in contact with protected persons in any public or private place, the Defendant must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

☐ **5.** **DEFENDANT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

Case No._____

☐6. **DEFENDANT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

☐7. **DEFENDANT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

8. **DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** at any time while the Order remains in effect, unless the Defendant is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **DEFENDANT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE** in Defendant's possession to the law enforcement agency that serves Defendant with this Order or as follows:

_____

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

☐9. **DEFENDANT MAY PICK UP CLOTHING** and personal effects from the following residence:

_____

only in the company of a uniformed law enforcement officer within seven days of the filing of this Order or the date of Defendant's release on bond in connection with this charge, whichever is later. Arrangements may be made by contacting:

_____

_____

☐10. **DEFENDANT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.

☐11. **IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

_____

☐12. **DEFENDANT IS ADVISED THAT VISITATION ORDERS DO NOT PERMIT THE DEFENDANT TO VIOLATE ANY OF THE TERMS OF THIS ORDER.**

13. **IT IS FURTHER ORDERED** a copy of this Order shall be delivered to the Defendant on the same day that the Order is entered.

14. **THIS ORDER IS EFFECTIVE** unit the occurrence of one of the following: (1) modified by this Court; or (2) the criminal proceeding arising out of the complaint upon which these orders were issued is disposed by this Court or by the court of common pleas to which the Defendant is bound over for prosecution; or (3) a court issues a Domestic Violence Civil Protection Order ("CPO") arising out of the

Case No._____

same activities as those that were the basis of the complaint filed in this action.

IT IS SO ORDERED.

/ /	/ /
MAGISTRATE – DATE OF *EX PARTE* DVTPO	**JUDGE – DATE OF *EX PARTE* DVTPO**
/ /	/ /
MAGISTRATE – DATE OF DVTPO	**JUDGE – DATE OF DVTPO**

NOTICE TO DEFENDANT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

A HEARING on this Order shall be held before

Judge/Magistrate _____

on _____ / _____ / _____

at _____ ☐a.m. ☐p.m.,

at the following location:

_____

_____

_____

TO THE CLERK:

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Prosecutor
☐ Alleged Victim
☐ Defendant (by personal service)
☐ Attorney for Defendant
☐ Police Department Where Alleged Victim Resides:
_____
☐ Police Department Where Alleged Victim Works:
_____
☐ Sheriff's Office:
_____
☐ CSEA
☐ Other: _____

Service acknowledged:

SIGNATURE OF DEFENDANT	**DATE**

WAIVER OF HEARING

I HAVE BEEN ADVISED OF MY RIGHT TO A HEARING ON THE MOTION FOR A DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDER AND HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THE HEARING ON THE MOTION AND AGREE TO BE BOUND BY THE TERMS OF THIS ORDER.

DEFENDANT	**DATE**

RULE 10.03. Standard Criminal Protection Order Forms and Standard Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order Forms.

(A) Distribution of packet

A court that has jurisdiction to issue a civil stalking protection order or a civil sexually oriented offense protection order pursuant to R.C. 2903.214 shall distribute, upon request, a forms and instructions packet for use in civil stalking protection order or civil sexually oriented offense protection order proceedings. The packet shall include, at a minimum, forms and instructions that are substantially similar to "Forms 10.03-D, 10.03-E, and 10.03-G."

(B) Criminal protection order form

In every case in which a court issues a criminal protection order pursuant to R.C. 2903.213, it shall use the applicable form that is substantially similar to "Form 10.03-B" and a cover sheet that is substantially similar to "Form 10.03-H."

(C) Civil stalking protection order or civil sexually oriented offense protection order form

In every case in which a court issues a civil stalking protection order or a civil sexually oriented offense protection order pursuant to R.C. 2903.214, it shall use the applicable form that is substantially similar to "Form 10.03-E or 10.03-F" and a cover sheet that is substantially similar to "Form 10.03-H."

Commentary (March 1, 2000)

In Sub. H.B. 302, effective July 29, 1998, the General Assembly revised the law relative to issuance of stalking protection orders and the violation of those orders. Following the enactment of Sub. H.B. 302, the Supreme Court of Ohio Standard Forms Committee developed Sup. R. 10.03 and forms relative to the application for and issuance of civil and criminal stalking protection orders.

IN THE _____ COURT
_____ COUNTY, OHIO

Order of Protection

Per R.C. 2903.213(G)(3), this Order is indexed at

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -
PHONE NUMBER

STATE OF OHIO/
CITY OF _____

v.

DEFENDANT

Case No.

Judge _____

State **OHIO**

CRIMINAL PROTECTION ORDER (CRPO)
(R.C. 2903.213)

☐ New Order ☐ Modification of Previous Order

ALLEGED VICTIM:

First Middle Last

v.

DEFENDANT:

First Middle Last

Address where Defendant can be found:

_____

_____

PERSON(S) PROTECTED BY THIS ORDER:

Alleged Victim _____ DOB: _____

Alleged Victim's Family or Household Members :
(☐ Additional forms attached)

_____ DOB: _____
_____ DOB: _____
_____ DOB: _____
_____ DOB: _____

DEFENDANT IDENTIFIERS

SEX	RACE	HT	WT

EYES	HAIR	DATE OF BIRTH
		/ /

DRIVER'S LIC. NO.	EXP. DATE	STATE

Distinguishing features: _____

☐ **WARNING TO LAW ENFORCEMENT: DEFENDANT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**
☐ ***Ex Parte* CRPO Granted:** _____ / _____ / _____ **(Date)**
☐ **CRPO Granted:** / / **(Date)**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:
That it has jurisdiction over the parties and subject matter, and the Defendant was provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:
That the above named Defendant be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

WARNING TO DEFENDANT: See the warning page attached to the front of this Order.

Case No._____

This matter came before the Court on _____/_____/_____ for hearing on Alleged Victim's Motion for a Criminal Protection Order. The Court finds that the Motion of the Alleged Victim for a Criminal Protection Order is well-taken. The Court finds that the safety and protection of the Alleged Victim and protected parties named in this Order may be impaired unless the Court acts. The following provisions of this Order are designed to enhance the safety of those covered by its terms. They are issued to the Defendant as pretrial conditions, in addition to any bail under Crim.R. 46.

DEFENDANT SHALL NOT ABUSE harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐**1.** **DEFENDANT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐**2.** **DEFENDANT SHALL NOT INTERFERE** with the protected persons' right to occupy any residence by canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐**3.** **DEFENDANT SHALL SURRENDER** all keys and garage door openers to the following residence

_____

_____

at the earliest possible opportunity after service of this Order to the law enforcement agency that serves the Defendant with this Order or as follows:

_____

_____

☐**4.** **DEFENDANT SHALL STAY AWAY FROM THE PROTECTED PERSONS NAMED IN THIS ORDER,** and shall not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Defendant knows or should know the protected persons are likely to be, **even with the protected persons' permission**. If Defendant accidentally comes in contact with protected persons in any public or private place, Defendant must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

☐**5.** **DEFENDANT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

☐**6.** **DEFENDANT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

Case No._____

☐7. **DEFENDANT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

8. **DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** at any time while the Order remains in effect, unless Defendant is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **DEFENDANT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEAL CARRY WEAPON LICENSE** in Defendant's possession to the law enforcement agency that serves Defendant with this Order or as follows:

_____

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

☐9. **DEFENDANT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.

☐10. **IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

_____

_____

_____

☐11. **IT IS FURTHER ORDERED** a copy of this Order shall be delivered to the Defendant on the same day that the Order is entered.

☐12. **THIS ORDER IS EFFECTIVE** until the occurrence of one of the following: (1) modified by this Court; or (2) the criminal proceeding arising out of the complaint upon which these orders were issued is disposed by this Court or by the court of common pleas to which the Defendant is bound over for prosecution; or (3) a court issues a Civil Stalking Protection Order (CSPO) or Civil Sexually Oriented Offense Protection Order (CSOOPO) arising out of the same activities as those that were the basis of the complaint filed in this action.

IT IS SO ORDERED.

/ /	/ /
MAGISTRATE – DATE OF *EX PARTE* CRPO	**JUDGE – DATE OF *EX PARTE* CRPO**
/ /	/ /
MAGISTRATE – DATE OF CRPO	**JUDGE – DATE OF CRPO**

Case No._____

NOTICE TO DEFENDANT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

NOTES: By its own definitions [see R.C. 2903.213(A)], this statute does not apply to a complaint that involves a person who is a family or household member. In those cases where the Alleged Victim is a family or household member of the Defendant, use the Domestic Violence Temporary Protection Order ("DVTPO") form and procedures under R.C. 2919.26, and/or Domestic Violence Civil Protection Order ("DVCPO") forms and procedures under R.C. 3113.31.

A HEARING on this Order shall be held before

Judge/Magistrate _____

on _____ / _____ / _____

at _____ ☐a.m. ☐p.m.

at the following location:

_____

_____

_____

_____

TO THE CLERK:

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Prosecutor
☐ Alleged Victim
☐ Defendant (by personal service)
☐ Attorney for Defendant
☐ Police Department Where Alleged Victim Resides:
_____
☐ Police Department Where Alleged Victim Works:
_____
☐ Sheriff's Office:
_____
☐ Other: _____

Service acknowledged:

_____ _____

SIGNATURE OF DEFENDANT **DATE**

WAIVER OF HEARING

I HAVE BEEN ADVISED OF MY RIGHT TO A HEARING ON THE MOTION FOR A CRIMINAL PROTECTION ORDER AND HEREBY KNOWINGLY AND VOLUNTARILY WAIVE THE HEARING ON THE MOTION AND AGREE TO BE BOUND BY THE TERMS OF THIS ORDER.

_____ _____

DEFENDANT **DATE**

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO

Petitioner	:	**Case No.** _____
Address	:	**Judge/Magistrate** _____
City, State, Zip Code	:	
Date of Birth: ____/____/____	:	
v.	:	**PETITION FOR CIVIL STALKING PROTECTION ORDER OR CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER (R.C. 2903.214)**
Respondent	:	
Address	:	
City, State, Zip Code	:	
Date of Birth: ____/____/____	:	

CHECK EVERY ☐ THAT APPLIES. IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

☐ 1. Petitioner seeks relief on Petitioner's own behalf.

☐ 2. Petitioner seeks relief on behalf of the following family or household members:

NAME	DATE OF BIRTH	HOW RELATED TO PETITIONER
	/ /	
	/ /	
	/ /	
	/ /	
	/ /	

Ohio law defines "Menacing by Stalking" as follows:

> *"No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person."* R.C. 2903.211(A)(1).
>
> *"No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section* (above)*"* R.C. 2903.211(A)(2).

Ohio law defines "Sexually Oriented Offenses" in R.C 2950.01.

Case No._____

3. Petitioner states that Respondent has engaged in the following act(s) which create an immediate and present danger. For (a), (b), or (c) below, **attach additional pages if necessary**.

☐ (a) For a civil stalking protection order due to menacing by stalking, describe the nature and extent of the pattern of conduct that causes you to believe that Respondent will cause you physical harm or causes (or has caused) mental distress. Also describe any previous convictions of Respondent for the crime of Menacing by Stalking, if known.

_____
_____
_____
_____
_____
_____
_____
_____
_____

☐ (b) For a civil sexually oriented offense protection order due to a sexually oriented offense, describe the acts of Respondent as fully as possible. You do not need to include any pattern of conduct information for a protection order due to a sexually oriented offense.

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

☐ (c) For electronic monitoring of the Respondent, describe the nature and extent of the Respondent's conduct before the filing of this Petition that puts you or your family or household members' health, welfare, or safety at risk. Also describe how the Respondent presents a continuing danger to you or your family or household members.

_____
_____
_____
_____
_____

4. Petitioner requests the Court grant relief under R.C. 2903.214 for the Petitioner and the family or household members named in this Petition by granting a Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order that:

_____
_____
_____

Case No._____

☐ (a) Requires Respondent to not abuse the Petitioner and the family or household members named in this Petition by harming, attempting to harm, threatening, following, stalking, harassing, contacting, forcing sexual relations upon them, or by committing sexually oriented offenses against them.

☐ (b) Requires Respondent to refrain from entering the residence, school, business, place of employment, child care providers, or day care centers of Petitioner and the family or household members named in this Petition, including the buildings, grounds, and parking lots at those locations.

☐ (c) Requires Respondent not to interfere with Petitioner's right to occupy the residence including, but not limited to canceling any utilities or insurance or interrupting phone service, mail delivery, or the delivery of any other documents or items.

☐ (d) Requires Respondent not to remove, damage, hide, or dispose of any property or pets owned or possessed by the Petitioner and Petitioner's family or household members named in this Petition.

☐ (e) Requires Respondent not to possess, use, carry, or obtain any deadly weapon.

☐ (f) Requires Respondent to be electronically monitored.

☐ (g) Includes the following additional provisions:

_____
_____
_____
_____
_____
_____
_____

☐ 5. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order under R.C. 2903.214(D) and this Petition.

☐ 6. Petitioner further requests that the Court not issue any mutual protection orders or other orders against Petitioner unless all of the conditions of R.C. 2903.214(E)(3) are met.

☐ 7. Petitioner further requests that if Petitioner has a victim advocate, the Court permit the victim advocate to accompany Petitioner at all stages of these proceedings as required by R.C. 2903.214(L).

☐ 8. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.

☐ 9. The following is a list of all present and past court cases involving Respondent, that Petitioner knows of:

CASE NAME	CASE NUMBER	COURT/COUNTY	OUTCOME OF CASE

Case No._____

I hereby swear or affirm that the answers above are true, complete, and accurate to the best of my knowledge. I understand that falsifying this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsifying this document may also subject me to criminal penalties for perjury under R.C. 2921.11.

DO NOT SIGN THIS FORM UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PETITION FOR YOU.

_____

SIGNATURE OF PETITIONER

Sworn to and subscribed before me on this _____ day of _____ , _____

_____

NOTARY PUBLIC

IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

Petitioner's Safe Address

_____

_____

_____

_____

_____

Signature of Attorney for Petitioner (if applicable)

_____

Name of Attorney (if applicable)

_____

Attorney's Address

_____

City, State, Zip Code

_____

Attorney's Registration Number

_____

Attorney's Telephone

_____

Attorney's Fax

_____

Attorney's Email

IN THE COURT OF COMMON PLEAS

_____ COUNTY, OHIO

Order of Protection

Case No. _____

Per R.C. 2903.214(F)(3), this Order is indexed at

Judge/Magistrate _____

State **OHIO**

_____
LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -
PHONE NUMBER

☐ **CIVIL STALKING PROTECTION ORDER *EX PARTE* (R.C. 2903.214)**

☐ **CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER *EX PARTE* (R.C. 2903.214)**

PETITIONER:

First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: _____ DOB: _____

Petitioner's Family or Household Members :
(☐ Additional forms attached.)

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

RESPONDENT:

First Middle Last

Relationship to Petitioner: _____

Address where Respondent can be found:

_____

_____

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT

EYES	HAIR	DATE OF BIRTH
		/ /

DRIVER'S LIC. NO.	EXP. DATE	STATE

Distinguishing features: _____

_____

☐ **WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:
That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:
That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ (**DATE CERTAIN).**

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came on for an *ex parte* hearing on _____/_____/_____ (Respondent not being present), upon the filing of a Petition by Petitioner for a civil stalking protection order or civil sexually oriented offense protection order against the Respondent, pursuant to R.C. 2903.214. In accordance with R.C. 2903.214(D)(1), the Court held an *ex parte* hearing not later than the next day that the Court was in session after the Petition was filed.

The Court finds that the protected persons herein are in immediate and present danger and, for good cause shown, the following temporary orders are necessary to protect the persons named in this Order.

RESPONDENT SHALL NOT ABUSE, harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐**1.** **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐**2.** **RESPONDENT SHALL NOT INTERFERE** with protected persons' right to occupy the residence including, but not limited to canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items.

☐**3.** **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the following residence:

_____

at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

_____

☐**4.** **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with the protected persons' permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

☐**5.** **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

☐**6.** **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text;

Case No._____

instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

☐ **7. RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

8. RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON at any time while the Order remains in effect unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEALED CARRY WEAPON LICENSE** in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

☐ **9. IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

_____

10. ALL DISCOVERY SHALL STRICTLY COMPLY with Civ.R. 65.1(D).

11. IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed against the Petitioner for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this protection order.

12. ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL _____/_____/_____ .

IT IS SO ORDERED.

_____

JUDGE/MAGISTRATE

Case No._____

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

A FULL HEARING on this Order, and on all other issues raised by the Petition, shall be held before Judge or Magistrate _____

on the _____ day of _____ , 20 _____

at _____ ☐a.m. ☐p.m. at the following location:

_____

_____

_____

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner

☐ Respondent

☐ Police Department Where Petitioner Resides:

_____

☐ Sheriff's Office:

_____

☐ Police Department Where Petitioner Works:

_____

☐ Other:

IN THE COURT OF COMMON PLEAS

_____ **COUNTY, OHIO**

Order of Protection

Case No. _____

Per R.C. 2903.214(F)(3), this Order is indexed at

Judge _____

State **OHIO**

_____

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

☐ **CIVIL STALKING PROTECTION ORDER FULL HEARING (R.C. 2903.214)**

☐ **CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER FULL HEARING (R.C. 2903.214)**

PETITIONER:

First Middle Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner _____ DOB: _____

Petitioner's Family or Household Members:
(☐ Additional forms attached)

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

_____ DOB: _____

RESPONDENT:

First Middle Last

Relationship to Petitioner: _____

Address where Respondent can be found:

_____

_____

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT

EYES	HAIR	DATE OF BIRTH
		/ /

DRIVER'S LIC. NO.	EXP. DATE	STATE

Distinguishing features: _____

☐ **WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter, and the Respondent was provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:

That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ **(DATE CERTAIN – 5 YEARS MAXIMUM)**

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came on for a hearing on _____/_____/_____ before the Court and the Civil Stalking Protection Order Ex Parte or Civil Sexually Oriented Offense Protection Order Ex Parte filed on _____/_____/_____ , all in accordance with R.C. 2903.214. The following individuals were present: _____

_____

The Court hereby makes the following findings of fact:

_____

_____

_____

_____

_____

_____

☐ The Court finds by a preponderance of the evidence that 1) the Respondent has knowingly engaged in a pattern of conduct that caused Petitioner to believe that the Respondent will cause physical harm or cause or has caused mental distress; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from stalking offenses.

☐ The Court finds by a preponderance of the evidence that 1) the Petitioner or Petitioner's family or household members are in danger of or have been a victim of a sexually oriented offense as defined in R.C. 2950.01, committed by Respondent; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from sexually oriented offenses.

☐ The Court finds by clear and convincing evidence that 1) the Petitioner or Petitioner's family or household members reasonably believed the Respondent's conduct before the filing of the Petition endangered the health, welfare, or safety of the Petitioner or Petitioner's family or household members; 2) the Respondent presents a continuing danger to the Petitioner or Petitioner's family or household members; and 3) the following orders are equitable, fair, and necessary to protect the persons experiencing a continuing danger to the Petitioner or Petitioner's family or household members named in this Order.

RESPONDENT SHALL NOT ABUSE harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐ **1. RESPONDENT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]

☐ **2. RESPONDENT SHALL NOT INTERFERE** with the protected persons' right to occupy the residence including, but not limited to canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐3. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the following residence:

_____

at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

☐4. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or _____ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with the protected persons' permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]

☐5. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

☐6. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, landline, cordless, cellular or digital telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social networking media; blogging; writings; electronic communications; or communications by any other means directly or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]

☐7. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

8. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** at any time while this Order remains in effect, unless Respondent is excepted for official use pursuant to 18 U.S.C. 925(a)(1). [NCIC 07]

☐ **RESPONDENT SHALL TURN OVER ALL DEADLY WEAPONS AND CONCEAL CARRY WEAPON LICENSE** in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows:

_____

_____

Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]

Upon the expiration of this Order, any deadly weapons, including firearms and ammunition, held in protective custody by law enforcement pursuant to this Order shall be disposed of as unclaimed property pursuant to R.C. 2981.12 unless the Respondent files a motion for return with this Court within 30 days before the expiration of this Order.

☐9. **IT IS FURTHER ORDERED:** [NCIC 08]

_____
_____
_____
_____
_____

☐10. **RESPONDENT SHALL COMPLETE** the following counseling program:

_____

Respondent shall contact this program within _____ days after receiving this Order and immediately arrange for an initial appointment. The counseling program is requested to provide the Court a written notice when Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when Respondent completes the program. Respondent is required to sign all necessary waivers to allow the Court to receive information from the counseling program.

☐ **Respondent is ordered to appear before Judge or Magistrate _____ on _____/_____/_____ at _____ ☐a.m. ☐p.m. to review Respondent's compliance with this counseling order. Respondent is warned: If you fail to attend the counseling program you may be held in contempt of court. If you fail to appear at this hearing, the Court may issue a warrant for your arrest.**

☐11. **RESPONDENT SHALL NOT USE OR POSSESS** alcohol or illegal drugs.

☐12. **RESPONDENT SHALL BE SUBJECT TO ELECTRONIC MONITORING.** The Respondent is ordered to report to _____ for placement of a global positioning system for the purpose of electronic monitoring for the duration of this Order or until _____/_____/_____ whichever expires first. The Court further imposes the following terms and conditions:

☐13. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of this Order to be delivered to the Respondent as required by Civ.R. 65.1. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. No costs or fees shall be assessed against the Petitioner for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this Order.

14. **ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL** _____/_____/_____ Until this Order is served upon the Respondent pursuant to Civ.R. 65.1(C)(3), the terms of the Ex Parte CPO remain in effect.

15. **IF THE FULL HEARING PROCEEDING WAS REFERRED TO A MAGISTRATE,** the Court has reviewed the magistrate's granting of this Order and finds no error of law or other defect evident on the face of the Order. Accordingly, the Court adopts the magistrate's granting of this Order.

Case No._____

IT IS SO ORDERED.

_____ _____

MAGISTRATE **JUDGE**

NOTICE TO RESPONDENT

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

NOTICE OF FINAL APPEALABLE ORDER

Copies of the foregoing Order, which is a final appealable order, were served on the parties indicated pursuant to Civ.R. 65.1(C)(3):

_____/_____/_____

By: _____
CLERK OF COURT

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner ☐ Attorney for Petitioner
☐ Respondent ☐ Attorney for Respondent
☐ Police Department Where Petitioner Resides:
_____
☐ Police Department Where Petitioner Works:
_____
☐ Sheriff's Office:
_____
☐ Other:

WAIVER

I, _____ understand that I have the right to a full hearing on the Petition for Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order, and acknowledge each of the following:

1. I waive the right to have a full hearing on this Protection Order;
2. I waive the right to cross-examine witnesses and review evidence submitted in support of this Protection Order;
3. I waive the right to present witnesses and evidence on my own behalf;
4. I waive the right to request specific factual findings from the Court concerning the issuance of this Protection Order.

I understand that based on the waivers listed above, a Protection Order will be entered against me.

_____ _____

RESPONDENT DATE

FORM 10.03-G:
HOW TO OBTAIN A PETITION FOR A CIVIL STALKING PROTECTION ORDER OR CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER

These instructions are intended to assist you in preparing the Petition for a Civil Stalking Protection Order or Sexually Oriented Offense Protection Order, which can only be heard by the court of common pleas in your county. **Throughout the Petition, you (the party to be protected) are called *Petitioner* and the person you are filing this Petition against is called *Respondent.***

SOME HINTS BEFORE YOU BEGIN

- All forms must be typed or printed.
- Write your name and the Respondent's name the same way throughout the Petition.
- When you print your name on the Petition, use the same name you use when you write your signature.
- Fill out the Petition as completely and accurately as possible.
- If you have any questions about completing the Petition contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840.

FILLING OUT THE PETITION: Mark each instruction below after you read and complete it.

☐ **On the front page, leave the "Case No." line and "Judge/Magistrate" lines blank.** The Clerk of Court's office will fill in this information.

☐ **On the top left-hand side of the front page, fill in the requested information about yourself.** If you want your address to remain confidential, do not write your address on the Petition. However, you must write another mailing address where you can safely receive notices from the Court.

☐ **Also on the top left-hand side of the front page, fill in the requested information about Respondent as best you can**. You may use the Respondent's work address if you do not know the Respondent's home address. If you do not know Respondent's date of birth, leave that line blank. Do not attempt to obtain this information unless it is safe to do so.

☐ **Paragraph 1:** If you are filing the Petition on behalf of yourself, mark the first box.

☐ **Paragraph 2:** If you are filing the Petition on behalf of a family or household member, mark the box and fill in their name(s) and the other information requested in the chart. The Petitioner and the Respondent need not be related in any way for the Petitioner to obtain the protection order. You may attach additional pages if you need more room.

☐ **Paragraph 3(a):** State the date(s) of the incident(s) that caused you to file the Petition. Exact date(s) is not necessary. Approximate time frame may be sufficient. If you are requesting a civil stalking protection order due to *menacing by stalking*, provide a brief description of the pattern of conduct (two or more instances) that caused you to believe that the Respondent will cause physical harm or cause mental distress to you or another family member. If you are aware of any prior convictions of the Respondent for *menacing by stalking* or similar offenses, or prior convictions of the Respondent for any *sexually oriented offenses*, list what information you know about those convictions. You may attach additional pages if you need more room to complete your description.

☐ **Paragraph 3(b):** State the date(s) of the incident(s) that caused you to file the Petition. Exact date(s) is not necessary. Approximate time frame may be sufficient. If you are requesting a civil sexually oriented offense protection order due to a *sexually oriented offense*, you do not have to provide a description of a pattern of conduct. A brief description of what happened that caused you to request the protection order will be enough.

If you are aware of any prior convictions of the Respondent for *menacing by stalking* or similar offenses, or prior convictions of the Respondent for any *sexually oriented offenses*, list what information you know about those convictions. You may attach additional pages if you need more room to complete your description.

☐ **Paragraph 3(c):** State the date(s) of the incident(s) that caused you to file the Petition and request electronic monitoring of the Respondent. Exact date(s) is not necessary. Approximate time frame may be sufficient. If you are requesting electronic monitoring of the Respondent, describe the nature and extent of the Respondent's conduct before the filing of this Petition that puts you or your family or household members' health, welfare, or safety at risk. Also describe how the Respondent presents a continuing danger to you or your family or household members.

See definition section on Offenses on the last page for the legal definition of *menacing by stalking* and *sexually oriented offense*.

☐ **Paragraph 4:** Indicate the action you want the Court to take by marking the boxes next to the numbered paragraphs that apply to your situation.

☐ **Paragraph 4(f):** Write any special court orders you believe would help protect you and your family or household members.

☐ **Paragraph 5:** If you need an emergency ("*ex parte*") protection order, mark the box next to Paragraph 5.

☐ **Paragraph 9:** List ALL present and pertinent past court cases or investigations that involve the Respondent. This includes all civil, criminal, divorce, custody, visitation, and any other case that may have a bearing on your or your family or household members' safety. Write the case name, the court, the case number, and the result of the case, if known. If the case is not over, write "pending". You may attach additional pages if you need more room.

SIGNING THE PETITION

Try to fill out the Petition before you go to the courthouse. AFTER YOU HAVE FILLED OUT THE PETITION, TAKE THE PETITION TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. ***DO NOT SIGN THE PETITION UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PETITION FOR YOU.***

FILING THE PETITION

After you have your signature notarized, file your Petition at the Clerk of Court's office. The Clerk of Court's office will tell you when and where your *ex parte* hearing, if one has been requested, will take place.

FEES

You **cannot** be charged any costs or fees for filing, modifying, enforcing, dismissing, withdrawing, serving, or obtaining a protection order.

DISCOVERY

Unless you have received an order from the Court regarding discovery, you have no obligation to comply with a deposition notice, interrogatories, request for production of documents, physical or mental examination, or request for admissions.

If ordered, the Court will indicate each of the following:

1. The time and place where discovery will be held;
2. The name of persons who can be in the room during discovery, including a victim advocate;
3. The necessary terms and conditions to keep everyone safe, including keeping the Petitioner's address confidential.

Discovery must be completed prior to the full hearing.

OFFENSES

A Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order can **ONLY** be issued for specific behaviors listed below.

Menacing by Stalking	No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. [R.C. 2903.211(A)(1)] No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section. [R.C. 2903.211(A)(2)]
Sexually Oriented Offense	Sexually oriented offenses are defined in section 2950.01 of the Revised Code.

FORM 10.03-H: WARNING CONCERNING THE ATTACHED PROTECTION ORDER

NOTE: *Rule 10.03 of the Rules of Superintendence for the Courts of Ohio requires this Warning to be attached to the FRONT of all protection orders issued pursuant to R.C. 2903.213 and 2903.214 by the courts of the State of Ohio. TO BE USED WITH FORMS 10.03-B, 10.03-E, and 10.03-F.*

WARNING TO RESPONDENT/ DEFENDANT

Violating the attached Protection Order is a crime, punishable by imprisonment or fine or both, and may cause your bond to be revoked or result in a contempt of court citation against you.

This Protection Order is enforceable in all 50 states, the District of Columbia, tribal lands, and U.S. Territories pursuant to the Violence Against Women Act, 18 U.S.C. 2265. Violating this Protection Order may subject you to federal charges and punishment.

Only the Court may change this Order. The Petitioner/Alleged Victim cannot give you legal permission to violate this order. If you go near the Petitioner or other protected persons, even with their permission, you may be arrested. **You act at your own risk if you disregard this WARNING.**

WARNING TO PETITIONER / ALLEGED VICTIM

You **cannot** change the terms of this Order by your words or actions. Only the Court may allow the Respondent/Defendant to contact you or return to your residence. This Order **cannot** be changed by either party without obtaining a written court order.

NOTICE ABOUT FIREARMS AND DEADLY WEAPONS

As a result of this Order, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition, pursuant to federal law, 18 U.S.C. 922(g)(8). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult a lawyer.

This Order may be subject to the exceptions pursuant to 18 U.S.C. 925(a)(1) with respect **only** to the official use of government-issued firearms or ammunition for the use of any department or agency of the United States, Ohio, or its political subdivision. This exception does not apply if the Defendant/Respondent has been convicted of an offense of violence, for example domestic violence, menacing by stalking, etc., against a family or household member.

NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS

The attached Protection Order is enforceable in all jurisdictions. Violating this Protection Order, whether it is a criminal or civil protection order, is a crime under R.C. 2919.27. Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.27, 2903.213, and 2903.214. If you have reasonable grounds to believe that Respondent/Defendant has violated this Protection Order, it is the preferred course of action in Ohio under R.C. 2935.03 to arrest and detain Respondent/ Defendant until a warrant may be obtained. Federal and state laws prohibit charging a fee for service of this order.

RULE 10.04. Standard Notice Concerning Possession or Purchase of a Firearm.

(A) A court that has jurisdiction to convict a person of a misdemeanor offense of violence against a family or household member shall provide notice to the defendant pursuant to section 2943.033 of the Revised Code.

(B) In every case prior to accepting a guilty plea or plea of no contest to an indictment, information, or complaint that charges a person with a misdemeanor offense of violence against a family or household member, the court shall use a form that is substantially similar to Form 10.04-A unless the court provides oral notice to the defendant.

FORM 10.04-A: NOTICE CONCERNING POSSESSION OR PURCHASE OF FIREARMS

NOTE: Rule 10.04 of the Rules of Superintendence for the Courts of Ohio requires notice of possible firearm restrictions be provided to the Defendant before entering a guilty plea or plea of no contest to a misdemeanor crime of violence against a family or household member.

Pursuant to R.C. 2943.033, you are advised that if you enter a guilty plea or plea of no contest to a misdemeanor crime involving violence where you are or were any of the following:

- A spouse, person living as a spouse, former spouse of the Alleged Victim;
- A parent or child of the Alleged Victim;
- A parent or child of a spouse, person living as a spouse, or former spouse of the Alleged Victim;
- The natural parent of any child of whom the Alleged Victim is the other natural parent or the putative natural parent

it may be unlawful for you to ship, transport, purchase, or possess a firearm or ammunition as a result of any conviction for a misdemeanor offense of violence pursuant to federal law under 18 U.S.C. 922(g)(9).

If you have any questions whether this law makes it illegal for you to ship, transport, purchase, or possess a firearm or ammunition, you should consult an attorney.

RULE 10.05. Standard Civil Protection Order Forms in Juvenile Division of the Court of Common Pleas.

(A) A court of common pleas that has juvenile jurisdiction to issue a civil protection order pursuant to sections 2151.34 and 3113.31 of the Revised Code shall distribute, upon request, a forms and instructions packet for use in juvenile civil protection order proceedings. The packet shall include, at a minimum, a form and instructions that are substantially similar to "Forms 10.05-A and 10.05-B."

(B) In every case in which a court of common pleas that has juvenile jurisdiction issues a civil protection order pursuant to section 2151.34 of the Revised Code, it shall use the applicable form that is substantially similar to "Forms 10.05-C and 10.05-D."

(C) In every case in which a court of common pleas that has juvenile jurisdiction issues a domestic violence civil protection order against a minor pursuant to section 3113.31 of the Revised Code, it shall use the applicable form that is substantially similar to "Forms 10.05-C and 10.05-E."

(D) In every case in which a court of common pleas that has juvenile jurisdiction issues an order pursuant to sections 2151.34 and 3113.31 of the Revised Code and uses a form that is substantially similar to "Forms 10.05-C through 10.05-E," it shall include a cover sheet that is substantially similar to "Form 10.05-F."

FORM 10.05-A: HOW TO OBTAIN A PETITION FOR A JUVENILE CIVIL PROTECTION ORDER OR A JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER

These instructions are intended to assist you in preparing the Petition for a Juvenile Civil Protection Order or Juvenile Domestic Violence Civil Protection Order, which can be heard only by the juvenile division of the court of common pleas in the county where you reside. If your county does not have a juvenile court, the Petition will be heard in the court of common pleas in the county where you reside.

Throughout the Petition, you (the party to be protected) are called *Petitioner* and the person you are filing this petition against is called *Respondent.*

SOME HINTS BEFORE YOU BEGIN

- Read these instructions carefully.
- The types of offenses for which a juvenile civil protection order or juvenile domestic violence civil protection order can be obtained are explained in the last section of this Form.
- A juvenile civil protection order or a juvenile domestic violence civil protection order should **ONLY** be requested if the Respondent is less than 18 years old.
- If the Respondent is 18 years old or older, then you must file a petition for a civil protection order in the appropriate court of common pleas.
- All forms must be typed or printed.
- Write your name and Respondent's name the same way throughout the Petition.
- When you write your name on the Petition, use your legal name.
- Fill out the Petition as completely and accurately as possible.
- If you have any questions about completing the Petition, contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840 for assistance.

FILLING OUT THE PETITION

On the front page, leave the "Case No." line and "Judge/Magistrate" lines blank. The Clerk of Court's office will fill in this information.

On the top left-hand side of the front page, fill in the requested information about yourself or minor for whom you are filing. If you want your address or that of the minor for whom you are filing to remain confidential, do not write the address on the Petition. However, you must write another address where you can safely receive notices from the Court.

Also on the top left-hand side of the front page, fill in the requested information about the Respondent as best as you can. You may use the Respondent's work or school address if you do not know the Respondent's home address. If you do not know the Respondent's date of birth, try to estimate at least year of birth. **Do not attempt to obtain this information unless it is safe to do so.**

Paragraph 1: Mark the first box if you are filing the Petition on your own behalf.

Paragraph 2: If you are filing the Petition on behalf of a minor who is not your family or household member, mark the box and write the minor's name.

Paragraph 3: If you are filing the Petition on behalf of a family or household member, mark the box and fill in their names and the other information requested in the chart. You may attach additional pages if you need more room.

Paragraph 4: Mark this box if you are **NOT** related to the Respondent by blood or marriage.

Paragraph 5: Mark this box if you **ARE** related to the Respondent in one of the three ways shown in the Petition. Please mark the appropriate box to show your relation to the Respondent and indicate your relationship.

Paragraph 6: Mark this box if you or a family or household member of yours has a child with the Respondent.

Paragraph 7: Provide a description of the Respondent's action(s) that caused you to believe that the Respondent caused or will cause physical or emotional harm to you or another family or household member. State the date(s) of the incident(s) that caused you to file the Petition. An exact date(s) is not necessary. Approximate time frame may be sufficient. You may attach additional pages if you need more room.

Paragraph 8: Provide a description of the impact the Respondent's actions have had on you or your family or household members. You may attach additional pages if you need more room to complete your description.

Paragraph 9: Mark this box if you, your family or household members, or the person for whom you are filing attends the same school or are transported in the same school bus as the Respondent. Please write the name and address of the school AND the school bus number, route, district or any other information which can be helpful to the Court.

Paragraph 10: Complete as much of the chart as you are able by listing all relevant open, pending, or closed court cases involving the Respondent, your family or household members, or you (or the person for whom you are filing).

Paragraph 11 (a)–(h): Indicate the action you want the Court to take by marking the boxes next to the lettered paragraphs that apply to your situation

If you do **NOT** want the Respondent to come to a specific location, tell the Court in Paragraph 11(b) of these locations and their addresses.

If you do **NOT** want to the Respondent to contact you or your family or household members at all by landline, cordless, or cellular telephone; text; instant message; fax; e-mail; voice mail; delivery service; social network media (like Twitter, My Space, Facebook, etc.); blogging; writings; electronic communications; or communications by any other means regardless if directly or through another person, mark Paragraph 11(c).

If you want the Respondent to be electronically monitored, make sure you mark Paragraph 11(f) and provide a description of the Respondent's conduct that puts your and/or your family or household members' health, welfare, and safety at risk.

Write any special court orders you believe would help protect you and your family or household members in Paragraph 11(h).

Paragraph 12: Mark this box if you want to request the Court grant you an emergency (*Ex Parte*) protection order because you and/or your family and household members are in immediate and present danger.

SIGNING THE PETITION

Try to fill out the Petition before you go to the courthouse. AFTER YOU HAVE FILLED OUT THE PETITION, TAKE THE PETITION TO A NOTARY PUBLIC OR DEPUTY CLERK OF COURT TO HAVE YOUR SIGNATURE NOTARIZED. ***DO NOT SIGN THE PETITION UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PETITION FOR YOU.***

FILING THE PETITION

After you have your signature notarized, file your Petition at the Clerk of Court's office. If you have requested an emergency protection order, the Clerk of Court's office will tell you when and where your *Ex Parte* hearing, if one has been requested, will take place.

FEES

You **cannot** be charged any costs or fees for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, serving, or obtaining a protection order.

DISCOVERY

Unless you have received an order from the Court regarding discovery, you have no obligation to comply with a deposition notice, interrogatories, request for production of documents, physical or mental examination, or request for admissions.

If ordered, the Court will indicate each of the following:

1. The time and place where discovery will be held;
2. The name of persons who can be in the room during discovery, including a victim advocate;
3. The necessary terms and conditions to keep everyone safe, including keeping the Petitioner's address confidential.

Discovery must be completed prior to the full hearing.

RENEWAL

A juvenile civil protection order and juvenile domestic violence civil protection order can be renewed in the same manner as the initial protection order was issued.

EXPIRATION OF CIVIL PROTECTION ORDER

A juvenile civil protection order and juvenile domestic violence civil protection order will terminate on a specific date as determined by the Court, but no later than the Respondent's 19th birthday.

SEALING OF RECORDS

The Court will automatically seal all of the records of the juvenile civil protection order or juvenile domestic violence civil protection order proceeding if a full hearing or consent agreement civil protection order is not granted.

The Court will automatically seal all of the records of the juvenile civil protection order or juvenile domestic violence civil protection order proceeding on the Respondent's 19th birthday, unless you provide the Court information that the Respondent did not comply with the Order.

If the Respondent did not comply with all the terms of the juvenile civil protection order or juvenile domestic violence civil protection order, the Court may consider sealing the records two years after the order expires. The Court must provide you notice of the hearing to seal the juvenile civil protection order or juvenile domestic violence civil protection order records.

APPOINTMENT OF COUNSEL

The Court may appoint a lawyer to represent the interests of the Respondent.

NOTICE TO PARENT, GUARDIAN, OR LEGAL CUSTODIAN

The Court **may** provide your parent, guardian, or legal custodian notice that you (if you are a minor) or someone else on your behalf has filed a petition for a juvenile civil protection order or a juvenile domestic violence civil protection order.

The Court **must** provide the parent, guardian, or legal custodian of the Respondent notice of the full hearing on a petition to obtain a juvenile civil protection order or juvenile domestic violence civil protection order.

OFFENSES

A juvenile civil protection order or juvenile domestic violence civil protection order can **ONLY** be issued for specific behavior under R.C. 2151.34 and 3113.31. Below is a summary of the specific behaviors identified in the law.

Aggravated Assault	No person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, shall knowingly cause serious physical harm to another or to another's unborn. [R.C. 2903.12(A)(1)] No person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, shall knowingly cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code. [R.C. 2093.12(A)(2)]
Aggravated Menacing	No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. [R.C. 2903.21(A)]
Aggravated Trespass	No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to the person. [R.C. 2911.211 (A)]
Assault	No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn. [R.C. 2903.13(A)] No person shall recklessly cause serious physical harm to another or to another's unborn. [R.C. 2903.13(B)]
Domestic Violence	"Domestic violence" means the occurrence of one or more of the following acts against a family or household member: attempting to cause or recklessly causing bodily injury; placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code; committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code; committing a sexually oriented offense. [R.C. 3113.31(A)(1)(a)-(d)]
Family or Household Member	"Family or household member" means any of the following: (a) Any of the following who is residing with or has resided with the respondent, such as a spouse, a person living as a spouse, or a former spouse of the respondent; a parent, a foster parent, or a child of the respondent, or another person related by consanguinity or affinity (blood or marriage) to the respondent; a parent or a child of a spouse, person living as a spouse, or former spouse of the respondent, or another person related by consanguinity or affinity (blood of marriage) to a spouse, person living as a spouse, or former spouse of the respondent. [R.C. 3113.31(A)(3)(a)] (b) The natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent. [R.C. 3113.31(A)(3)(a)-(b)]

	"Person living as a spouse" means a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the respondent within five years prior to the date of the alleged occurrence of the act in question. [R.C. 3113.31(A)(4)]
Felonious Assault	No person shall knowingly cause serious physical harm to another or to another's unborn. [R.C. 2903.11(A)(1)] No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance. [R.C. 2903.11(A)(2)] No person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS, shall knowingly do any of the following: (1) engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct; (2) engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes AIDS; or (3) engage in sexual conduct with a person under eighteen years of age who is not the spouse of the offender.[R.C. 2903.11(B)]
Menacing	No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. [R.C. 2903.22(A)]
Menacing by Stalking	No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. [R.C. 2903.211(A)(1)] No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section. [R.C. 2903.211(A)(2)]
Sexually Oriented Offense	Sexually oriented offenses are defined in R.C. 2950.01.

IN THE COURT OF COMMON PLEAS, _____ DIVISION

_____ COUNTY, OHIO

Petitioner	:	**Case No.** _____
Address	:	**Judge/Magistrate** _____
City, State, Zip Code	:	
Date of Birth: ____/____/____	:	
v.	:	**PETITION FOR JUVENILE CIVIL PROTECTION ORDER OR JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (R.C. 2151.34 and 3113.31)**
Respondent	:	
Address	:	
City, State, Zip Code	:	
Date of Birth: ____/____/____	:	

CHECK EVERY ☐ THAT APPLIES. IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

☐ 1. Petitioner seeks relief on his or her own behalf.

☐ 2. Petitioner seeks relief on behalf of, _____, who is a minor. The minor is not a family or household member of the Petitioner pursuant to R.C. 3113.31(A)(3)(a) - (b).

☐ 3. Petitioner seeks relief on behalf of the following family or household members:

NAME (first, middle initial, and last)	DATE OF BIRTH	HOW RELATED TO PETITIONER/APPLICANT
	/ /	
	/ /	
	/ /	
	/ /	

☐ 4. Petitioner is not a family or household member of Respondent.

_____

Case No._____

☐ 5. Petitioner is a family or household member of Respondent and a victim of domestic violence. The relationship of Petitioner to Respondent is that of:

☐ Parent of Respondent

☐ Foster Parent of Respondent

☐ Other relative by blood or marriage of Respondent or Petitioner/ who has lived with Respondent at any time (describe relationship):

_____

☐ 6. Petitioner and/or a family or household member of Petitioner has a child in common with the Respondent.

☐ 7. Please describe in detail the action(s) of the Respondent that causes you to believe that he/she will cause or has caused you and/or your family or household members physical or emotional harm. Attach additional page if you need more room.

This conduct may include domestic violence, felonious assault, aggravated assault, assault, aggravated menacing, stalking, menacing, aggravated trespass, or sexually oriented offense. (See Form 10.05-A for a definition of these terms.)

_____

☐ 8. Please describe how the Respondent's conduct affected you and/or your family or household members. Attach additional page if you need more room.

_____

☐ 9. Petitioner further states that Respondent attends the same school or is transported to school on the same school bus as Petitioner and/or the family or household member of the Petitioner.

School Name & Address: _____

School Bus: _____

Case No._____

☐ 10. The following is a list of all past and present court cases, that Petitioner knows of, which involve the parties, their children, or other family or household member and are relevant to this matter:

CASE NAME	CASE NUMBER	COURT/COUNTY	TYPE OF CASE	RESULT OF CASE

11. Petitioner requests the Court grant relief under R.C. 2151.34 or 3113.31. Check all that apply.

☐ a. Require the Respondent not to abuse, harm, attempt to harm, threaten, follow, stalk, harass, contact, force sexual relations upon, or commit sexually oriented offenses against the Petitioner and/or the Petitioner's family or household members named in this Petition.

☐ b. Require the Respondent not to enter or have limited access to the following places (include name and address, as applicable) where Petitioner and Petitioner's family or household members named in this Petition may be found, including the buildings, grounds, and parking lots at these places.

☐ Residence: _____

_____

_____

☐ School: _____

_____

_____

☐ Business or Place of Employment: _____

_____

_____

☐ Other (specify): _____

_____

☐ c. Require the Respondent not to have contact with Petitioner and/or Petitioner's family or household members named in this Petition by any means whatsoever.

☐ d. Require the Respondent not to remove, damage, hide, or dispose of any property or pets owned or possessed by the Petitioner and Petitioner's family or household members named in this Petition.

☐ e. Require the Respondent not to possess, use, carry, or obtain any deadly weapon.

☐ f. Require the Respondent to be electronically monitored. Please explain why the Respondent's conduct is a past, present, and future danger to the health, welfare, or safety of the Petitioner and/or the Petitioner's family or household members. Attach additional page if you need more room.

_____

_____

Case No._____

☐ g. Require the Respondent to complete batterer counseling, substance abuse counseling, or other counseling as determined necessary by the Court.

☐ h. Includes the following additional provisions:

_____

_____

_____

_____

☐ 12. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order.

13. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.

I hereby swear or affirm that the answers above are true, complete, and accurate to the best of my knowledge. I understand that falsifying this document may result in a contempt of court finding against me which could result in a jail sentence and fine and that falsifying this document may also subject me to criminal penalties or adjudication of delinquency for perjury under R.C. 2921.11 or falsification under R.C. 2921.13.

DO NOT SIGN THIS FORM UNLESS YOU ARE IN FRONT OF THE PERSON WHO WILL NOTARIZE THE PETITON FOR YOU.

_____

SIGNATURE OF PETITIONER

Sworn to and subscribed before me on this _____ day of _____ , 20 _____

_____

NOTARY PUBLIC/DEPUTY CLERK OF COURT

IF YOU ARE REQUESTING YOUR ADDRESS REMAIN CONFIDENTIAL, DO NOT WRITE YOUR ADDRESS ON THIS FORM. PLEASE PROVIDE ANOTHER MAILING ADDRESS WHERE YOU CAN SAFELY RECEIVE NOTICES FROM THE COURT. THIS FORM IS A PUBLIC RECORD.

Petitioner's Safe Address:

_____

_____

_____

_____

_____
Name of Attorney (if applicable)

_____
Signature of Attorney for Petitioner (if applicable)

_____
Attorney's Address

_____
City, State, Zip Code

_____
Attorney Registration Number

_____
Attorney's Telephone

_____
Attorney's Fax

_____
Attorney's Email

IN THE COURT OF COMMON PLEAS, _____ DIVISION
_____ COUNTY

Order of Protection

Per R.C. 2151.34(F)(3) or 3113.31(F)(3), this Order is indexed at

_____
LAW ENFORCEMENT AGENCY WHERE INDEXED

( )
PHONE NUMBER

Case No.

Judge/Magistrate _____

State **OHIO**

JUVENILE CIVIL PROTECTION ORDER OR JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER *EX PARTE* (R.C. 2151.34 or 3113.31)

PETITIONER:

First Middle Initial Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: _____ DOB: _____
Petitioner's Family or Household Members:
(☐ Additional forms attached)

_____ DOB: _____
_____ DOB: _____
_____ DOB: _____
_____ DOB: _____

RESPONDENT:

First Middle Initial Last

Distinguishing Features: _____

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
		/ /	
DRIVER'S LIC. NO	EXP. DATE	STATE	

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:
That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:
That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ **DATE CERTAIN – NO LATER THAN RESPONDENT ATTAINS 19 YEARS OF AGE**
Respondent will attain 19 years of age on _____/_____/_____

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came for an *ex parte* hearing on _____/_____/_____ (Respondent not being present), upon the filing of a Petition by Petitioner for a juvenile civil protection order or juvenile domestic violence civil protection order against the Respondent, pursuant to R.C. 2151.34 and 3113.31. The Court held an *ex parte* hearing in accordance with R.C. 2151.34(D)(1) and 3113.31(D)(1).

The Court finds that protected persons named herein are in immediate and present danger and for good cause shown, the following temporary orders are necessary to protect the persons named in this Order.

RESPONDENT SHALL NOT ABUSE, harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐ **1. RESPONDENT SHALL NOT ENTER** the places indicated in this Order, including the buildings, grounds, and parking lots at those locations, except as specifically provided. [NCIC 04]

☐ **Residence:**

_____

_____

☐ **School:**

_____

_____

_____

☐ **Business or Place of Employment:**

_____

_____

_____

☐ **Other:**

_____

_____

_____

☐ **RESPONDENT IS A MINOR AND WILL RESIDE** at the following address until the Court determines otherwise:

_____

_____

☐ **2. RESPONDENT SHALL STAY AWAY FROM** the protected persons named in this Order or as follows [NCIC 04]:

_____

_____

Case No._____

☐3. **RESPONDENT IS ALLOWED CONTACT WITH** protected persons as follows:

_____

_____

☐4. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

☐ **RESPONDENT MAY REMOVE THE FOLLOWING:**

_____

_____

_____

☐5. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order. Contact includes, but is not limited to, landline, cordless, or cellular telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social network media; writings; blogging; electronic communications; or communications by any other means regardless if directly or through another person, and as follows: [NCIC 05]

_____

_____

_____

_____

☐6. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.

☐7. **IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

_____

_____

_____

_____

8. **ALL DISCOVERY SHALL STRICTLY COMPLY** with Civ.R. 65.1(D).

9. **IT IS FURTHER ORDERED** that a copy of the Petition and this Order to be delivered to the Respondent and Respondent's parent, guardian, or legal custodian as required by Civ.R. 65.1. No costs or fees shall be charged for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this protection order.

10. **ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL A DATE _____/_____/_____ OR UNTIL RESPONDENT ATTAINS 19 YEARS OF AGE.**

11. **SUBJECT TO FURTHER ORDER OF THIS COURT, this Order and all records of the proceeding**

Case No._____

shall be sealed upon the happening of the earliest of the following: (1) Dismissal of this Petition; (2) Expiration of the Order, **or** (3) Respondent's 19th birthday.

12. **RESPONDENT WILL ATTAIN** 19 years of age on: _____/_____/_____.

IT IS SO ORDERED.

_____

JUDGE/MAGISTRATE

NOTICE TO RESPONDENT, PARENTS, GUARDIAN, OR LEGAL CUSTODIAN

1. **THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

2. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** at any time while this Order is active.

A FULL HEARING on this Order, and all other issues raised by the Petition, shall be held before Judge/Magistrate _____

_____

on _____/_____/_____

at _____ ☐a.m. ☐p.m.at the following location:

_____

_____

_____

_____

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner ☐ Attorney for Petitioner

☐ Petitioner's Parent 1:

_____

☐ Petitioner's Parent 2:

_____

☐ Petitioner's Guardian or Legal Custodian:

_____

☐ Respondent

☐ Respondent's Parent 1:

_____

☐ Respondent's Parent 2:

_____

☐ Respondent's Guardian or Legal Custodian:

_____

☐ Police Department Where Petitioner Resides:

_____

☐ Police Department Where Petitioner Works:

_____

☐ Sheriff's Office:

_____

☐ School: _____

☐ Police Department Where School is Located:

_____

☐ Other: _____

IN THE COURT OF COMMON PLEAS, _____ DIVISION
_____ COUNTY

Order of Protection

Per R.C. 2151.34(F)(3), this Order is indexed at

_____
LAW ENFORCEMENT AGENCY WHERE INDEXED

( )
PHONE NUMBER

Case No.

Judge/Magistrate _____

State **OHIO**

JUVENILE CIVIL PROTECTION ORDER FULL HEARING (R.C. 2151.34)

PETITIONER:

First Middle Initial Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: _____ DOB: _____
Petitioner's Family or Household Members:
(☐ Additional forms attached)

_____ DOB: _____
_____ DOB: _____
_____ DOB: _____
_____ DOB: _____

RESPONDENT:

First Middle Initial Last

Distinguishing Features: _____

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
		/ /	
DRIVER'S LIC. NO	EXP. DATE	STATE	

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:
That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:
That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ **DATE CERTAIN – NO LATER THAN RESPONDENT ATTAINS 19 YEARS OF AGE**

Respondent will attain 19 years of age on _____/_____/_____

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came for a hearing on _____/_____/_____ before the Court and the Juvenile Civil Protection Order *Ex Parte* filed on _____/_____/_____ in accordance with R.C. 2151.34. The following individuals were present:

_____

_____

The Court hereby makes the following findings of facts:

_____

_____

_____

_____

_____

_____

_____

☐ The Court finds by a preponderance of the evidence that 1) the Petitioner and/or the Petitioner's family or household members are in danger of being or have been harmed by the Respondent as defined in R.C. 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, 2911.211, and 2950.01; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from offenses of violence.

☐ The Court finds by clear and convincing evidence that 1) the Petitioner or Petitioner's family or household members reasonably believed the Respondent's conduct before the filing of the Petition endangered the health, welfare, or safety of the Petitioner or Petitioner's family or household members, 2) the Respondent presents a continuing danger to the Petitioner or Petitioner's family or household members, and 3) the following orders are equitable, fair, and necessary to protect the persons named in this Order. This finding is necessary for electronic monitoring of the Respondent.

RESPONDENT SHALL NOT ABUSE, harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐ **1. RESPONDENT SHALL NOT ENTER** the places indicated in this Order, including the buildings, grounds, and parking lots at those locations, except as specifically provided. [NCIC 04]

☐ **Residence:**

_____

_____

☐ **School:**

_____

_____

_____

☐ **Business or Place of Employment:**

_____

_____

Case No._____

☐ **Other:**

_____

_____

_____

☐ **RESPONDENT IS A MINOR AND WILL RESIDE** at the following address until the Court determines otherwise:

_____

_____

☐ **2. RESPONDENT SHALL STAY AWAY FROM** the protected persons named in this Order or as follows [NCIC 04]:

_____

_____

☐ **3. RESPONDENT IS ALLOWED CONTACT** with the protected persons as follows:

_____

_____

☐ **4. RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

☐ **RESPONDENT MAY REMOVE THE FOLLOWING:**

_____

_____

_____

☐ **5. RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order. Contact includes, but is not limited to, landline, cordless, or cellular telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social network media; writings; blogging; electronic communications; or communications by any other means regardless if directly or through another person, and as follows: [NCIC 05]

_____

_____

_____

_____

☐ **6. RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.

☐ **7. RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM:**

_____

_____

Respondent shall contact this program within _____ days after receiving this Order and immediately arrange for an initial appointment. The program is requested to provide the Court a written notice when the Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when the Respondent completes the program. The Respondent is required to sign all

Case No._____

necessary waivers to allow the Court to receive information from the program.

Respondent is ordered to appear before Judge or Magistrate _____ **on** _____/_____/_____ **at** _____ ☐**a.m.** ☐**p.m., to review the Respondent's compliance with this Order. Respondent is warned: If you fail to attend the above-named program you may be held in contempt of court.**

8. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** while this Order remains in effect.

☐9. **RESPONDENT SHALL BE ELECTRONICALLY MONITORED.** The Court having found the factors set forth in R.C. 2151.34(E)(1)(b). The Respondent is ordered to report to

_____

for the installation of a global positioning system for the purpose of electronic monitoring for the duration of this Order or until _____/_____/_____ whichever expires first. The Court further imposes the following terms and conditions:

_____

_____

_____

☐10. **IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

_____

_____

_____

_____

11. **IT IS FURTHER ORDERED** that a copy of the Petition and this Order to be delivered to the Respondent and Respondent's parent, guardian, or legal custodian as required by Civ.R. 65.1. No costs or fees shall be charged for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this Order.

12. **ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL A DATE** _____/_____/_____ **OR UNTIL RESPONDENT ATTAINS 19 YEARS OF AGE.** Until this Order is served upon the Respondent pursuant to Civ. R. 65.1, the *Ex Parte* CPO remains in effect.

13. **THE COURT WILL SEAL THIS RECORD ON THE RESPONDENT'S 19TH BIRTHDAY,** unless the Court determines otherwise**.**

14. **RESPONDENT WILL ATTAIN** 19 years of age on: _____/_____/_____.

15. **IF THE FULL HEARING PROCEEDING WAS REFERRED TO A MAGISTRATE,** the Court has reviewed the magistrate's granting of this Order and finds no error of law or other defect evident on the

Case No._____

face of the Order. Accordingly, the Court adopts the magistrate's granting of the Order.

IT IS SO ORDERED.

_____ _____

MAGISTRATE **JUDGE**

NOTICE TO RESPONDENT, PARENTS, GUARDIAN, OR LEGAL CUSTODIAN

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

NOTICE OF FINAL APPEALABLE ORDER

Copies of this Order, which is a final appealable Order, were mailed by ordinary U.S. mail served on the parties pursuant to Civ.R. 65.1(C)(3) on the a following date:

_____/_____/_____ .

By: _____

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner ☐ Attorney for Petitioner

☐ Petitioner's Parent 1:

_____

☐ Petitioner's Parent 2:

_____

☐ Petitioner's Guardian or Legal Custodian:

_____

☐ Respondent

☐ Respondent's Parent 1:

_____

☐ Respondent's Parent 2:

_____

☐ Respondent's Guardian or Legal Custodian:

_____

☐ Police Department Where Petitioner Resides:

_____

☐ Police Department Where Petitioner Works:

_____

☐ Sheriff's Office:

_____

☐ School: _____

☐ Police Department Where School is Located:

_____

☐ Other: _____

IN THE COURT OF COMMON PLEAS, _____ DIVISION
_____ COUNTY

Order of Protection

Per R.C. 3113.31(F)(3), this Order is indexed at

_____
LAW ENFORCEMENT AGENCY WHERE INDEXED

( )
PHONE NUMBER

Case No.

Judge/Magistrate _____

State **OHIO**

☐ **JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER FULL HEARING (R.C. 3113.31)**

☐ **JUVENILE DOMESTIC VIOLENCE CONSENT AGREEMENT CIVIL PROTECTION ORDER (R.C. 3113.31)**

PETITIONER:

First Middle Initial Last

v.

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner: _____ DOB: _____
Petitioner's Family or Household Members:
(☐ Additional forms attached)

_____ DOB: _____
_____ DOB: _____
_____ DOB: _____
_____ DOB: _____

RESPONDENT:

First Middle Initial Last

Distinguishing _____

RESPONDENT IDENTIFIERS

SEX	RACE	HT	WT
EYES	HAIR	DATE OF BIRTH	
		/	/
DRIVER'S LIC. NO	EXP. DATE	STATE	

(Violence Against Women Act, 18 U.S.C. 2265, Federal Full Faith & Credit Declaration: Registration of this Order is not required for enforcement.)

THE COURT HEREBY FINDS:
That it has jurisdiction over the parties and subject matter, and the Respondent will be provided with reasonable notice and opportunity to be heard within the time required by Ohio law. **Additional findings of this Order are set forth below.**

THE COURT HEREBY ORDERS:
That the above named Respondent be restrained from committing acts of abuse or threats of abuse against the Petitioner and other protected persons named in this Order. Additional terms of this Order are set forth below.

The terms of this Order shall be effective until _____/_____/_____ **DATE CERTAIN – NO LATER THAN RESPONDENT ATTAINS 19 YEARS OF AGE**

Respondent will attain 19 years of age on _____/_____/_____

WARNING TO RESPONDENT: See the warning page attached to the front of this Order.

Case No._____

This proceeding came for a hearing on _____/_____/_____ before the Court and the *Ex Parte* Order filed on _____/_____/_____ . The following individuals were present:

_____

_____

The Court hereby makes the following findings of facts:

_____

_____

_____

_____

_____

_____

_____

☐ The Court finds by a preponderance of the evidence that 1) the Petitioner and/or the Petitioner's family or household members are in danger of being or have been a victim of domestic violence or sexually oriented offenses, as defined in R.C. 3113.31(A), committed by the Respondent; and 2) the following orders are equitable, fair, and necessary to protect the persons named in this Order from offenses of violence.

☐ The parties agree to waive their notice and hearing rights. Therefore, the Court approves the Juvenile Domestic Violence Consent Agreement Protection Order pursuant to R. C. 3113.31(E)(1).

RESPONDENT SHALL NOT ABUSE, harm, attempt to harm, threaten, follow, stalk, harass, force sexual relations upon, or commit sexually oriented offenses against the protected persons named in this Order. [NCIC 01 and 02]

ALL OF THE PROVISIONS CHECKED BELOW ALSO APPLY TO THE RESPONDENT

☐**1. RESPONDENT SHALL IMMEDIATELY VACATE** the following residence:

_____

_____

☐**2. RESPONDENT IS A MINOR AND WILL RESIDE** at the following address until the Court determines otherwise:

_____

_____

☐**3. RESPONDENT SHALL NOT INTERFERE WITH THE PROTECTED PERSONS RIGHT** to occupy the residence, including, but not limited to canceling utilities or insurance or interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

☐**4. RESPONDENT SHALL NOT ENTER** the places indicated in this Order, including the buildings, grounds, and parking lots at those locations, except as specifically provided. [NCIC 04]

☐ **Residence:**

_____

_____

Case No._____

☐ **School:**

_____

_____

_____

☐ **Business or Place of Employment:**

_____

_____

_____

☐ **Other:**

_____

_____

_____

☐**5.** **RESPONDENT SHALL STAY AWAY FROM** the protected persons named in this Order or as follows [NCIC 04]:

_____

_____

☐**6.** **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.

☐**7.** **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order. Contact includes, but is not limited to, landline, cordless, or cellular telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social network media; writings; blogging; electronic communications; or communications by any other means regardless if directly or through another person, and as follows: [NCIC 05]

_____

_____

_____

_____

☐**8.** **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.

☐**9.** **RESPONDENT IS ALLOWED CONTACT** with the protected persons as follows:

_____

_____

☐**10.** **RESPONDENT MAY PICK UP CLOTHING** and personal items effects from the above residence only in the company of a uniformed law enforcement officer or _____ within _____ days of the filing of this Order. Arrangements may be made by contacting:

_____

_____

Case No._____

☐**11. RESPONDENT SHALL IMMEDIATELY SURRENDER** to law enforcement or

_____

the following personal property:

_____

_____

☐**12. RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM:**

_____

Respondent shall contact this program within _____ days after receiving this Order and immediately arrange for an initial appointment. The program is requested to provide the Court a written notice when the Respondent attends the initial appointment, if the Respondent fails to attend or is discharged, and when the Respondent completes the program. The Respondent is required to sign all necessary waivers to allow the Court to receive information from the program.
Respondent is ordered to appear before Judge/Magistrate _____ on _____ / _____ / _____ at _____ ☐a.m. ☐p.m. to review Respondent's compliance with this Order. Respondent is warned: If you fail to attend the above-named program you may be held in contempt of court.

☐**13. RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** while this Order remains in effect.

☐**14. IT IS FURTHER ORDERED:** [NCIC 08]

_____

_____

_____

_____

15. IT IS FURTHER ORDERED that a copy of the Petition and this Order be delivered to the Respondent and Respondent's parent, guardian, or legal custodian as required by Civ.R. 65.1. No costs or fees shall shall be charged for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, or serving this Order.

16. ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL A DATE _____ / _____ / _____ OR UNTIL RESPONDENT ATTAINS 19 YEARS OF AGE.
Until this Order is served upon the Respondent pursuant to Civ. R. 65.1, the *Ex Parte* CPO remains in effect.

17. THE COURT WILL SEAL THIS RECORD ON THE RESPONDENT'S 19TH BIRTHDAY, unless the Court determines otherwise**.**

18. RESPONDENT WILL ATTAIN 19 years of age on: _____ / _____ / _____.

19. IF THE FULL HEARING PROCEEDING WAS REFERRED TO A MAGISTRATE, the Court has reviewed the magistrate's granting of this Order and finds no error of law or other defect evident on the face of the Order. Accordingly, the Court adopts the magistrate's granting of the Order.

Case No._____

IT IS SO ORDERED.

MAGISTRATE	**JUDGE**

NOTICE TO RESPONDENT, PARENTS, GUARDIAN, OR LEGAL CUSTODIAN

THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

I have read this Consent Agreement and agree to its terms.	**I have read this Consent Agreement and agree to its terms.**
SIGNATURE OF PETITIONER	**SIGNATURE OF RESPONDENT**
Address of Petitioner	Address of Respondent
Signature of Attorney for Petitioner	Signature of Attorney for Respondent
Address of Attorney for Petitioner	Address of Attorney for Respondent

Case No._____

NOTICE OF FINAL APPEALABLE ORDER

Copies of this Order, which is a final appealable Order, were mailed by ordinary U.S. mail served on the parties pursuant to Civ.R. 65.1(C)(3) on the following date:

_____/_____/_____ .

TO THE CLERK

COPIES OF THIS ORDER SHALL BE DELIVERED TO:

☐ Petitioner ☐ Attorney for Petitioner

☐ Petitioner's Parent 1:

_____

☐ Petitioner's Parent 2:

_____

☐ Petitioner's Guardian or Legal Custodian:

_____

☐ Respondent

☐ Respondent's Parent 1:

_____

☐ Respondent's Parent 2:

_____

☐ Respondent's Guardian or Legal Custodian:

_____

☐ Police Department Where Petitioner Resides:

_____

☐ Police Department Where Petitioner Works:

_____

☐ Sheriff's Office:

_____

☐ School: _____

☐ Police Department Where School is Located:

_____

☐ CSEA: _____

☐ Other: _____

FORM 10.05-F: WARNING CONCERNING THE ATTACHED JUVENILE CIVIL PROTECTION ORDER OR JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER

NOTE: *Rule 10.05 of the Rules of Superintendence for the Courts of Ohio requires this Warning to be attached to the FRONT of all civil protection orders issued by the courts of the State of Ohio. TO BE USED WITH FORMS 10.05-C TO 10.05-E.*

WARNING TO RESPONDENT

Violating the attached Civil Protection Order is a crime, punishable by imprisonment or fine or both, and may result in a contempt of court citation against you.

This Protection Order is enforceable in all 50 states, the District of Columbia, tribal lands, and U.S. territories pursuant to the Violence Against Women Act, 18 U.S.C. Section 2265. Violating this Civil Protection Order may subject you to federal charges and punishment.

Only the Court may change this Order. The Petitioner cannot give you legal permission to violate this Order. If you go near the Petitioner or other protected persons, even with their permission, you may be arrested. **You act at your own risk if you disregard this WARNING.**

WARNING TO PETITIONER

You **cannot** change the terms of this Order by your words or actions. Only the Court may allow the juvenile Respondent to contact you or return to your residence. This Order **cannot** be changed by either party without obtaining a written court order.

NOTICE ABOUT FIREARMS AND DEADLY WEAPONS

As a result of this Order, it may be unlawful for you to possess or purchase a firearm, including a rifle, pistol, or revolver, or ammunition pursuant to federal law, 18 U.S.C. 922(g)(8). If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult a lawyer.

This Order may be subject to the exceptions pursuant to 18 U.S.C. 925(a)(1) with respect **only** to the official use of government-issued firearms or ammunition for the use of any department or agency of the United States, Ohio, or its political subdivision. This exception does not apply if the Respondent has been convicted of an offense of violence, for example domestic violence, menacing by stalking, etc., against a family or household member

NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS

The attached Protection Order is enforceable in all jurisdictions. Violation of this Protection Order is a crime under R.C. 2919.27. Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2151.34, 2919.27, and 3113.31. Federal and state law prohibits charging a fee for service of this Order.

RULE 10.06. Inter-Court Communication in Domestic Violence and Related Cases.

(A) Determining existence of conflicting order

(1) A court issuing a protection order pursuant to section 2919.26 or 3113.31 of the Revised Code should make a reasonable effort to determine the existence and terms of any domestic violence civil protection orders, domestic violence temporary protection orders, and orders allocating parental rights and responsibilities issued by another court and involving the same parties. A court issuing an order allocating parental rights and responsibilities should make a reasonable effort to determine the existence and terms of any protection orders issued by another court pursuant to section 2919.26 or 3113.31 of the Revised Code and involving the same parties.

(2) To determine the existence and terms of other orders pursuant to division (A)(1) of this rule, a court may utilize the Ohio Courts Network, examine publicly available court records involving the same parties from other courts, or use any other reasonable mechanism suitable for communicating and sharing public information.

(3) A court need not make a record of any communication between it and another court made for the purpose of determining the existence and terms of other orders pursuant to division (A)(1) of this rule.

(4) A court issuing a protection order pursuant to section 2919.26 or 3113.31 of the Revised Code or an order allocating parental rights and responsibilities shall comply with Chapter 3127. of the Revised Code.

(B) Avoiding conflicting order

(1) If a court has issued a protection order pursuant to section 2919.26 or 3113.31 of the Revised Code or an order allocating parental rights and responsibilities and becomes aware another court has issued a conflicting order, the court should consider, if appropriate, revising its order to avoid conflict between the orders.

(2) A court shall consider and may adopt a local rule of court creating a procedure by which the court may revise its orders pursuant to division (B)(1) of this rule.

(3) Division (B)(1) of this rule is not intended to change the procedures for the modification or early termination of a domestic violence civil protection order pursuant to division (E)(8) of section 3113.31 of the Revised Code or the procedures for the filing of a copy of a civil or criminal protection order with the local enforcement agency for entry in the National Crime Information Center database pursuant to Rule 10 of the Rules of Superintendence for the Courts of Ohio.

RULE 11. Recording of Proceedings.

(A) Recording devices. Proceedings before any court and discovery proceedings may be recorded by stenographic means, phonogramic means, photographic means, audio electronic recording devices, or video recording systems. The administrative judge may order the use of any method of recording authorized by this rule.

(B) Appeal. Transcripts of proceedings in electronic media shall be prepared in accordance with Rule 9(A) of the Rules of Appellate Procedure.

(C) Custody. Electronically recorded transcripts of proceedings shall be maintained and transcribed in the manner directed by the trial court.

(D) Inspection of electronically recorded transcripts of proceedings. A party may request a copy of an electronically recorded transcript of proceedings, or a portion of the transcript. The court may permit a party to view or hear the transcript of proceedings on file with the court.

(E) Reference to electronically recorded transcripts of proceedings. Reference to a particular portion of an electronically recorded transcript of proceedings shall be to the event, the number of the reel of tape on which it was recorded and the elapsed time counter reading.

(F) Expense of electronically recorded transcripts of proceedings. The expense of copies of electronically recorded transcripts of proceedings or such portions as are considered necessary by a party shall be borne by the requesting party or as provided by law. The expense of viewing or hearing an electronically recorded transcript of proceedings under division (D) of this rule shall be borne by the requesting party. All other expenses of electronically recorded transcripts of proceedings shall be costs in the action.

Commentary (July 1, 1997)

Rule 11 is analogous to former C.P. Sup. R. 10 and M.C. Sup. R. 8.

The rule authorizes the use of any one of several media in recording proceedings before a court.

In this comment and in the comment to Rule 12, the terms, “record,” “transcript of proceedings,” “transcribe,” and “transcription” are used. As a preliminary consideration, the manner in which those terms are used in these comments is set forth.

The definition of “record” is the same as that contained in App. R. 9(A):

The original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court shall constitute the record on appeal in all cases. * * *

The transcript of proceedings is the part of the record that reflects the events in the trial not represented by original papers. Essentially, it is the testimony of witnesses and the oral participation of counsel and of the trial judge, as recorded by the court reporter, and required for the purposes of appeal. The transcript of proceedings is the end product of whatever medium is used to record the proceedings. In traditional practice, the stenographic notes constituted a transcript of proceedings in that oral testimony

was transcribed into stenographic notes. Of course, a second transcription into written form was necessary to put the proceedings into a form that could be readily used by all.

When the verb, transcribe, is used in these comments, it means preserving oral testimony by conversion to another medium. The other medium may be stenographic notes, videotape, motion picture sound track, or audio tape. It may also mean the conversion from one recorded medium to another.

When the noun, transcription, is used, it means the copy, either in the original medium or in the conversion medium.

Rule 11(A) Recording Devices

Recordation represents the best method of providing an accurate base for the creation of a transcript of proceedings required for an appeal under App. R. 9(A). In civil matters, there is no obligation to record the proceedings before the court. However, the court must provide a means of recording the proceedings in a civil matter upon the request of a party. R.C. 2301.20 requires the court of common pleas to provide a reporter on request of a party or their attorney. That provision applies to the municipal court by virtue of R.C. 1901.21(A).

Rule 11(A) authorizes stenographic means, which refers to shorthand in one of its forms. Phonogramic means refers to the use of a stenotype. Photographic means refers to sound motion pictures, the recording on photographic film. Audio electronic recording devices refers to the several systems for recording sound on magnetic tape, magnetic discs, or an impression disc or belt. A video recording system is one which records sound and picture on videotape.

Rule 11(A) directs that the choice of method of recording of proceedings is vested in the administrative judge rather than in the individual judge in a multi-judge court.

Rule 11(B) Appeal

A major source of delay in the appellate process is the transcribing from stenographic notes to written record. One of the advantages of recording proceedings on videotape is that there is an instant record prepared. The preparation of briefs can begin at the conclusion of the trial without a lengthy wait for the transcribing of the reporter's notes. Videotape has an advantage over the other electronic media in that it is easier to identify overlapping voices than it is in a pure audio recording.

On appeal, the record is composed of the original papers (pleadings, motions, depositions, exhibits, etc.), the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries. The parties to the appeal have control over the extent of the transcript of proceedings under App. R. 9(B). The appellant selects the portions of the transcript that are necessary to the appeal. The appellee may require additional inclusions, if necessary to the resolution of the assignments of error. When the appellant intends to urge that a finding or conclusion is unsupported by the evidence or is contrary to the weight of the evidence, the appellant must include a transcript of all evidence relevant to the finding or conclusion. Even where it is claimed that a verdict is against the manifest weight of the evidence, it is not automatic that all evidence is relevant to that issue. For example, where a verdict finds no liability, evidence as to damages is not relevant to the issue of the verdict being against the manifest weight of the evidence. Appellants have followed a common practice of ordering the entire transcription of the proceedings for inclusion in the record on appeal, thus aggravating the problem of delay. The record on videotape negates the problem.

Rule 11(E) requires that the reference in a brief to a particular portion of a videotape recorded transcript of proceedings be to the event, the reel of videotape, and the elapsed time counter reading. For example: Testimony of Dr. Doug Ross, Reel 3, 1-06-55 to 1-14-23. The party would have the testimony within that time span transcribed into written form and append it to the brief to comply with Rule 11(B). The party may make the transcription from the videotape or from an audio tape recording furnished by the reporter, provided there is an accurate frame of reference to the elapsed time counter. The inclusion assists

the reviewing court in that the court does not have to place the appropriate reel on the playback equipment, find the appropriate portion, and view the testimony, remembering it for the purposes of decision.

Rule 11(C) Custody

R.C. 2301.20 provides that the official shorthand reporter is required to retain and preserve the shorthand notes. The provision is necessary because the reporter may be called upon to transcribe the notes into written form. It is a difficult task for another person to transcribe a reporter's shorthand notes. In contrast, records made in electronic media are complete at the conclusion of the proceedings and do not require a reporter's transcription to be utilized by others.

The trial court has custody and control over the electronic recordings of proceedings, including the release of the videotape recording after it has served its function. Videotape is reusable and specific provision is made in Rule 13(E) for the disposition of videotape recordings filed with the court. The same standards serve to guide the court in releasing a videotape recording of proceedings under this rule.

Rule 11(D) Inspection of electronically recorded transcripts of proceedings

All electronically recorded transcripts of proceedings are required to be maintained in the manner directed by the trial court as provided in Rule 11(C).

Rule 11(D) provides that a party may view or hear the transcript of proceedings on file. Party is used as a simplified reference; the reference includes a party's counsel. There is a clear implication that electronic transcripts of proceedings are not available for indiscriminate public viewing, anymore than stenographic notes in the hands of the official court reporter are available for public inspection and reading. Rule 11(C) places the responsibility for custody and maintenance of the filed electronically recorded transcripts in the trial court. The court may entertain and dispose of requests to view the videotape record by persons other than parties or their counsel.

The important aspect of the rule is that a party does not have to order a copy of the videotape recording in videotape or in an audio recording for the purposes of preparing an appeal. The party may work from the original. As a practical matter, the inexpensive audio cassette recording made simultaneously with the videotape recording or made from the videotape sound track provides the information needed for brief preparation with the exception of the superimposed time readings.

Rule 11(E) References to electronically recorded transcripts of proceedings

The rule implements App. R. 16(D) and Rule VI, Section 1(B)(3) of the Rules of Practice of the Supreme Court. Those references contemplated written records and call for reference to the pages of the record. This rule adapts the reference system to the electronically recorded transcript of proceedings. The example used in the discussion above is repeated to illustrate the reference to videotape: Testimony of Dr. Doug Ross, Reel 3, 1-06-55 to 1-14-23.

Rule 11(F) Expense of electronically recorded transcripts of proceedings

The rule refers to three distinct areas of expense: (1) the recording of the proceedings themselves; (2) the securing of copies of the transcript of proceedings; and (3) the viewing of the transcript of proceedings.

The expense of recording the proceedings electronically may be made up of different items: the cost of the videotape used, a fee for personnel and equipment to make the recording, and a fee for renting equipment operated by court personnel. The rule provides that these expenses are costs in the action. The official shorthand reporter's services are paid for on an annual salary basis or, if the appointment is for less than one year, on a per diem fixed by the court. R.C. 2301.22. It is also provided that an $25.00 per diem fee be taxed as costs in each reported case and paid into the county general fund. R.C. 2301.21. The rule provision that the expenses of making the electronic recording of the proceedings be costs has

the force of statute by virtue of Article IV, Section 5 of the Ohio Constitution and provides an equivalency to the statutory provision relating to an official shorthand reporter. The costs charged for electronic recording consist of the disbursements made by the court; the amounts applicable to the official shorthand reporter are not the amounts charged. Costs would not include allowances for regular court employees. The owner of the videotape is the party who pays the assessed costs, which include the price of the videotape used in the recording of the proceedings.

The rule provides that the cost of an electronically recorded transcript of proceedings shall be borne by the party requesting the copy or as provided by law. This is in contrast to the provisions made for copies of transcripts from the notes of the official shorthand reporter. R.C. 2301.24 provides that the requesting party pay the compensation specified directly to the reporter, and R.C. 2301.25 provides that the cost of the transcript shall be charged as costs in the case. The same statutes provide that the cost of copies ordered by the trial judge or the prosecuting attorney are to be paid from the public treasury and charged as costs in the case. The difference in treatment between an electronically recorded transcript and one recorded stenographically or phonogramically is that the electronic transcript is completed, accessible and usable at any given time without a transcription. A transcription is a convenience, not a necessity, in contrast to stenographic notes which must be transcribed to be useful. R.C. 2301.24 and 2301.25, relating to the provision of transcripts to indigent criminal defendants remain in effect, leaving the matter to the discretion of the trial court. Copies of the transcript may be whole or partial. It may be in the same medium or it may be transcribed into another medium. For example, videotape may be reproduced, the sound track alone may be reproduced as an audio tape recording, or the testimony may be transcribed into written form. Rule 13(A). The cited section applies in municipal courts by virtue of R.C. 1901.21. An example of a provision of law which would make the cost of a transcript recorded on videotape an item of costs in the case is App. R. 24.

Electronically recorded transcripts of proceedings introduce a new factor, viewing or hearing the original transcript of proceedings for brief preparation or the purposes of post-judgment motions. The rule provides that the expense of such viewing or hearing is an expense to be borne by the requesting party. The provision has no counterpart in the statutes by virtue of the nature of the reporter's notes. The provision is commensurate with the requirement that the requesting party bear the cost of a copy. It is a substitute for securing a copy. Viewing or hearing by the prosecuting attorney will be at public expense whether through the prosecuting attorney's budget or through the court's budget. The rule does not provide for that expense to be charged as costs in the case as was true of the expense of copies under the cited statutes.

RULE 12. Conditions for Broadcasting and Photographing Court Proceedings.

(A) Presiding judge. The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.

(B) Permissible equipment and operators.

(1) Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.

(2) Not more than one still photographer shall be permitted to photograph trial proceedings without permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.

(3) For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.

(4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.

(5) Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representative authorized to cover the proceeding. "Pooling" arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.

(6) The judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification.

(7) Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.

(C) Limitations.

(1) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the judge.

(2) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

(3) This rule shall not be construed to grant media representatives any greater rights than permitted by law.

(4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

(D) Revocation of permission. Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

Commentary (July 1, 1997)

Rule 12 is analogous to former C.P. Sup. R. 11 and M.C. Sup. R. 9. Division (A) was revised to include a reference to standards set forth in Ohio law, such as *In re T.R.* (1990), 52 Ohio St.3d 6, that govern public access to court proceedings. The 1997 amendments also eliminated the prohibition against changing film and videotape during court proceedings.

Rule 12(A) Presiding Judge

The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings open to the public, upon request, if the judge determines that to do so would not distract the participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair trial. Both the request for permission and the ruling on the request must be in writing and made a part of the record of the proceedings.

The filming, videotaping, recording, or taking of photographs of victims or witnesses who object shall not be permitted.

After consultation with the media the judge specifies the locations within the courtroom where operators and equipment may be located. However, still photographers and television and radio representatives must be given a clear view of the proceedings under division (B)(7).

Rule 12(B) Permissible Equipment and Operators

Not more than one portable television, videotape, or movie camera with one operator and not more than one still photographer with two cameras shall be allowed unless the judge presiding at the trial or hearing specifically permits additional cameras or operators. Each of the two still cameras permitted by the rule is limited to two lenses.

For purposes of radio broadcasting, not more than one audio system is permitted. If an existing audio system is available and suitable, it shall be used. If an audio system is not available, then microphones and other necessary equipment "shall be as inconspicuous as possible but must be visible."

Portable audio recording equipment may be used by reporters if it is visible and if the permission of the judge presiding at the trial or hearing is first obtained.

All pooling arrangements are the responsibility of the media representatives. Pooling arrangements must be made without involving the court. If any disputes arise, the judge may exclude all contesting media representatives.

Electronic or photographic equipment that produces distracting sound or light shall be prohibited by the judge. No artificial lighting, other than that normally used in the courtroom, is permitted unless the judge, upon request and after consultation with the media representatives, determines that the normal light can be improved without becoming obtrusive.

Still photographers and television and radio representatives shall not move about the courtroom from the place where they have been positioned by the judge, except to leave or enter the courtroom.

Rule 12(C) Limitations

Audio pickup or broadcast of conferences in a court facility between attorney and client or between counsel and the judge are prohibited.

The trial judge must advise victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

No part of Rule 12 gives authority for media coverage where it is otherwise limited or prohibited by law.

While the court is in session, media representatives are not permitted to either transmit or record anything from the courtroom other than court proceedings.

Rule 12(D) Revocation of Permission

If any media representative fails to comply with the conditions set by either the judge or this rule, the judge may revoke the permission to broadcast or photograph the trial or hearing.

RULE 13. Videotaped Testimony and Evidence.

(A) Videotape depositions.

(1) **Authority.** Videotape depositions are authorized by Civil Rule 30(B)(3).

(2) **Notice.** The notice requirements of Civil Rule 30(B)(3) regarding the manner of recording, preserving, and filing depositions apply to videotape depositions. Notice is sufficient if it specifies that the videotape deposition is to be taken pursuant to the provisions of this rule.

(3) **Persons authorized to take depositions.** The officer before whom a videotape deposition is taken shall be one of those persons enumerated in Civil Rule 28.

(4) **Date and time recording.** A date and time generator shall be used to superimpose the year, month, day, hour, minute, and second over the video portion of the recording during the taking of the deposition. The total deposition time shall be noted on the outside of the videotape.

(5) **Objections.** The officer shall keep a log of objections referenced to the time of making each objection as superimposed on the video portion of the recording. If the deposition is transcribed, the log shall include the page of the transcript on which each objection occurs.

(6) **Copies of the deposition.** Upon the request of a party, the officer shall provide an audio cassette recording of the deposition at the conclusion of its taking. Upon the request of a party, the officer shall provide a copy of the deposition in the medium of videotape or a written transcript of the deposition within a reasonable period of time. The requesting party shall bear the cost of the copy requested.

(7) **Submission to witness.** After a videotape deposition is taken, the videotape shall be shown immediately to the witness for his examination, unless the examination is waived by the witness and the parties.

(8) **Certification of original videotape deposition.** The officer before whom the videotape deposition is taken shall cause a written certification to be attached to the original videotape. The certification shall state that the witness was fully sworn or affirmed by the officer and that the videotape is a true record of the testimony given by the witness. If the witness has not waived his or her right to a showing and examination of the videotape deposition, the witness shall also sign the certification.

When an officer makes a copy or a transcription of the videotape deposition in any medium, he or she shall attach a written certification to the copy or transcription. The certification shall state that the copy is a true record of the videotape testimony of the witness.

(9) **Certification of edited videotape depositions.** The officer who edits the original videotape deposition shall attach a written certification to the edited copy of the videotape deposition. The certification shall state that the editing complies with the rulings of the court and that the original videotape deposition has not been affected by the editing process.

(10) **Filing where objections not made.** Where objections are not made by a party or witness during the deposition and, if pursuant to Civil Rule 30(F)(1) a party requests, or the court orders, that the deposition be filed with the court, the officer shall file the deposition with the clerk of the court.

(11) **Filing where objections made.** When a deposition containing objections is filed with the court pursuant to Civil Rule 30(F)(1), it shall be accompanied by the officer's log of objections. A party may request that the court rule upon the objections within fourteen days of the filing of the deposition or within a reasonable time as stipulated by the parties. In ruling upon objections, the court may view the videotape recording in its entirety or view only those parts of the videotape recording pertinent to the objections made. If the parties are not present at the time the court's rulings are made, the court shall provide the parties with copies of its rulings on the objections and his instructions as to editing.

(12) **Editing alternatives.** The original videotape shall not be affected by any editing process.

(a) In its order and editing instructions the court may do any of the following:

(i) Release the videotape to the officer with instructions to keep the original videotape intact and make an edited copy of the videotape that deletes all references to objections and objectionable material;

(ii) Order the person showing the original videotape at trial to suppress the objectionable audio portions of the videotape;

(iii) Order the person showing the original videotape at trial to suppress the objectionable audio and video portions of the videotape.

(b) If the court uses alternative in division (A)(12)(a)(i) of this rule, the officer shall cause both the original videotape recording and the edited videotape recording, each clearly identified, to be filed with the clerk of the court. If the court uses the alternative in division (A)(12)(a)(ii) of this rule, it shall, in jury trials, instruct the jury to disregard the video portions of the presentation when the audio portion is suppressed. If the court uses the alternative in division (A)(12)(a)(iii) of this rule, it shall, in jury trials, instruct the jury to disregard any deletions apparent in the playing of the videotape.

(13) **Storage.** Each court shall provide secure and adequate facilities for the storage of videotape recordings.

(14) **Inspection or viewing.** Except upon order of the court and upon such terms as it may provide, the videotape recordings on file with the clerk of the court shall not be available for inspection or viewing after filing and prior to use at trial or disposition in accordance with this rule. Upon the request of a party under division (A)(3) of this rule, the clerk, without court order, may release the videotape to the officer to allow the making of a copy of the videotape.

(15) **Objections at trial.** Objections should be made prior to trial, and all objections shall be made before actual presentation of the videotape at trial. If an objection is made at trial that has not been waived pursuant to Civil Rule 32(D)(3) or previously raised and ruled upon, the objection shall be made before the videotape deposition is presented. The trial judge shall rule on objections prior to the presentation of the videotape. If an objection is sustained, that portion of the videotape containing the objectionable testimony shall not be presented.

(B) Videotape trials.

(1) **Authority.** Videotape trials are authorized by Civil Rule 40. In videotape trials, videotape is the exclusive medium of presenting testimony irrespective of the availability of the individual witness to testify in person. All testimony is recorded on videotape and the limitations of Civil Rule 32 upon the use of depositions shall not apply.

(2) **Initiation of videotape trial.** By agreement of the parties and with the consent of the trial judge all or a portion of testimony and appropriate evidence may be presented by videotape. The trial judge may order the recording of all or a portion of testimony and evidence on videotape in an appropriate case. In determining whether to order a videotape trial, the trial judge, after consultation with counsel, shall consider the costs involved, the nature of the action, and the nature and amount of testimony.

(3) **Procedure.** Divisions (A)(3) to (13) and (D) apply to videotape trials. The sequence of taking the testimony of individual witnesses and the sequence of presentation of that testimony shall be at the option of the proponent. In ordering or consenting to the recording of all of the testimony on videotape, the trial judge shall fix a date prior to the date of trial by which all recorded testimony shall be filed with the clerk of the court.

(4) **Objections.** All objections shall be made and ruled upon in advance of the trial. Objections may not be made during the presentation of the videotape evidence.

(5) **Presence of counsel and trial judge.** In jury trials, counsel for the parties and the trial judge are not required to be present in the courtroom when the videotape testimony is played to the jury. If the trial judge leaves the courtroom during the playing of the videotape, the judge shall admonish the jurors regarding their duties and responsibilities. In the absence of the judge, a responsible officer of the court shall remain with the jury. The trial judge shall remain within such proximity to the courtroom that he or she can be readily summoned.

(C) Equipment.

(1) **Standard.** There are several recording format standards used in the trial courts of this state. Proponents of videotape testimony or evidence shall determine the format utilized by the trial court in which the videotape is to be filed and shall make the videotape recording on the appropriate format machine. If a party records testimony or evidence on videotape that is not compatible with the trial court equipment, the party shall be responsible for the furnishing of reproduction equipment of institutional quality or for the conversion of the videotape to the

standards used in trial court equipment, all of which shall be at the cost of the party and not chargeable as costs of the action.

Each court shall provide for the availability of playback equipment. As may be appropriate, the court may purchase or lease equipment or make contract for the equipment on occasions of need. The court shall provide for the adequate training of an operator from the personnel of the court or for the services of a competent operator to operate the equipment when videotape testimony or evidence is presented in court.

(2) **Minimum equipment.** At a minimum, facilities for playback at trial shall consist of a videotape player and one monitor, having at least a fourteen-inch screen. Color facilities are not required.

(3) **Maintenance.** The trial court shall take reasonable steps to ensure that the equipment is maintained within operating tolerances. The trial court shall provide for competent regular maintenance of equipment that is owned or leased by the court.

(D) Costs; videotape depositions.

(1) The expense of videotape as a material shall be borne by the proponent.

(2) The reasonable expense of recording testimony on videotape, the expense of playing the videotape recording at trial, and the expense of playing the videotape recording for the purpose of ruling upon objections shall be allocated as costs in the proceeding in accordance with Civil Rule 54.

(3) The expense of producing the edited version of the videotape recording shall be costs in the action, provided that the expense of the videotape, as a material, shall be borne by the proponent of the testimony.

(4) The expense of a copy of the videotape recording and the expense of an audio tape recording of the videotape sound track shall be borne by the party requesting the copy.

(**E) Disposition of videotape filed with the court.**

(1) **Ownership.** Videotape used in recording testimony shall remain the property of the proponent of the testimony. Videotape may be reused, but the proponent is responsible for submitting a recording of acceptable quality.

(2) **Release of videotape recordings.**

(a) The court may authorize the clerk of the court to release the original videotape recording and the edited videotape recording to the owner of the videotape upon any of the following:

(i) The final disposition of the cause where no trial occurs;

(ii) The expiration of the appeal period following trial, if no appeal is taken;

(iii) The final determination of the cause, if an appeal is taken.

If the testimony is recorded stenographically by a court reporter during the playing of the videotape at trial, the videotape may be returned to the proponent upon disposition of the cause following the trial.

(b) The court shall order release by journal entry.

Commentary (July 1, 1997)

Rule 13 is analogous to former C.P. Sup. R. 12 and M.C. Sup. R. 10. The rule is revised to require the exterior of the videotape to include the total deposition time [division (A)(4)]; to require objections to be noted on the log of transcripted depositions [division (A)(5)]; and to allow expenses associated with the use of videotape to be allocated as costs in the proceeding [division (D)(6)(b)].

In general, the rule implements Civ. R. 30(B)(3), which permits the recording of oral depositions by a means other than stenographic, and Civ. R. 40, which authorizes the prerecording of testimony on videotape for presentation at trial. The rule adapts the provisions developed in stenographic recording to use in electronic recording. Depositions in criminal cases are taken in the same manner as in civil cases. Crim. R. 15(E).

Rule 13(A) Videotape depositions

Rule 13(A)(2) Notice

Civ. R. 30(B)(3) provides that the notice must specify the manner of recording, preserving, and filing of the deposition taken by other than stenographic means. A complete statement of notice would be lengthy, serve no useful purpose, refer to procedures within the control of the court, and not be uniform. Division (A) specifies the manner of recording, preserving and filing; thus it is necessary in the notice to merely make reference to Rule 13 to satisfy the requirements of Civ. R. 30(B)(3).

Rule 13(A)(3) Persons authorized to take depositions

R.C. 147.01 was amended in 1977 to provide that a notary public is appointed and commissioned as a notary public for the state. A videotape equipment operator need only be commissioned as a notary public to be an officer before whom a deposition may be taken anywhere in the state.

Rule 13(A)(4) Date and time recording

A date and time generator is required because it facilitates reference to any portion of the tape and provides an assurance that no material has been edited out of the tape.

Rule 13(A)(5) Objections

The officer before whom the deposition is taken is required to keep a log of objections and where recorded on the tape to facilitate reference to the objections. For the same purpose, the log must include the page of the transcript on which objections occur if the videotaped deposition is transcribed.

Rule 13(A)(6) Copies of the deposition

This provision was formerly a part of division (A)(3). It is more specific than its predecessor by providing for immediate delivery of an audio cassette recording and by placing the responsibility for the cost of copies on the requesting party.

Rule 13(A)(7) Submission to witnesses

Civ. R. 30(E) provides that an oral deposition, when fully transcribed, is to be submitted to the witness for examination and reading. The rule provides that changes in form or substance desired by the witness may be entered on the deposition with a statement as to the reasons the witness had for making the changes. The changes are not corrections. They are additions with explanations for the additions. When videotape is used, there is no necessity for waiting for a transcription into written form. As soon as the deposition is completed, it is ready for viewing by the witness. If there are changes desired, those additions may be made to the deposition, together with the reasons therefor, and recorded on the videotape in the same manner that the initial testimony was entered. The showing can be waived just as the reading can be waived.

In neither the stenographic method of recording nor in the videotape method of recording is the primary purpose of the review by the witness a check on the accuracy of the recording. It is intended to be an assurance that the final product is the testimony that the deponent wants used in the trial or proceeding.

Rule 13(A)(8) Certification of original videotape deposition

Civ. R. 30(F), relating to certification by the officer before whom the deposition was taken, was designed for the written deposition. Division (A)(8) allays confusion as to how a reel of videotape can be signed. It provides that a written certification be attached to the original videotape recording reel. The content of the certification is the same for either method. The rule also provides for adding the signature of the witness, if the witness' signing is not waived by the parties. Civ. R 30(E) incorporates the requirement that the witness sign a written deposition.

The final paragraph of division (A)(8) provides for a different certification. It relates to the officer's certification as to the authenticity of a copy. It is applicable to every copy or transcription the officer makes.

Rule 13(A)(9) Certification of edited videotape depositions

When the court requires an edited copy of a videotape deposition pursuant to division (A)(12), the officer who makes the edited copy is required to certify the conformity of the edited copy to the rulings of the court. The officer also is required to certify that the integrity of the original videotape recording has not been breached.

Rule 13(A)(10) Filing where objections not made

The rule is the counterpart of a provision in Civ. R. 30(F)(1). Filing is not automatic in the case of a deposition irrespective of the medium in which it is recorded. Filing depends upon the request of the party or order of the court. When there are no objections interposed, there is no further step to be taken before the deposition is viewed by the trier of fact.

Civ. R. 30(F)(3) requires that the party requesting the filing of a deposition give notice of its filing to all other parties. Civ. R. 5(A). The modes of service are set forth in Civ. R. 5(B). Filing of the notice with proof of service is provided for in Civ. R. 5(D).

Rule 13(A)(11) Filing where objections made

The officer's log of objections is required by division (A)(5) and provides a means of easy reference to the location of the objections by listing the time of the objection as shown by the date and time generator's recording. When there are objections, a party may request the court to rule on the objections. The appropriate form of request would be a written motion. The rule has extended the period for filing the request to fourteen days from the filing of the deposition or such reasonable time as may be stipulated by the parties. Civ. R. 32(A) provides that a deposition need be filed only one day before trial to be used in the trial. In the event of late filing of a deposition, the disposition of the objections should be as the court directs.

Rarely does an objecting party urge all objections made. Good procedure requires the objecting party to indicate, by log reference, the objections no longer urged.

Rule 13(A)(12) Editing alternatives

It is vital to the use of videotape that the integrity of the original recording be maintained at every stage of the proceedings. No mode of editing may alter the original recording. The rule specifies three alternatives to be followed in the editing process, the choice among which lies with the court. The court, in an order to the officer, specifies the method desired.

One of the purposes of videotape usage is to provide an uninterrupted flow of admissible testimony. Editing serves to keep inadmissible testimony from the jurors.

The first alternative involves the making of a second tape, which is a copy of the original except that it omits all reference to inadmissible testimony. This method has the disadvantage of additional expense in material and time in creating the second tape, the one actually played to the jury.

The second alternative involves the use of the original videotape deposition. At the playing of the tape to the jury, the operator suppresses the sound where there is inadmissible testimony. A schedule of suppression, keyed to the time recorded on the videotape, is prepared in advance by the officer. The operator merely follows the directions of the schedule in playing the videotape recording. Editing for that mode consists of creating the suppression schedule in conformity to the court's rulings. Usage has demonstrated that the jury is not adversely affected by viewing the picture during the period of sound suppression. The method has the advantage of economy in preparation.

The third alternative involves the suppression of the picture as well as the sound.

The rule requires the court to instruct the jury against reading some meaning into the periods of suppression.

Rule 13(A)(13) Storage

The provision is necessitated by Civ. R. 30(B)(3), which requires the notice to contain information as to the method of preserving the recording. Rule 12(A)(2) permits compliance by a reference to Civ. R. 30(B)(3).

Rule 13(A)(14) Inspection or viewing

Former R.C. 2319.19 provided that a deposition, when sealed and filed, remained sealed until opened by the clerk for use, by order of the Court, or at the request of a party or counsel. Civ. R. 30(F)(1), which superseded the statute, provides that the deposition is sealed only upon request or upon court order

with the implication of its unavailability to others until it is offered into evidence. The videotape medium requires mechanical aid in viewing that places an additional limitation upon inspection. Division (A)(14) limits inspection to that ordered by the court. Provision for copies of depositions in the form of videotape, audio recording, or written transcript is made in division (A)(6). The simplest and most economical copy is on audio tape and it obviates the necessity for viewing of the videotape deposition. To facilitate the making of a copy for a party, division (A)(14) provides for release of the original recording to the officer before whom the deposition was taken for the purpose of making a copy. Release may be by the clerk without a court order.

Rule 13(A)(15) Objections at trial

The rule recognizes that it is not possible for all objections to be ruled upon in advance of trial. For example, an objection to a hypothetical question propounded to a medical witness may be found to incorporate facts not established in the trial. Until the testimony relative to the facts has been introduced, the sufficiency of the question cannot be determined. In addition, it cannot be assumed that attorneys can foresee every valid objection, particularly when the testimony is being taken out of the normal sequence. The rule recognizes the possibility of a proper objection made at the trial for the first time. Two limitations are placed upon such objections. It cannot be the renewal of an objection previously ruled upon and it cannot be an objection waived under Civ. R. 32(D)(3). Under division (D)(3)(a) of that rule, objection to the competency of a witness or the competency, relevancy, or materiality of testimony is not waived by failure to raise at the deposition unless the ground might have been obviated or removed, if presented then. Errors and irregularities (e.g., form of question, which might be obviated), if raised, are waived unless objected to at the hearing. Division (A)(15) provides that objections raised at trial must be considered and ruled upon in advance of the playing of the recording. Testimony ruled inadmissible at that point poses no problem. The sound (and picture) may be suppressed for that testimony and thus not heard by the jury.

Rule 13(B) Videotape trials

Rule 13(B)(1) Authority

Division (B) implements Civ. R. 40, which permits the presentation of the entire testimony and other appropriate evidence in a civil case by videotape. It does not authorize the use of videotape for the presentation of part of the testimony. If only part of the testimony is to be offered on videotape, then the deposition procedure of division (A) is to be followed. Division (B)(1) spells out the limitation of the concept to the entirety of the testimony in a civil trial and also provides that the limitations placed upon the use of depositions do not apply when Civ. R. 40 is invoked. The reason is that the deposition rule does not apply because depositions are not being offered.

In *State* v. *Gettys* (1976), 49 Ohio App. 2d 241, a local rule of court required the prerecording of testimony on videotape in a criminal case for presentation to the jury without the intervention of testimony from the witness stand. The court of appeals held the rule to be unconstitutional as a violation of Article I, Section 10 of the Ohio Constitution, which limits depositions in criminal cases to situations of witness unavailability. The Court viewed the videotape recording of all testimony as a collection of depositions. The court also noted that the procedure was inconsistent with Crim. R. 15(A) and (F).

Rule 13(B)(2) Initiation of videotape trial

The procedure is to be invoked by agreement between the parties with the consent of the trial judge or upon the order of the trial judge in appropriate cases. The current application in municipal and county courts is more limited than in the common pleas court. Rising jurisdictional levels, refinements in docket control and scheduling, together with the development and usage of the medium, may increase the use of videotape prerecorded testimony in all courts. In its present form, agreement of the parties is necessary. A court is empowered to order the use of the procedure only after inquiry into the appropriateness of the measure.

Rule 13(B)(3) Procedure

The entire prerecording of testimony is distinguished from the taking of a deposition in division (B)(1). Although the concept is different, there are parallels. Division (B)(3) takes advantage of the similarity by making the procedures relative to the taking of depositions applicable to the taking of the entire testimony. If the parties do not simplify the procedure by stipulation pursuant to Civ. R. 29, the procedure of Civ. R. 30, as supplemented by division (A), is applicable. Division (B)(3) contains a very important reference to an inclusion in the order for prerecording of the entire testimony. That inclusion is the date for filing of all of the videotape. The trial judge must set a date that will permit him or her to rule on all objections before trial as required in division (B)(4).

The cost provisions for videotape trials parallel those for depositions. The proponent bears the cost of the videotape used to record the testimony because it is returned to the proponent for reuse when it has fulfilled its purpose. Requesting parties bear the cost of copies of the videotape or of transcriptions they have made in accordance with the basic rule practice expressed in Civ. R. 30(F)(2). For the same reasons expressed in the comment to division (D), the expense of the playback of the videotape trial is a general expense of the court not allocable as costs to the parties. All other expenses are costs to be charged or allocated as provided by law.

Rule 13(B)(4) Objections

The procedure differs significantly from the provision for objections relative to depositions as set forth in division (A). In a Civ. R. 40 proceeding, all objections must be ruled upon in advance of trial and no objections may be made at trial. With all of the evidence recorded, there is no development at trial that is not known upon the completion of the recording of all of the evidence. The videotape record played to the jury must exclude all nonadmissible testimony. The method of editing may be the creation of a second videotape or the suppression of the audio, or audio and video, relating to inadmissible evidence.

Rule 13(B)(5) Presence of counsel and trial judge

The provision clarifies the practice and answers the questions as to the obligations of the judge and counsel during the playing of the testimony.

Rule 13(C) Equipment

Rule 13(C)(1) Standard

Compatibility of equipment is absolutely essential. Thus, the standard is set in the rule using the only existing accepted standard in equipment of less than broadcast quality. A party deviates from the standard at the party's expense.

This provision affirms the obligation of the court to provide facilities for replay of videotape and indicates that the court may own or lease the necessary equipment or may contract with a service company where usage is infrequent. The purpose of the provision is to make clear that the furnishing of playback equipment is no different from the obligation to provide adequate furniture, supplies, and equipment for the conduct of the court. The cost of providing the videotape equipment is indistinguishable from the cost of providing a blackboard in terms of obligation.

It is incumbent upon counsel to determine what equipment the court has or can acquire and conform to that standard. If the proponent does not conform, the proponent has the obligation to provide equipment or pay the cost incurred in providing it.

Rule 13(C)(2) Minimum equipment

The rule specifies minimum facilities, but the specification does not foreclose the court from providing additional or more highly developed equipment utilizing the same standard.

Rule 13(C)(3) Maintenance

Compatibility relates to maintenance as well as to the size of the tape and the specifications for recorders and players. If either the recording equipment or the playback equipment is running at a speed outside the tolerances specified in the standard, the reproduction will be adversely affected. It is essential that the equipment be properly maintained whether leased or owned. The court shall take appropriate steps to maintain the equipment used.

Rule 13(D) Costs; videotape depositions

Material. The proponent of a deposition must bear the cost of the videotape used to record the deposition. There is no provision that the amount be charged as costs in the action because, under Rule 13(E), the videotape is returned to the proponent after it has served its purpose.

Recording and playback expense. The reasonable expense of recording and playing a videotape deposition is charged as costs in the action pursuant to Civ. R. 54. "Reasonable" is inserted to make it clear that, for example, a color videotape of broadcast quality may not be used to increase the cost burden on a losing party.

Costs of copies. Under Civ. R. 30(F)(2), copies of depositions are the responsibility of the requesting party.

Rule 13(E) Disposition of videotape filed with the court

Rule 13(E)(1) Ownership

The provision as to ownership is essential because the videotape has substantial value and may be reused.

Rule 13(E)(2) Release of videotape recording

The provisions are keyed to final disposition of the case except where the testimony is converted to stenographic recording during the presentation of the evidence in the trial, in which case the release may be made following the trial on the basis that the transcript of proceedings will be made up from the stenographic recording. The provision emerged in the early consideration of videotape applications when stenographic recording of the testimony as played at the trial was considered a safety factor. It is unlikely that the duplication would appear in current practice. When the trial is of a criminal matter rather than a civil matter, the finality of disposition of the case may be more difficult to establish. The testimony recorded on videotape may be converted to some other method of recording, audio or stenographic, upon the ostensible closing of the case. The videotape could then be released and reused. Should the testimony be essential to some post-judgment proceeding, it could be used in the converted form. Prudence would dictate the transcription of the stenographic recording into the written form at the time of the release. Release is to be by order, hence the provision for journalization.

RULE 14. Declaration of Judicial Emergency.

(A) Issuance of order

In the event of a natural or man-made disaster, civil disorder, or any extraordinary circumstance that interrupts or threatens to interrupt the orderly operation of a court or a division of a court, the Chief Justice of the Supreme Court may issue an order declaring a judicial emergency for the affected court or division. The order shall include each of the following:

(1) The name of the affected court or division;

(2) A description of the circumstances necessitating the declaration of the judicial emergency;

(3) The duration of the judicial emergency. The duration of the judicial emergency shall be limited to an initial period of not more than thirty days, provided at the end of that period the Chief Justice may issue additional orders extending the duration of the judicial emergency for additional periods of time as determined by the Chief Justice in consultation with the administrative judge of the affected court or division of the court. The Chief Justice may withdraw, cancel, or rescind an order at any time after its issuance.

(4) Any other information relevant to the declaration of the judicial emergency.

(B) Filing of order

The Chief Justice shall file an order declaring or extending a judicial emergency with the clerk of the Supreme Court. If possible given the circumstances of the judicial emergency, the Chief Justice shall file a copy of the order with the clerk of the affected court or division.

(C) Authority

The authority of the Chief Justice to declare a judicial emergency pursuant to this rule shall be independent of the authority of the administrative judge of a court or division of a court to issue an order authorizing the court or division to operate at a temporary location pursuant to R.C. 1901.0211(A), 1907.0111(A), 2301.011(A), or 2501.04(A).

RULE 14.01. Authority of Chief Justice During Judicial Emergency.

During a judicial emergency declared pursuant to Sup.R. 14, the Chief Justice of the Supreme Court may do any of the following:

(A) Suspend or modify the operation of any local rule of the affected court or division;

(B) Adopt temporary local rules for the affected court or division;

(C) Suspend or modify the operation of any rule or requirement of the Supreme Court for the affected court or division;

(D) Adopt temporary rules of the Supreme Court for the affected court or division;

(E) Authorize the use of any audiovisual devices for actions and proceedings of the affected court or division;

(F) Assign and transfer any sitting or retired judge to emergency judicial duty at the affected court or division;

(G) Do and direct to be done all things necessary to ensure the orderly and efficient administration of justice for the duration of the judicial emergency.

RULE 14.02. Consultation with Affected Court or Division and Notification of Justices During Judicial Emergency.

During a judicial emergency declared pursuant to Sup.R. 14, the Chief Justice of the Supreme Court, whenever possible under the circumstances, shall do both of the following:

(A) Consult with the administrative judge and court administrator of the affected court or division prior to taking any actions in accordance with Sup.R. 14.01;

(B) Report to the Justices of the Supreme Court any actions taken in accordance with Sup.R. 14.01.

RULE 15. Arbitration.

(A) Arbitration in civil cases.

(1) The judge or judges of general divisions of courts of common pleas, of municipal courts, or of county courts shall consider, and may adopt, a plan for the mandatory arbitration of civil cases. The plan shall specify the amount in controversy that will require submission of the case to arbitration and arbitration shall be required in cases where the amount in controversy does not exceed that specified sum. Arbitration shall be permitted in cases where the amount in controversy exceeds the sum specified in the plan for mandatory arbitration where all parties to the action agree to arbitration. The court shall determine at an appropriate pre-trial stage whether a case is to be referred to mandatory arbitration.

(2) Every plan for the mandatory arbitration of civil cases adopted pursuant to this rule shall be filed with the Supreme Court and shall include the following basic principles:

(a) Actions excluded. Actions involving title to real estate, equitable relief and appeals shall be excluded.

(b) Arbitrators. The court shall establish a list of qualified attorneys who have consented to serve as arbitrators. The court shall appoint from the list an arbitrator who has no interest in the determination of the case or relationship with the parties or their counsel that would interfere with an impartial consideration of the case. Upon written request of a party, the court shall appoint a board of three arbitrators in the same manner as a single arbitrator is appointed.

(c) Report and award. Within thirty days after the hearing, the board or the single arbitrator shall file a report and award with the clerk of the court and forward copies to all parties or their counsel. The report and award, unless appealed, shall be final and have the legal effect of a verdict upon which judgment shall be entered by the court.

(d) Appeals. Any party may appeal the award to the court if, within thirty days after the filing of the award with the clerk of court, the party does both of the following:

(i) Files a notice of appeal with the clerk of courts and serves a copy on the adverse party or parties accompanied by an affidavit that the appeal is not being taken for delay;

(ii) Reimburses the county or municipal corporation for all fees paid to the arbitrator or arbitrators in the case or pays the fees directly to the arbitrator or arbitrators, unless otherwise directed by the court.

All appeals shall be *de novo* proceedings at which members of the deciding board or the single arbitrator are barred as witnesses.

Exceptions to the decision of the board or single arbitrator based on either misconduct or corruption of the board or single arbitrator may also be filed by any party within thirty days after the filing of the report, and, if sustained, the report shall be vacated.

(B) Arbitration in juvenile and domestic relations cases.

(1) The judge or judges of a division of a court of common pleas having domestic relations or juvenile jurisdiction may, at the request of all parties, refer a case or a designated issue to arbitration.

(2) The parties shall propose an arbitrator to the court and identify all issues to be resolved by the arbitrator. The arbitrator shall consent to serve and shall have no interest in the determination of the case or relationship with the parties or their counsel that would interfere with the impartial consideration of the case. An arbitrator selected pursuant to this section is not required to be an attorney.

(3) The request for arbitration submitted by the parties shall provide for the manner of payment of the arbitrator.

(4) The arbitrator shall file a report and award pursuant to division (A)(2)(c) of this rule.

(5) Any party may appeal the report and award pursuant to division (A)(2)(d) of this rule.

Commentary (July 1, 1997)

The rule establishes guidelines for arbitration procedures. Adoption of a plan for the arbitration of cases is within the discretion of the court. Arbitration has been proven to be an effective method of case disposition.

Two changes are made from the former rule. The rule now permits the appointment of a single arbitrator or a panel of three arbitrators. This change was recommended by the Supreme Court Committee on Dispute Resolution. The amendment brings the rule into conformance with practice in several courts and provides a more cost effective route for litigants who seek arbitration services. Further, the use of a single, trusted, respected neutral should eliminate some advocacy that currently takes place when the three arbitrators engage in the decision-making aspect of the process. Also, as a cost savings measure, the rule provides for the direct payment of fees to the arbitrator or arbitrators.

Commentary (November 30, 1992 Amendment to C.P. Sup. R. 15)

Rule 15 authorizes the general division of a court of common pleas to permit mandatory arbitration, by local rule, in civil cases. The Supreme Court Committee on Dispute Resolution has reviewed this rule in the context of cases in the juvenile and domestic relations divisions of the common pleas courts. In these divisions, the Committee believes that the use of arbitration in appropriate cases would be of benefit to both the parties and the court. The Committee believes that the primary use of arbitration in juvenile and domestic relations cases would occur in cases involving the valuation of real and personal property.

By way of example, the appraisal of real and personal property involved in a divorce proceeding generally requires expert evaluation of the worth. However, in cases where there is a significant dispute or difference of opinion between the experts regarding the worth of the property, the Committee believes that the parties could benefit by having the option to request arbitration of the issue. A court could reserve ruling on issues of spousal support, child support, or custody until the valuation of personal and real property has been arbitrated. This process would free the court to direct its attention to other cases.

Accordingly, the Committee recommends the adoption of division (B). This division would permit the parties, with leave of court, to select an arbitrator for a case or an issue. The parties would select an arbitrator and propose this arbitrator to the court. Under the rule, the judge *may*, but is not required to, grant the parties leave to have the case or issue arbitrated. This permissive rule will allow the judge to intervene when he or she feels that the selection of the arbitrator by the parties is not appropriate under the specific circumstances of a given case. However, the Committee also stresses its strong belief in the fundamental principle that parties should be permitted to freely contract between themselves, unless strong public policy reasons intervene.

Division (B) also provides that the arbitrator need not be an attorney. In some cases, an expert from outside the area of the law may have the expertise necessary to provide a fair and just decision to the parties. The remaining provisions of division (B) mirror the requirements for arbitration in the general division of the court.

RULE 16. Mediation.

(A) General Provisions. A division of the court of common pleas, municipal court, and county court shall consider, and may adopt, a local rule providing for mediation.

(B) Content of Mediation Rule. A local rule providing for mediation shall include the applicable provisions set forth in this division, in addition to such other provisions as the court or division considers necessary and appropriate.

(1) Required provisions for all mediation rules. A local mediation rule shall include all of the following provisions:

(a) Procedures for ensuring that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.

(b) Procedures for screening for domestic violence both before and during mediation.

(c) Procedures for encouraging appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.

(d) Procedures for prohibiting the use of mediation in any of the following:

(1) As an alternative to the prosecution or adjudication of domestic violence;

(2) In determining whether to grant, modify or terminate a protection order;

(3) In determining the terms and conditions of a protection order; and

(4) In determining the penalty for violation of a protection order.

Nothing in division (B)(1)(d) of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

(2) Required provisions for domestic relations and juvenile court mediation rules. A local rule for mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children or delinquency or status offense cases shall include the provisions of division (B)(1) of this rule. The mediation rule shall include provisions that allow mediation to proceed, when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training set forth in division (C)(2) of this rule and all of the following conditions are satisfied:

(a) The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions.

(b) The parties have the capacity to mediate without fear of coercion or control.

(c) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.

(d) Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.

(e) Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

(3) Required provisions for child abuse, neglect, or dependency mediation rules. A local rule for mediation in child abuse, neglect, or dependency cases shall include the provisions of division (B(1) and (B)(2) of this rule and all of the following:

(a) A provision that allows mediation to proceed only if the mediator has specialized training set forth in division (C)(1), (C)(2), and (C)(3) of this rule.

(b) Procedures for ensuring that parties who are not represented by counsel attend mediation only if they have waived the right to counsel in open court, and that parties represented by counsel attend mediation without counsel only where the right to have counsel present at the mediation has been specifically waived. Waivers can be rescinded at any time.

(c) Procedures for the selection and referral of a case to mediation at any point after the case is filed.

(d) Procedures for notifying the parties and nonparty participants of the mediation.

(C) Qualification and Training for Domestic Relations and Juvenile Mediators. Each domestic relations and juvenile division of the court of common pleas that adopts a local rule providing for mediation shall include the following applicable provisions for the qualification and training of mediators.

(1) General qualifications and training. A mediator employed by the division or to whom the division makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect, and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:

(a) Possess a bachelor's degree, or equivalent education experience as is satisfactory to the division, and at least two years of professional experience with families. "Professional experience with families" includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the division.

(b) Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.

(c) After completing the training required by division (C)(1)(b) of this rule, complete at least forty hours of specialized family or divorce mediation training that is provided by a training program approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

(2) Specific qualifications and training; domestic abuse. A mediator employed by the division or to whom the division makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution. A mediator who has not completed this specialized training may mediate these cases only if the mediator co-mediates with another mediator who has completed the specialized training.

(3) Specific qualifications and training; abuse, neglect, and dependency cases. In addition to satisfying the requirements of division (C)(1) and (C)(2) of this rule, a mediator employed by the division or to whom the division makes referrals for mediation of abuse, neglect, or dependency cases shall satisfy both of the following:

(a) Possess significant experience in mediating family disputes;

(b) Complete at least thirty-two hours of specialized child protection mediation training through either a formal training session or through a mentoring program approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

(D) Aspirational Standards. Each division that adopts a local rule providing for mediation of family cases shall encourage mediators to comply with the Model Standards of Practice for Family and Divorce Mediation as set forth in Appendix F and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs as set forth in Appendix G to this rule. Wherever a conflict exists between the Model Standards of Practice for Family and Divorce Mediation set forth in Appendix F and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs in Appendix G and this rule, this rule shall control.

RULE 16.01. Creation of Commission on Dispute Resolution.

There is hereby created by the Supreme Court the Commission on Dispute Resolution.

RULE 16.02. Duties and Authority.

(A) Duties

The Commission on Dispute Resolution shall advise the Supreme Court and its staff on all of the following:

(1) The promotion of statewide rules and uniform standards concerning the use of dispute resolution in Ohio courts;

(2) The development and delivery of dispute resolution education and professional development activities for judges, magistrates, court personnel, attorneys, and court-affiliated dispute resolution professionals;

(3) The development and delivery of dispute resolution services for disputes arising among state, county, and local public officials throughout Ohio;

(4) The consideration of any other issues the commission deems necessary to assist the Supreme Court and its staff regarding the development and delivery of dispute resolution programs and services.

(B) Authority

The commission shall have no independent policy-setting authority.

RULE 16.03. Membership.

(A) Appointments

The Commission on Dispute Resolution shall consist of the following twenty-one members appointed by the Chief Justice and Justices of the Supreme Court:

(1) Three members who shall be sitting or retired judges;

(2) One member who shall be a judge of a court of appeals nominated by the Chief Judge of the Court of Appeals;

(3) One member who shall be a judge of a court of common pleas with general jurisdiction nominated by the President of the Ohio Common Pleas Judges Association;

(4) One member who shall be a judge of a court of common pleas with probate jurisdiction nominated by the President of the Ohio Association of Probate Judges;

(5) One member who shall be a judge of a court of common pleas with juvenile jurisdiction nominated by the President of the Ohio Association of Juvenile Court Judges;

(6) One member who shall be a judge of a court of common pleas with domestic relations jurisdiction nominated by the President of the Ohio Association of Domestic Relations Judges;

(7) One member who shall be a judge of a municipal or county court nominated by the President of the Association of Municipal and County Court Judges of Ohio;

(8) Two members, each of whom shall be a full-time magistrate with an Ohio court, nominated by the President of the Ohio Association of Magistrates;

(9) One member nominated by the Superintendent of Public Instruction;

(10) Two members nominated by the President of the County Commissioners' Association of Ohio;

(11) Two members, neither of whom shall be a judge or county commissioner, nominated by the President of the Ohio Council of County Officials;

(12) Two members nominated by the President of the Ohio Municipal League;

(13) One member nominated by the President of the Ohio State Bar Association;

(14) One member nominated by the President of the Ohio Mediation Association;

(15) One at-large member.

(B) Nominations

The Administrative Director of the Supreme Court shall solicit a minimum of two nominees from each individual responsible for nominating a member of the commission pursuant to divisions (A)(2) through (14) of this rule.

(C) Qualifications

Each commission member shall have an appreciation for the importance of the use of dispute resolution to resolve disputes, which may include education or experience in dispute resolution.

(D) Composition

Commission membership should be broad based and multidisciplinary to represent a cross section of interests related to dispute resolution and reflect the gender, racial, ethnic, and geographic diversity of the state.

RULE 16.04. Terms and Vacancies.

(A) Initial terms

Initial terms for members of the Commission on Dispute Resolution shall be as follows:

(1) One of the members who is a sitting or retired judge, the member who is a judge of a court of common pleas with general jurisdiction nominated by the President of the Ohio Common Pleas Judges Association, the member who is a judge of a court of common pleas with juvenile jurisdiction nominated by the President of the Ohio Association of Juvenile Court Judges, the member who is a judge of a municipal or county court nominated by the President of the Association of Municipal and County Court Judges of Ohio, one of the members nominated by the President of the County Commissioners' Association of Ohio, one of the members nominated by the President of the Ohio Municipal League, and the member nominated by the President of the Ohio Mediation Association shall be appointed to a term that ends on December 31, 2012;

(2) One of the members who is a sitting or retired judge, the member who is a judge of a court of common pleas with probate jurisdiction nominated by the President of the Ohio Association of Probate Judges, the member who is a judge of a court of common pleas with domestic relations jurisdiction nominated by the President of the Ohio Association of Domestic Relations Judges, one of the members who is a full-time magistrate with an Ohio court nominated by the President of the Ohio Association of Magistrates, the member nominated by the Superintendent of Public Instruction, one of the members nominated by the President of the County Commissioners' Association of Ohio, one of the members nominated by the President of the Ohio Council of County Officials, and the member nominated by the President of the Ohio State Bar Association shall be appointed to a term that ends on December 31, 2013;

(3) One of the members who is a sitting judge, the member who is a judge of a court of appeals nominated by the Chief Judge of the Court of Appeals, one of the members who is a full-time magistrate with an Ohio court nominated by the President of the Ohio Association of Magistrates, one of the members nominated by the president of the Ohio Council of County Officials, one of the members nominated by the President of the Ohio Municipal League, and the at-large member shall be appointed to a term that ends on December 31, 2014.

(B) Subsequent terms and reappointment

Except as provided in division (A) of this rule, the term of a commission member shall be for three years. A commission member shall be eligible for reappointment, but shall not serve more than three consecutive full terms. A commission member shall be eligible for reappointment after serving three consecutive full terms, but only upon at least a one-year

break in service. Abbreviated initial terms and appointments to fill a vacancy shall not constitute a full term.

(C) Judge, magistrate, and attorney vacancies

(1) If a commission member who is a judge involuntarily leaves office by reason other than Article IV, Section 6(C) of the Ohio Constitution, the member shall be disqualified and a vacancy shall occur.

(2) If a commission member who is a magistrate ceases to serve as a full-time magistrate with an Ohio court, the member shall be disqualified and a vacancy shall occur.

(3) If a commission member who is an attorney no longer practices in Ohio, the member shall be disqualified and a vacancy shall occur.

(D) Filling of vacancies

Vacancies on the commission shall be filled in the same manner as original appointments. A commission member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold the position for the remainder of that term.

RULE 16.05. Chairperson and Vice-Chairperson.

The members of the Commission on Dispute Resolution shall elect one member as chairperson and one member as vice-chairperson. The chairperson and vice-chairperson shall serve for two years and may be reelected to a second two-year term. A commission member shall not serve as chairperson or vice-chairperson for more than two consecutive full terms, provided elections to fill a vacancy in the position of chairperson or vice-chairperson shall not constitute a full term.

RULE 16.06. Secretary.

The Administrative Director of the Supreme Court shall assign a Supreme Court employee to serve as secretary to the Commission on Dispute Resolution. The commission secretary shall assist the commission as necessary, but shall at all times be considered a Supreme Court employee.

RULE 16.07. Meetings.

(A) Manner

The Commission on Dispute Resolution may meet in person or by telephonic or other electronic means available to the Supreme Court.

(B) Frequency

The commission shall meet as often as required to complete its work, provided the commission shall meet in person a minimum of two times per year. The commission may meet at the call of the chairperson or at the request of a majority of the commission members.

(C) Scheduling

All commission meetings shall be scheduled for a time and place so as to minimize costs to the Supreme Court and to be accessible to commission members, Supreme Court staff, and the public.

(D) Public attendance and notice

All commission meetings shall be open to the public. Public notice of all commission meetings shall be provided on the Supreme Court's website.

(E) Member attendance

For a fully effective commission, a commission member shall make a good faith effort to attend, in person, each commission meeting. A commission member who is unable to attend a meeting due to an unavoidable conflict may request the chairperson allow the member to participate by telephonic or other electronic means available to the Supreme Court. A commission member participating in this manner shall be considered present for meeting attendance purposes. Should a commission member miss three consecutive meetings, the commission or the commission secretary may recommend to the Chief Justice and Justices of the Supreme Court that the member relinquish the member's position on the commission.

(F) Minutes

Minutes shall be kept at every commission meeting and distributed to the commission members for review prior to and approval at the next meeting.

(G) Quorum

There shall be a quorum of the commission present when a majority of commission members is present for the meeting, including those members participating by telephonic or other electronic means.

(H) Actions

At any commission meeting at which a quorum is present, the commission members may take action by affirmative vote of a majority of the members in attendance.

RULE 16.08. Subcommittees.

(A) Creation

The Commission on Dispute Resolution may form such subcommittees it believes necessary to complete the work of the commission. A subcommittee should consist of select commission members and such other persons who the chairperson believes will assist in a full exploration of the issue under the review of the subcommittee.

(B) Size

A subcommittee should remain relatively small in size, not exceeding eight to twelve members, and have a ratio of commission members to non-commission members not exceeding one to three.

(C) Application of rules

Sup. R. 16.06, 16.07(A) through (D), (G), and (H), 16.09, and 16.11 through 16.14 shall also apply to the work of a subcommittee.

RULE 16.09. Code of Ethics.

Members of the Commission on Dispute Resolution shall comply with the Supreme Court's "Code of Ethics for Court Appointees." The commission secretary shall provide each commission member with a copy of the code following the member's appointment to the commission and thereafter at the first meeting each year of the commission.

RULE 16.10. Annual Report.

By January 31st of each year, the chairperson of the Commission on Dispute Resolution shall issue a report to the Chief Justice and Justices of the Supreme Court detailing the activities and accomplishments of the commission during the previous calendar year. The chairperson shall submit the report to the Administrative Director of the Supreme Court for publication on the Supreme Court's website and distribution to the Chief Justice and Justices.

RULE 16.11. Work Product.

The work product of the Commission on Dispute Resolution shall be the property of the Supreme Court.

RULE 16.12. Budget.

The budget of the Commission on Dispute Resolution shall be set by the Supreme Court through its internal budget process and as implemented by the Supreme Court Dispute Resolution Section. The commission shall have no authority to set its own budget.

RULE 16.13. Compensation.

A member of the Commission on Dispute Resolution shall serve without compensation.

RULE 16.14. Reimbursement of Expenses.

A member of the Commission on Dispute Resolution shall be reimbursed for expenses incurred in service to the commission as permitted by the Supreme Court's "Guidelines for Travel by Court Appointees."

RULE 17. Assignment of Judges--Municipal and County Courts.

(A) Definitions

As used in this rule:

(1) "Retired judge" means a person who left service on the applicable court either voluntarily by reason of resignation or retirement or involuntarily by reason of Article IV, Section 6(C) of the Ohio Constitution. "Retired judge" does not include either of the following:

(a) A person who was removed or suspended without reinstatement from service on any court of the state pursuant to the Rules for the Government of the Judiciary or resigned or retired from service on any court of the state while a complaint was pending against the person under those rules;

(b) A person who is engaged in the practice of law.

(2) "Sitting judge" means a person who currently holds judicial office by reason of election or gubernatorial appointment.

(B) Assignment

The Chief Justice or acting Chief Justice of the Supreme Court may assign any of the following persons who consent to temporarily serve as a judge on any municipal or county court:

(1) A sitting judge of a municipal or county court;

(2) A retired judge of a municipal or county court, provided the judge was not defeated in the judge's final election for new or continued service on a municipal or county court;

(3) A sitting judge of a court of common pleas or court of appeals who formerly served as a judge of a municipal or county court, provided the judge was not defeated in the judge's final election for new or continued service on a municipal or county court;

(4) A retired judge of a court of common pleas or court of appeals who formerly served as a judge of a municipal or county court, provided the judge was not defeated in the judge's final election for new or continued service on a municipal or county court;

(5) A sitting judge of a court of common pleas who has not formerly served as a judge of a municipal or county court, but has completed an educational program established by the Supreme Court of Ohio Judicial College;

(6) A retired judge of a court of common pleas who has not formerly served as a judge of a municipal or county court, but has completed an educational program established by the Judicial College.

(C) Compensation

(1) While serving on assignment pursuant to this rule, a judge shall receive actual and necessary expenses, in addition to compensation for each day assigned, computed as follows:

(a) If the assigned judge is a sitting full-time judge of a municipal court, thirty dollars.

(b) If the assigned judge is a sitting part-time judge of a municipal court or a sitting judge of a county court, the greater of the following:

(i) Thirty dollars;

(ii) The per diem compensation of a full-time judge of a municipal court, less the per diem compensation of the assigned judge, each calculated on the basis of two hundred fifty working days per year.

(c) If the assigned judge is a retired judge of a municipal or county court or a court of common pleas, the established per diem compensation for a full-time judge of a municipal court calculated on the basis of two hundred fifty working days per year, in addition to any retirement benefits to which the assigned judge may be entitled;

(d) If the assigned judge is a sitting judge of the court of appeals or court of common pleas, fifty dollars.

(2) All compensation and expenses payable to an assigned judge under this rule, other than any compensation payable pursuant to division (A)(5) or (6) of section 141.04 of the Revised Code, shall be paid from the municipal treasury or, in the case of a county-operated municipal court or a county court, from the county treasury. Payment by and reimbursement to the county treasury of any per diem compensation payable pursuant to division (A)(5) or (6) of section 141.04 of the Revised Code shall be made in the manner set forth in section 1901.121 of the Revised Code.

(D) Construction

This rule shall not be construed to limit the operation of section 2701.031 of the Revised Code or the assignment of acting judges pursuant to sections 1901.10 or 1901.12 of the Revised Code.

(E) Waiver

The Chief Justice may waive compliance with any requirement of this rule to assist the exercise of the Chief Justice's discretion in making temporary assignments of judges pursuant to the Ohio Constitution and the Revised Code.

Commentary (July 1, 1997)

Assignment of sitting and retired municipal and county court judges

The assignment and compensation of all other sitting and retired judges is addressed in the Ohio Constitution, the Revised Code, and the Guidelines for the Assignment of Judges.

Compensation

The language "actual and necessary expenses" in division (C)(1) of this rule does not appear in the Constitution, but reflects *State, ex rel. Winn* v. *Galvin* (1974), 39 Ohio St.2d 58, which held actual and necessary expenses are a part of the established compensation of a visiting judge as specified in Section 6(C). While *Winn* concerned common pleas judges, *State, ex rel. Graves* v. *Brown* (1969), 18 Ohio St.2d 61 held Section 6(C) applies to municipal court judges.

Construction

Section 1901.10 of the Revised Code provides for the appointment of acting judges in municipal courts in the case of temporary absence, incapacity, or unavailability or because of the volume of caseload and the assignment of visiting judges. Section 1901.12 of the Revised Code provides for the appointment of acting judges during periods of vacation. Section 2701.031 of the Revised concerns the assignment of a judge in municipal or county court in the event the sitting judge is disqualified.

RULE 18. Minor Misdemeanors: Violations Bureau--Municipal and County Courts.

Each municipal and county court shall establish a violations bureau for minor misdemeanors utilizing the citation system and procedure set forth in Criminal Rule 4.1.

Commentary (July 1, 1997)

Only nonsubstantive changes were made to former M.C. Sup. R. 11 in the 1997 amendments to this rule.

A minor misdemeanor is any offense specifically classified as such or any unclassified offense for which the only penalty is a fine not exceeding one hundred dollars. R.C. 2901.02.

Crim. R. 4.1 provides that a court may establish a violations bureau for all or particular minor misdemeanors. Thus, each court, by local rule, must specify that all or particular minor misdemeanors are to be processed by violations bureau.

Crim. R. 4.1 specifies the form of citation to be used and that the citation "* * * shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the clerk of court and upon signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any."

Crim. R. 4.1(E) requires the court to establish a fine schedule listing the fines and court costs for each minor misdemeanor. The fine schedule is to be prominently posted at the place violation fines are paid.

RULE 19. Magistrate – Qualifications

(A) Eligibility. A magistrate shall have been engaged in the practice of law for at least four years and be in good standing with the Supreme Court of Ohio at the time of appointment.

(B) Qualification; procedure. A magistrate shall have the qualifications specified in division (A) of Sup. R. 19, Civil Rule 53, and Traffic Rule 14. In civil matters, a magistrate shall act pursuant to Civil Rule 53, and in traffic matters pursuant to Traffic Rule 14.

RULE 19.1. Magistrate - Municipal Court

(A) Mandatory appointment and use. All municipal courts having more than two judges shall appoint one or more magistrates who may hear the following proceedings:

(1) Default proceedings under Civil Rule 55;

(2) Forcible entry and detainer proceedings under Chapter 1923 of the Revised Code in which the right to trial by jury is waived or not demanded;

(3) Small claims proceedings under Chapter 1925 of the Revised Code;

(4) Traffic proceedings in which there is a guilty plea or written waiver by the defendant of the right to trial by a judge;

(5) Other appropriate matters referred by the court for report and recommendation.

(B) Permissive appointment. This rule does not preclude the appointment of magistrates by courts having two or fewer judges.

RULES 20 through 22 are reserved for future use

RULE 23. Complaint for Abortion without Parental Notification Pursuant to R.C. 2151.85.

(A) Complaint

(1) All actions pursuant to R.C. 2151.85 shall be commenced by filing a complaint on "Form 23-A" in the juvenile court of the county in which the juvenile resides or in a county bordering the county where the juvenile resides. The complaint shall be filed promptly upon the request of the complainant.

(2) A certified copy of the second page of "Form 23-A," with the case number noted on it, shall be given to the complainant after she signs it. The original second page of the form shall be removed from the file jacket and filed under seal in a safe or other secure place where access is limited to essential juvenile court personnel. All index records shall be filed under, "In the Matter of Jane Doe."

(B) Assistance to minor

A minor seeking to file an action pursuant to R.C. 2151.85 shall be given prompt assistance by the clerk of the juvenile court in a private, confidential setting. Assistance shall include performing the notary services necessary to file the complaint and affidavits described in this rule and Sup.R. 24.

(C) Filing fees and court costs

A complaint filed pursuant to division (A) of this rule and other forms described in these rules shall be provided without cost to the minor. No filing fees or court costs shall be imposed on the minor in connection with these proceedings or any notice of appeal filed in connection with these proceedings.

(D) Appointment of counsel

Upon the filing of a complaint pursuant to division (A) of this rule, the juvenile court shall appoint an attorney to represent the complainant if she is not represented by an attorney. Court-appointed attorneys shall be paid by the court without expense to the complainant.

(E) Appointment of guardian ad litem

Upon the filing of a complaint pursuant to division (A) of this rule, the juvenile court shall appoint a guardian ad litem. The court may appoint the same individual to serve as both the attorney and the guardian ad litem. If the court appoints an individual who volunteers to serve as a guardian ad litem for the complainant, that individual need not be paid. Other guardians ad litem shall be paid by the court without expense to the complainant.

(F) Hearing

(1) The juvenile court shall promptly conduct a hearing after the filing of a complaint pursuant to division (A) of this rule and should, if possible, conduct the hearing within twenty-four hours. In no event shall the court hold the hearing later than five business days after the filing of the complaint. The court shall accommodate school hours if at all possible. The hearing shall be conducted by a judge and shall not be heard by a magistrate. Hearings shall be closed to the public and exclude all persons except witnesses on behalf of the complainant, her attorney, her guardian ad litem, and essential court personnel. The hearing shall be conducted in a manner that preserves the anonymity of the complainant. The complainant's name shall not appear on the record.

(2) If both maturity and either abuse or best interest are alleged in the complaint, or if maturity, abuse, and best interest are alleged in the complaint, the court shall rule on the issue of maturity first. If the court finds against the complainant on the issue of maturity, it then shall determine the other issues alleged in the complaint.

(G) Judgment

(1) The juvenile court shall enter judgment immediately after the conclusion of the hearing and immediately provide a copy of the judgment to the complainant. The court shall issue an order on "Form 23-B" authorizing the complainant to consent to the performance of an abortion without notice to a parent, guardian, or custodian if it finds either of the following by clear and convincing evidence:

(a) The complainant is sufficiently mature and well enough informed to decide intelligently;

(b) There is evidence of a pattern of physical, sexual, or emotional abuse by one or both of the complainant's parents, guardian, or custodian or that notification is not in the best interest of the complainant.

(2) If the court determines that the complainant has not established the allegations of the complaint by clear and convincing evidence, the court shall dismiss the complaint. The court shall notify the complainant that she has a right to appeal pursuant to R.C. 2505.073 and provide the complainant with a copy of the notice of appeal, "Form 23-C."

(H) Appeals

(1) Immediately after the notice of appeal has been filed by the complainant, the clerk of the juvenile court shall notify the court of appeals. Within four days after the notice of appeal is filed, the clerk shall deliver a copy of the notice of appeal and the record, except page two of the complaint, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals.

(2) The juvenile court shall prepare a written transcript if possible. If a transcript cannot be prepared timely and if the testimony is on an audio or video recording, the recording may be forwarded as part of the record in the case to the court of appeals without prior transcription and the court of appeals shall accept the recording as the transcript in the case without prior transcription. The juvenile court shall ensure that the court of appeals has the necessary equipment to play the recording.

(I) General rule of expedition

If a complainant files a notice of appeal on the same day as the dismissal of her complaint, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the complaint was filed.

(J) Confidentiality

The juvenile court shall not notify the parents, guardian, or custodian of the complainant that she is pregnant, that she wants to have an abortion, or that the complaint was filed. All court papers and records that pertain to the action shall be kept confidential and shall not be available for public access pursuant to Sup.R. 44 through 47.

(K) Verification notice

Upon request of the complainant or her attorney, the clerk of the juvenile court shall verify on “Form 23-D” the date the complaint was filed and whether a hearing has been held within five business days after the filing of the complaint. The clerk shall file and include the form as part of the record and shall provide a date-stamped copy to the complainant or her attorney.

FORM 23-A. COMPLAINT FOR AN ORDER AUTHORIZING CONSENT TO AN ABORTION WITHOUT NOTIFICATION OF A PARENT, GUARDIAN, OR CUSTODIAN (R.C. 2151.85)

JUVENILE COURT

_____COUNTY, OHIO

In re complaint of Jane Doe

Case No. _____

COMPLAINT
Promulgated by the Supreme Court of Ohio pursuant to R.C. 2151.85(G)

I swear or affirm that:

1. I am pregnant.

2. I am unmarried, under 18 years of age, and unemancipated.

3. I wish to have an abortion without notification of my parent, guardian, or custodian.

4. This complaint is being filed in the juvenile court of the county where I reside or have a legal settlement or in a county bordering the county where I reside or have a legal settlement.

[CHECK ONE OR MORE OF THE FOLLOWING STATEMENTS.]

5. ___ I am sufficiently mature and well enough informed to intelligently decide whether to have an abortion without the notification of my parent, guardian, or custodian.

___ One or both of my parents, my guardian, or my custodian has engaged in a pattern of physical, sexual, or emotional abuse against me.

___ Notification of my parent, guardian, or custodian of my desire to have an abortion is not in my best interest.

[CHECK ONE OF THE FOLLOWING STATEMENTS.]

6. ___ I do not have a lawyer.

___ I have a lawyer. The name, address, and telephone number of my lawyer are:

Lawyer's Name: _____
Lawyer's Address: _____
_____
Lawyer's Telephone No: _____

THEREFORE, I request that this Court issue an order authorizing me to consent to an abortion without the notification of my parent, guardian, or custodian.

Case no. _____

THIS PAGE OF THE ORIGINAL MUST BE REMOVED AND PLACED UNDER SEAL IN A SAFE OR OTHER SECURE PLACE AS REQUIRED BY RULE 23(A)(2) OF THE RULES OF SUPERINTENDENCE FOR OHIO COURTS.

I swear or affirm that the information in the attached complaint is true and accurate to the best of my knowledge and belief.

_____
Signature

Sworn to or affirmed in my presence this _____ day of_____, ____.

_____
Notary Public

* *

PLEASE NOTE:

If you do **not** have a lawyer, please provide in the spaces below any address and telephone number where the Court may contact you until a lawyer is appointed to represent you. You do **not** need to use your home address and telephone number.

Address: _____
_____

Telephone No: _____

COMPLAINT FOR AN ORDER AUTHORIZING CONSENT TO AN ABORTION WITHOUT NOTIFICATION OF A PARENT, GUARDIAN, OR CUSTODIAN (R.C. 2151.85)

INSTRUCTIONS

If you are pregnant; unmarried, under 18 years old, and unemancipated; and want to have an abortion without telling your parent, guardian, or custodian, you may ask a juvenile court for permission. The court will then decide whether your parent, guardian, or custodian must be told before you may have an abortion. The attached form, called a complaint, should be used to ask a court to let you have an abortion without telling your parent, guardian, or custodian.

If you are under 18 and not married, you are "unemancipated" if any of the following apply:

1. You have not entered the armed services of the United States;

2. You do not have a job and support yourself;

3. You are under the care and control of your parent, guardian, or custodian.

By law, you do not have to pay a filing fee or any court costs. If you do not have a lawyer, the court will appoint one for you free of charge.

The court is not allowed to tell your parent, guardian, or custodian that you are pregnant or that you want to have an abortion. The court must keep the complaint and all other papers in your case confidential.

The complaint must be filed in a juvenile court in the county where you reside or have a legal settlement or in any county that borders the county where you reside or have a legal settlement.

HOW TO FILL OUT THE FORM

Completing Statement #5: Check one or more of the statements. If you check the first statement, the court will first consider if you are mature enough and well enough informed to intelligently decide whether to have an abortion without telling your parent, guardian, or custodian. If the court does not find that you are sufficiently mature and well enough informed to make the decision, and you have checked either or both of the remaining statements, the court will then consider either of the following:

- Whether there is a pattern of physical, sexual, or emotional abuse of you by your parent, guardian, or custodian;

- Whether telling your parent, guardian, or custodian is not in your best interest.

Completing Statement #6: Check the statement that applies to you. If you have a lawyer, fill in the name, address, and telephone number of your lawyer.

Completing the Top of Page 2: The law requires that the statements in the complaint be made under oath. This part of the form must be completed in the presence of a person who is allowed to administer oaths, such as a notary public. After you sign your name on the signature line, that person should notarize the form.

Completing the Bottom of Page 2: Fill out the bottom of Page 2 only if you do not have a lawyer. Provide any address and telephone number where you may be contacted about this matter. When the court appoints a lawyer for you, the lawyer will reach you at the address or telephone number you provide. You do not have to complete the bottom of Page 2 until after the notary public signs the top of Page 2.

FORM 23-B. JUDGMENT

JUVENILE COURT

_____COUNTY, OHIO

In re complaint of Jane Doe Case No._____

JUDGMENT

This matter came on for hearing on the _____ day of_____, _____. Based upon the testimony and evidence presented, this court finds:

1. The complainant is an unemancipated minor.

2. The complainant is pregnant and she wishes to obtain an abortion.

3. No parent, guardian, or custodian of the complainant has been notified that she is seeking an abortion.

4. That clear and convincing evidence has been presented to support the following [decide maturity issue first if pleaded]:

____ Complainant is sufficiently mature and well enough informed to decide intelligently whether to have an abortion without notifying a parent, guardian, or custodian.

____ There is evidence of a pattern of physical, sexual, or emotional abuse of the complainant by one or both of her parents, her guardian, or her custodian.

____ Notification of a parent, guardian, or custodian would not be in complainant's best interest.

____ None of the criteria set forth in paragraph 4 has been established by clear and convincing evidence.

THEREFORE, IT IS ORDERED:

____ The complaint is granted and the complainant is hereby authorized to consent to the performance or inducement of an abortion without the notification of a parent, guardian, or custodian.

____ The complaint is dismissed. The Clerk is instructed to provide the complainant with the notice of appeal form and advise her of her right to an expedited appeal.

_____, Ohio _____

Judge

_____, _____

FORM 23-C. NOTICE OF APPEAL

JUVENILE COURT

_____COUNTY, OHIO

In re complaint of Jane Doe Case No._____

NOTICE OF APPEAL
Promulgated by the Supreme Court of Ohio pursuant to R.C. 2151.85(G)

Notice is hereby given that the complainant appeals to the Court of Appeals for _____ County from the final order entered in the above-styled cause on_____, _____, dismissing the complaint seeking an abortion without notification of complainant's parents, guardian, or custodian.

_____
Signature of Attorney for Complainant

_____
Attorney Name

_____
Attorney Address

_____

_____
Attorney Telephone

FORM 23-D. VERIFICATION

JUVENILE COURT

_____COUNTY, OHIO

In re complaint of Jane Doe Case No._____

VERIFICATION
Promulgated by the Supreme Court of Ohio pursuant to R.C. 2151.85(G)

This will verify that on_____, _____, Jane Doe filed her complaint for an order authorizing consent to an abortion without notification of a parent, guardian, or custodian and as of_____, _____, which is more than five business days after the filing of the complaint, the court has not held a hearing to consider her complaint.

_____
Clerk

(Seal)

NOTICE REGARDING THE OCTOBER 15, 2001 AMENDMENTS TO SUPERINTENDENCE RULES 23.1 AND 25 AND ACCOMPANYING FORMS

The October 15, 2001 amendments to Superintendence Rules 23.1 and 25 and the accompanying forms are intended to provide procedures implementing Amended Substitute House Bill 421 of the 122nd General Assembly, effective May 6, 1998. The United States District Court for the Southern District of Ohio has enjoined enforcement of this legislative enactment by order dated April 29, 1998. The text of the district court order is as follows:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Cincinnati Women's Services, Inc., et al.	:	CIVIL ACTION NO. C-1-98-289 (Beckwith, J.)
Plaintiffs,	:	
vs.	:	AGREED ORDER GRANTING INJUNCTION
George Voinovich, et al.,	:	
Defendants.	:	

This matter came on for a scheduling conference on April 23, 1998. The parties reported to the court that the Ohio Supreme Court has not yet issued rules to guide the juvenile courts under HB 421 and is not expected to have such rules in place before the effective date of the Act on May 6, 1998. For this and other good cause shown, and on agreement of the parties as detailed in the parties' Joint Motion for Agreed Order Maintaining Status Quo of Existing Law, the court hereby preliminarily enjoins defendants and their employees, agents, servants and those acting in concert with them from enforcing House Bill 421. This order shall remain in place until further order of the court following full briefing and hearing pursuant to a schedule to be established by the court in due course.

No bond shall be required of the plaintiffs.

SO ORDERED

/s/
Sandra S. Beckwith
United States District Judge

Agreed:

/s/
Alphonse A. Gerhardstein
Trial Attorney for Plaintiffs

/s/
Roger E. Friedmann
Trial Attorney for Defendant Deters

/s/
Arthur Marziale, Jr.
Trial Attorney for Defendants Montgomery and Voinovich

Filed by Kenneth J. Murphy, Clerk
April 29, 1998 @ 3:29 p.m.

RULE 23.1. Application for Authorization to Consent to an Abortion or for Judicial Consent to an Abortion Pursuant to R.C. 2919.121.

(A) Definition

As used in this rule, Sup.R. 25, and "Forms 23.1-A, 23.1-B, 23.1-C, and 25," "petitioner" means the minor female who is seeking consent to have an abortion regardless of whether the minor female or a next friend files the petition.

(B) Petition

(1) All actions pursuant to R.C. 2919.121 shall be commenced by filing a petition on "Form 23.1-A" in the juvenile court of the county in which the juvenile resides or in a county bordering the county where the juvenile resides. The petition shall be filed promptly upon the request of the petitioner.

(2) A certified copy of the second page of "Form 23.1-A," with the case number noted on it, shall be given to the petitioner after she or next friend signs it. The original second page of the form shall be removed from the file jacket and filed under seal in a safe or other secure place where access is limited to essential juvenile court personnel. All index records shall be filed under, "In re the Petition of Jane Doe."

(C) Assistance to minor

A minor seeking to file an action pursuant to R.C. 2919.121 shall be given prompt assistance by the clerk of the juvenile court in a private, confidential setting. Assistance shall include performing the notary services necessary to file the petition and affidavits described in this rule.

(D) Filing fees and court costs

The petition and other forms described in these rules shall be provided without cost to the petitioner. No filing fees or court costs shall be imposed on the petitioner in connection with these proceedings or any notice of appeal filed in connection with these proceedings.

(E) Appointment of counsel

Upon the filing of a petition pursuant to division (B) of this rule and at least twenty-four hours before the hearing scheduled pursuant to division (G) of this rule, the juvenile court shall appoint an attorney to represent the petitioner if she is not represented by an attorney. Court-appointed attorneys shall be paid by the court without expense to the petitioner.

(F) Appointment of guardian ad litem

Upon the filing of a petition pursuant to division (B) of this rule, the juvenile court shall appoint a guardian ad litem pursuant to Juv.R. 4.

(G) Hearing

(1) The juvenile court shall promptly conduct a hearing after the filing of a petition pursuant to division (B) of this rule and should, if possible, conduct the hearing within twenty-four hours. In no event shall the court hold the hearing later than five calendar days after the filing of the petition. The court shall accommodate school hours if at all possible. The hearing shall be conducted by a judge and shall not be heard by a magistrate. Hearings shall be closed to the public and exclude all persons except witnesses on behalf of the petitioner, her attorney, her guardian ad litem, her next friend, if any, and essential court personnel. The hearing shall be conducted in a manner that preserves the anonymity of the petitioner. The petitioner's name shall not appear on the record.

(2) If maturity and best interest are alleged in the petition, the court shall rule on the issue of maturity first. If the court finds against the petitioner on the issue of maturity, it then shall determine the issue of best interest.

(H) Judgment.

(1) If the juvenile court finds by clear and convincing evidence that the petitioner is sufficiently mature and well enough informed to decide intelligently whether to consent to an abortion or that the abortion is in the best interests of the petitioner, the court shall issue an order on "Form 23.1-B" authorizing the petitioner to consent to the performance of an abortion or giving judicial consent to the abortion. If the court does not find by clear and convincing evidence that the petitioner is sufficiently mature and well enough informed to decide intelligently or that the abortion is in the best interests of the petitioner, or if the court finds that it does not have jurisdiction over the petition, the court shall issue an order on "Form 23.1-B" denying or dismissing the petition. The court shall enter judgment as soon as possible and no later than twenty-four hours after the conclusion of the hearing.

(2) If the judgment is entered immediately at the conclusion of the hearing, the court shall provide the petitioner and her attorney with a copy of the judgment. If the court denies or dismisses the petition, the court shall notify the petitioner that she has a right to appeal pursuant to R.C. 2919.121(C)(6) and provide the petitioner and her attorney with a copy of the notice of appeal, "Form 23.1-C."

(3) If the judgment is not entered immediately at the conclusion of the hearing, the court shall do all of the following:

(a) Inform the petitioner that the judgment will be entered within twenty-four hours;

(b) Inform the petitioner that the court will notify her attorney of the judgment upon its issuance;

(c) Inform the petitioner of the availability of other confidential procedures, which have been established by the court, to notify the petitioner of the court's judgment, including, but not limited to, providing the petitioner with the name of a designated court employee whom the petitioner may contact to obtain the judgment, arranging for the pick-up of the judgment at the court, or arranging for delivery of the judgment to an address designated by the petitioner;

(d) Notify the petitioner that, if the court denies or dismisses the petition, she has the right to appeal pursuant to R.C. 2919.121(D)(6);

(e) Provide the petitioner and her attorney with a copy of the notice of appeal, "Form 23.1-C," and explain to the petitioner that the form may be filed only if the court denies or dismisses the petition.

(I) Appeals

(1) Immediately after the notice of appeal has been filed by the petitioner, the clerk of the juvenile court shall notify the court of appeals. Within four calendar days after the notice of appeal is filed, the clerk shall deliver a copy of the notice of appeal and the record, except page two of the petition, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals.

(2) The juvenile court shall prepare a written transcript if possible. If a transcript cannot be prepared timely and if the testimony is on an audio or video recording, the recording may be forwarded as part of the record in the case to the court of appeals without prior transcription, and the court of appeals shall accept the recording as the transcript in the case without prior transcription. The juvenile court shall ensure that the court of appeals has the necessary equipment to play the recording.

(J) General rule of expedition

(1) If a petitioner files a notice of appeal on the same day as the denial or dismissal of her petition, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the petition was filed.

(2) If a petitioner files a notice of appeal after the day on which the court denies or dismisses her petition, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the petition was filed, plus the number of calendar days that elapsed between the date on which the court's decision was issued and the date on which the notice of appeal was filed.

(K) Confidentiality

The juvenile court and the court of appeals shall not notify the parents, guardian, or custodian of the petitioner that she is pregnant, that she wants to have an abortion, or that

the petition was filed. All court papers and records that pertain to the action shall be kept confidential and shall not be available for public access pursuant to Sup.R. 44 through 47.

FORM 23.1-A. PETITION FOR AUTHORIZATION TO CONSENT TO AN ABORTION OR FOR JUDICIAL CONSENT TO AN ABORTION (R.C. 2919.121)

JUVENILE COURT

_____COUNTY, OHIO

In re petition of Jane Doe. Case No._____

PETITION

I swear or affirm that:

1. I am pregnant.

2. I am unmarried, _____ years of age, and unemancipated.

3. I wish to have an abortion and have been fully informed of the risks and consequences of an abortion.

4. This petition is being filed in the juvenile court of the county where I reside or have a legal settlement or in a county bordering the county where I reside or have a legal settlement.

[CHECK ONE OR BOTH OF THE FOLLOWING STATEMENTS.]

5. ___ I am sufficiently mature and well enough informed to decide intelligently decide whether to have an abortion.

___ The court should find by clear and convincing evidence that an abortion is in my best interests and give judicial consent to the abortion.

[CHECK ONE OF THE FOLLOWING STATEMENTS.]

6. ___ I do not have a lawyer and ask that the court appoint a lawyer free of charge.

___ I have a lawyer. The name, address, and telephone number of my lawyer are:

Lawyer's Name: _____
Lawyer's Address: _____
_____
Lawyer's Telephone No: _____

Case no. _____

THIS PAGE OF THE ORIGINAL MUST BE REMOVED AND PLACED UNDER SEAL IN A SAFE OR OTHER SECURE PLACE AS REQUIRED BY RULE 23.1(B)(2) OF THE RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO.

7. The following is/are the name(s) and address(es) of my parent(s), guardian(s), custodian(s) or, if my parents are deceased and no guardian(s) is/are appointed, any person standing in place of my parent(s), guardian(s), or custodian(s):

Name(s): _____

Address(es): _____
_____

THEREFORE, I request that this Court appoint a lawyer if I do not already have one, appoint a guardian ad litem to represent my best interests, and issue an order authorizing me to consent or granting judicial consent to an abortion without the consent of my parent, guardian, or custodian.

I swear or affirm that the information in the attached petition is true and accurate to the best of my knowledge and belief.

_____
Signature (Minor or Next Friend)

If this petition is being filed by a next friend on behalf of a minor, the minor's initials are: _____.

Sworn to or affirmed in my presence this _____ day of _____, ____.

_____
Notary Public

* *

PLEASE NOTE:

If you do not have a lawyer, please provide in the spaces below any address and telephone number where the Court may contact you until a lawyer is appointed to represent you. You do not need to use your home address and telephone number.

Address: _____
_____

Telephone No: _____

PETITION FOR CONSENT TO AN ABORTION OR FOR JUDICIAL CONSENT TO AN ABORTION (R.C. 2919.121).

INSTRUCTIONS

If you are pregnant; unmarried, under 18 years old, and unemancipated; and want to have an abortion without the consent of your parents, you may ask a juvenile court for permission. The court will then decide whether you are sufficiently mature and well-enough informed to decide intelligently to have an abortion or whether an abortion is in your best interests. The attached form, called a petition, should be used to ask a court to let you have an abortion without the consent of your parents.

If you are under 18 and not married, you are "unemancipated" if any of the following apply:

1. You have not entered the armed services of the United States;

2. You do not have a job and support yourself;

3. You are under the care and control of your parent, guardian, of custodian.

By law, you do not have to pay a filing fee or any court costs. If you do not have a lawyer, the court will appoint one for you free of charge. The court also will appoint a guardian ad litem, who is a person responsible for protecting your interests. The court may appoint your lawyer to be your guardian ad litem.

The court is not allowed to tell your parent, guardian, or custodian that you are pregnant or that you want to have an abortion. The court must keep the petition and all other papers in your case confidential.

The petition must be filed in a juvenile court in the county where you reside or have a legal settlement or in any county that borders the county where you reside or have a legal settlement.

HOW TO FILL OUT THE FORM

Completing Statement #5: Check one or both of the statements. If you check the first statement, the court will first consider if you are mature enough and well enough informed to intelligently decide whether to have an abortion. If the court does not find that you are sufficiently mature and well enough informed to make the decision, and you have checked the second statement, the court will then consider whether the abortion is in your best interest. If you are not sure which statement to check, you may check both and then discuss this with your lawyer.

Completing Statement #6: Check the statement that applies to you. If you have a lawyer, fill in the name, address, and telephone number of your lawyer.

Completing the Top of Page 2: The law requires that the statements in the petition be made under oath. This part of the form must be completed by you or someone who is assisting you (called a

“next friend”) in the presence of a person who is allowed to administer oaths, such as a notary public. After you or the person assisting you signs the petition, the person who administers oaths should sign the form.

Completing the Bottom of Page 2: Fill out the bottom of page 2 only if you do not have a lawyer. Provide any address and telephone number where you may be contacted about this matter. When the court appoints a lawyer for you, the lawyer will reach you at the address or telephone number you provide. You do not have to complete the bottom of page 2 until after the notary public signs on page 2.

FORM 23.1-B. JUDGMENT

JUVENILE COURT

_____COUNTY, OHIO

In re petition of Jane Doe Case No._____

JUDGMENT

This matter came on for hearing on the _____ day of _____, _____. Based upon the testimony and evidence presented, this court finds:

1. The court:

   _____ Has jurisdiction over the petition.

   _____ Does not have jurisdiction over the petition for the following reasons:
   _____
   _____
   _____.

2. _____ The petitioner is an unemancipated minor.

3. _____ The petitioner is pregnant and she wishes to obtain an abortion.

4. _____ The petitioner has been fully informed of the risks and consequences of the abortion.

5. _____ The court has specifically inquired about the minor's understanding of the possible physical and emotional complications of abortion and how the minor would respond if the minor experienced those complications after the abortion.

6. _____ The court has specifically inquired about the extent to which anyone has instructed the minor on how to answer questions and on what testimony to give at the hearing.

7. That clear and convincing evidence has been presented to support the following [decide maturity issue first if pleaded]:

   a.____ Petitioner is sufficiently mature and well enough informed to decide intelligently whether to have an abortion without obtaining the consent of a parent, guardian, or custodian.

b.____ The abortion would be in petitioner's best interest for the following reasons:
_____
_____
_____.

c.____ Neither 5a. nor 5b. has been established for the following reasons:
_____
_____
_____.

THEREFORE, IT IS ORDERED:

____ The petition is granted and the petitioner is hereby authorized to consent to the performance or inducement of an abortion.

____ The court finds the abortion is in the best interest of the petitioner and judicial consent is hereby authorized.

____ The petition is denied. The Clerk is instructed to provide the petitioner with the notice of appeal form and advise her of her right to an expedited appeal.

____ The petition is dismissed for lack of jurisdiction. The Clerk is instructed to provide the petitioner with the notice of appeal form and advise her of her right to an expedited appeal.

_____, Ohio

_____
Judge

_____
Date

FORM 23.1-C. NOTICE OF APPEAL

JUVENILE COURT

_____COUNTY, OHIO

In re petition of Jane Doe Case No._____

NOTICE OF APPEAL

Notice is hereby given that the petitioner appeals to the Court of Appeals for _____ County from the final order entered in the above-styled cause on _____, ____, denying or dismissing the petition seeking an abortion.

_____
Signature of Attorney for Petitioner

_____
Attorney Name

_____
Attorney Address

_____

_____
Attorney Telephone

RULE 24. Notifying Physicians of Affidavits Alleging Abuse Pursuant to R.C. 2919.12.

(A) Filing affidavits--procedure.

(1) Pursuant to R.C. 2919.12(B)(1)(b), a minor may have notice of an intended abortion given to a specified adult instead of one of her parents, guardian, or custodian. Two affidavits shall be filed with the clerk of the juvenile court by anyone seeking to invoke the notice provisions of the law. The first affidavit is executed by the minor and should be on "Form 24-A." The second affidavit is executed by the specified adult and should be on "Form 24-B." Anyone receiving these forms also shall be given the accompanying instruction sheet.

(2) Upon the filing of both affidavits and upon the request of the minor, her attorney, or the person who will perform the abortion, the clerk of the juvenile court shall issue a notice on "Form 24-C" verifying that the affidavits have been filed with the court.

(B) Confidentiality.

(1) All affidavits filed and notices issued pursuant to this rule shall be placed under seal in a safe or other secure place where access is limited to essential juvenile court personnel.

(2) Persons becoming aware of the contents of any affidavits prepared pursuant to this rule or R.C. 2919.12 are exempt from reporting such contents under R.C. 2151.421. Any reporting by court personnel would breach the duty of confidentiality and is prohibited by R.C. 102.03.

FORM 24-A. AFFIDAVIT OF MINOR

JUVENILE COURT

_____ COUNTY, OHIO

In re complaint of Jane Doe Case No._____

AFFIDAVIT
R.C. 2919.12(B)(1)(b)(ii)

STATE OF OHIO)
)
COUNTY OF)

I, _____, being duly sworn, state as follows:

1. I am pregnant, unmarried, under 18 years of age, and unemancipated.

2. I wish to have an abortion without notification of a parent, guardian, or custodian.

3. I request instead that notice of my intention to have the abortion be given to one of the following [Select One]:

   a. _____, a brother or sister 21 years of
   Name age or older or,

   b. _____, a stepparent or grandparent.
   Name

4. I am in fear of physical, sexual, or severe emotional abuse from a parent, guardian, or custodian who otherwise would be notified of my intention to have an abortion pursuant to R.C. 2919.12.

5. My fear is based on a pattern of physical, sexual, or severe emotional abuse exhibited by a parent, guardian, or custodian.

6. I understand that upon the filing of this affidavit and an affidavit from the person specified above with the juvenile court, an officer of that court will prepare a notice verifying that the affidavits have been filed.

7. The person who intends to perform or induce my abortion and the address of that person are as follows:

_____
Name of Abortion Provider

_____
Address

_____
Signature

Before me appeared the above named person who under oath or by affirmation did sign this affidavit this _____ day of_____, _____.

_____
Notary Public

FORM 24-B. AFFIDAVIT OF RECIPIENT OF NOTICE OF MINOR'S INTENTION TO RECEIVE AN ABORTION

JUVENILE COURT

_____COUNTY, OHIO

In re complaint of Jane Doe Case No._____

AFFIDAVIT
R.C. 2919.12(B)(1)(b)(iii)

STATE OF OHIO)
)
COUNTY OF)

_____, being duly sworn, states as follows:
(Name)

1. I am [select appropriate one]

   ____ over 21 years of age and I am a brother or sister of

   ____ a stepparent or grandparent of

   _____, (hereafter, minor) who has [name of pregnant minor] filed an affidavit with the Juvenile Court pursuant to R.C. 2919.12(B)(1)(b)(ii).

2. I have been specified in the minor's affidavit as the person to receive notice of the minor's intention to receive an abortion.

3. The minor has reason to fear physical, sexual, or severe emotional abuse from a parent, guardian, or custodian who otherwise would be notified of her intention to have an abortion pursuant to R.C. 2919.12.

4. Her fear is based on a pattern of physical, sexual, or severe emotional abuse exhibited by a parent, guardian, or custodian.

_____
Signature

Before me appeared the above named person who under oath or by affirmation did sign this affidavit this _____ day of_____, ____.

_____
Notary Public

FORMS ALLEGING ABUSE BY PARENT AND REQUESTING THAT NOTIFICATION OF ABORTION BE PROVIDED TO OTHER RELATIVE

INSTRUCTIONS FOR FORMS 24-A and 24-B

If you use these forms, the person performing your abortion will not be required to give notice of your abortion to a parent, guardian, or custodian. Instead, you can choose to have notice provided to a brother or sister over 21 years of age or a stepparent or grandparent.

These forms are called affidavits. An affidavit is a sworn statement signed before a person authorized to administer oaths, such as a notary public. The clerk's office will provide a notary public if you want to complete the forms in the clerk's office.

These forms may be used if all of the following apply.

You are:

1. Pregnant;

2. Unmarried;

3. Under 18 years old;

4. Unemancipated, which means that any of the following apply:

   - You have not entered the armed forces of the United States;

   - You do not have a job and support yourself;

   - You are under the care and control of a parent, guardian, or custodian.

5. You fear, based on events that have happened in the past, physical, sexual, or severe emotional abuse if notice of the abortion is given to a parent, guardian, or custodian.

These forms will be filed with the juvenile court and kept confidential. The clerk of the court will provide notice to the abortion provider that the forms have been filed and the clerk will inform the abortion provider of the name of the person you have chosen to receive notice of your abortion. The forms will not be released by the court.

You do not have to pay any filing fee or court costs to the clerk for notarizing these forms, filing these forms, or issuing the notice to the abortion provider.

The affidavit must be filed in a juvenile court in the county where you reside or have a legal settlement or in any county that borders the county where you reside or have a legal settlement.

HOW TO FILL OUT THE FORMS

There are two forms. You complete one of them. The other form is completed by the person you select to receive notice of your abortion. That must be a brother or sister over 21 years old or a stepparent or grandparent.

Your form requires that you name the person to receive notice and provide the name and address of the person to perform the abortion.

Both of the forms must be signed in front of a notary public or other person, such as a judge or attorney, authorized to administer oaths.

WHAT TO DO AFTER FILLING OUT THE FORMS

After the forms are signed and notarized, give them to the juvenile court clerk, who will file them in a confidential place within the clerk's office. Then the clerk will issue a notice that you may take to the abortion provider. With that notice the abortion provider will be authorized to provide notice of the abortion to the brother, sister, stepparent, or grandparent that you have selected.

Amended: 01/01/2015
Discard all previous versions of this form

FORM 24-C. NOTICE

JUVENILE COURT

_____COUNTY, OHIO

In re complaint of Jane Doe Case No._____

NOTICE

Notice is hereby given that on_____, _____, (minor's name) filed affidavits pursuant to R.C. 2919.12(B)(1)(b)(ii) and (iii) and may therefore proceed to have any notifications required by that statute issued to the following specified adult: _____.

_____
Clerk

(Seal)

Amended: 01/01/2015
Discard all previous versions of this form

RULE 25. Procedure on Appeals Pursuant to R.C. 2151.85, 2919.121, and 2505.073.

(A) Definition.

As used in this rule, "days" means calendar days and includes any intervening Saturday, Sunday, or legal holiday. If the last day on which a judgment is required to be entered falls on a Saturday, Sunday, or legal holiday, the computation of days shall not be extended and judgment shall be made either on the last business day before the Saturday, Sunday, or legal holiday, or on the Saturday, Sunday, or legal holiday.

(B) General rule of expedition.

(1) If a complainant or petitioner files a notice of appeal on the same day on which the juvenile court denies or dismisses her complaint or petition, the entire court process, including the court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the complaint or petition was filed.

(2) If a complainant or petitioner files a notice of appeal after the day on which the juvenile court denies or dismisses her complaint or petition, the entire court process, including the court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the complaint or petition was filed, plus the number of calendar days that elapsed between the date on which the court's decision was issued and the date on which the notice of appeal was filed.

(C) Processing appeal.

(1) Immediately after a notice of appeal has been filed by a complainant or petitioner, the clerk of the juvenile court shall notify the court of appeals. Within four days after the notice of appeal is filed, the clerk shall deliver a copy of the notice of appeal and the record, except page two of the complaint or petition, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals.

(2) Record of all testimony and other oral proceedings in actions pursuant to R.C. 2151.85 or 2919.121 may be made by audio or video recording. If the testimony is on a recording and a transcript cannot be prepared timely, the court of appeals shall accept the recording as the transcript in this case without prior transcription.

(3) The appellant under this section shall file her brief within four days after the appeal is docketed. Unless waived, the oral argument shall be within five days after docketing. Oral arguments shall be closed to the public and exclude all persons except the appellant, her attorney, her guardian ad litem, and essential court personnel.

(D) Confidentiality.

All proceedings pursuant to R.C. 2505.073(A) or 2919.121 shall be conducted in a manner that preserves the anonymity of the appellant on appeal. Except as set forth in division (F) of this rule, all papers and records that pertain to an appeal pursuant to R.C.

2505.073 or 2919.121 shall be kept confidential and shall not be available for public access pursuant to Sup.R. 44 through 47.

(E) Judgment entry.

The court of appeals shall enter judgment immediately after conclusion of oral argument or, if oral argument is waived, within five days after the appeal is docketed.

(F) Release of records.

(1) The public shall be entitled to secure all of the following from the records pertaining to each case filed pursuant to R.C. 2505.073 or 2919.121:

(a) The docket number;

(b) The name of the judge;

(c) The judgment entry and, if appropriate, a properly redacted opinion.

(2) Opinions shall set forth the reasoning in support of the decision in a way that does not directly or indirectly compromise the anonymity of the minor. Opinions written in compliance with this requirement shall be considered public records available upon request. If, in the judgment of the court, it is impossible to release an opinion without compromising the anonymity of the minor, the entry that journalizes the outcome of the case shall include a specific finding that no opinion can be written without disclosing the identity of the minor. Such finding shall be a matter of public record.

(3) The court shall remove any and all information in its opinion that would directly or indirectly disclose the identity of the minor.

(G) Notice and hearing before release of opinion.

(1) After an opinion is written and before it is available for release to the public, the court shall notify the minor and give her the option to appear and argue at a hearing if she believes the opinion may disclose her identity. Notice may be provided by including the following language in the opinion:

> "If appellant believes that this opinion may disclose her identity, appellant has a right to appear and argue at a hearing before this court. Appellant may perfect this right to a hearing by filing a motion for a hearing within fourteen days of the date of this opinion.
>
> The clerk is instructed that this opinion is not to be made available for release until either of the following:
>
> - Twenty-one days have passed since the date of the opinion and appellant has not filed a motion;

- If appellant has filed a motion, after this court has ruled on the motion."

(2) Notice shall be provided by mailing a copy of the opinion to the attorney for the appellant or, if she is not represented, to the address provided by appellant for receipt of notice.

(H) Constructive order.

Upon request of the appellant or her attorney in proceedings pursuant to R.C. 2151.85 or 2505.073, the clerk of the juvenile court shall verify on "Form 25-A" the date the appeal was docketed and whether a judgment has been entered within five days of that date. The completed form shall include the case number from the juvenile court and the court of appeals, and shall be filed and included as part of the record. A date-stamped copy shall be provided to the appellant or her attorney.

FORM 25-A. VERIFICATION

COURT OF APPEALS

_____COUNTY, OHIO

In re complaint of Jane Doe Case No._____

Juvenile Court No._____

VERIFICATION

This will verify that on_____, _____, the appeal of Jane Doe was docketed in this court pursuant to R.C. 2151.85 or 2505.073 and as of _____, _____, which is more than five calendar days after the docketing of the appeal, the court has not rendered a judgment in the matter.

_____
Clerk

(Seal)

Amended: 01/01/2015
Discard all previous versions of this form

RULE 26. Court Records Management and Retention.

(A) Applicability. (1) This rule and Sup. R. 26.01 to 26.05 are intended to provide minimum standards for the maintenance, preservation, and destruction of records within the courts and to authorize alternative electronic methods and techniques. Implementation of this rule and Sup. R. 26.01 to 26.05 is a judicial, governmental function.

(2) This rule and Sup. R. 26.01 to 26.05 shall be interpreted to allow for technological advances that improve the efficiency of the courts and simplify the maintenance, preservation, and destruction of court records.

(B) Definitions. As used in this rule and Sup. R. 26.01 to 26.05:

(1) "Administrative record" means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.

(2) "Case file" means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgments of the court on a case by case basis.

(3) "Index" means a reference record used to locate journal, docket, and case file records.

(4) "Journal" means a verbatim record of every order or judgment of a court.

(5) "OHS" means the Ohio Historical Society, State Archives Division.

(6) "Record" means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the court.

(C) Combined records. Notwithstanding any other provision of the law, a court may combine indexes, dockets, journals, and case files provided that the combination contains the components of indexes, dockets, journals, and case files as defined in this rule and Sup. R. 26.01 to 26.05. A court may replace any paper bound books with an electronic medium or microfilm in accordance with this rule.

(D) Allowable record media. (1) A court may create, maintain, record, copy, or preserve a record on traditional paper media, electronic media, including text or digital images, or microfilm, including computer output to microfilm.

(2) A court may create, maintain, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in regard to the original or a copy of a record if the process produces an accurate record or copy and

the process complies with American National Standards Institute ("ANSI") standards and guidelines or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.

(a) If a court creates, maintains, records, copies, or preserves a record using a records and information management process in accordance with division (D)(2) of this rule and the record is required to be retained in accordance with the schedules set forth in Sup. R. 26.01 to 26.05, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If Sup. R. 26.01 to 26.05 require the record to be retained permanently, the back-up copy shall be stored in a different building than the record it secures.

(b) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, recorded, copied, or preserved by an alternative records and information management process in accordance with division (D)(2) of this rule, shall be provided.

(c) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division (D)(2) of this rule.

(d) Paper media may be destroyed after it is converted to other approved media in accordance with division (D) of this rule.

(E) Destruction of records. (1) Subject to the notification and transfer requirements of divisions (E)(2) and (3) of this rule, a record and any back-up copy of a record produced in accordance with division (D)(2) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Sup. R. 26.01 to 26.05.

(2) If Sup. R. 26.01 to 26.05 set forth a retention period greater than ten years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court's intention to destroy the record at least sixty days prior to the destruction of the record.

(3) After submitting a written notice in accordance with division (E)(2) of this rule, the court shall, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

(F) Exhibits, depositions, and transcripts. At the conclusion of litigation, including times for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:

(1) The court notifies the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification;

(2) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty days of the notification;

(3) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;

(4) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification required in division (F)(1) of this rule.

(G) Local rules. By local rule, a court may establish retention schedules for any records not listed in Sup. R. 26.01 to 26.05 and may extend, but not limit, the retention schedule for any record listed in Sup. R. 26.01 to 26.05. Any record that is not listed in Sup. R. 26.01 to 26.05 but is listed in a general retention schedule established pursuant to section 149.331 of the Revised Code may be retained for the period of time set by the general retention schedule and then destroyed.

(H) Extension of retention period for individual case files. A court may order the retention period for an individual case file extended beyond the period specified in Sup. R. 26.02 to 26.05 for the case file.

Commentary (July 1, 2001 Amendments)

The July 1, 2001 amendments to Sup. R. 26 removed the words “produce” and “production” from division (A) and the words “receive” and “receives” from division (D) for the purpose of restricting the scope of the rule to records management and retention. The word “advances” replaced the word “enhancements” in division (A)(2).

Commentary (October 1, 1997)

The Supreme Court’s Task Force on Records Management recommended the substantive provisions of this rule and Sup. R. 26.01 to 26.05 after studying the records management procedures of Ohio courts for approximately eighteen months. This rule and Sup. R. 26.01 to 26.05 require courts to keep certain records and mandate minimum records retention schedules for administrative and case records of the courts. The rules also authorize the courts to maintain records in forms other than paper provided that when an alternative process is employed, it conforms to the standards established by the American National Standards Institute (“ANSI”). Courts are not required to use the alternative processes permitted by this rule.

To obtain information concerning ANSI standards, courts may contact the Ohio Historical Society, State Archives Division, 1982 Velma Avenue, Columbus, Ohio 43211-2497, (614) 297-2581.

RULE 26.01. Retention Schedule for the Administrative Records of the Courts.

The following retention schedule shall apply for the administrative records of the courts:

(A) Administrative journal. Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

(B) Annual reports. Two copies of each annual report shall be retained permanently.

(C) Bank records. Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(D) Cash books. Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(E) Communication records. Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

(F) Correspondence and general office records. Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

(G) Drafts and informal notes. Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the drafts and informal notes.

(H) Employment applications for posted positions. Employment applications for posted or advertised positions shall be retained for two years.

(I) Employee benefit and leave records. Employee benefit and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(J) Employee history and discipline records. Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.

(K) Fiscal records. Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(L) Grant records. Records of grants made or received by a court shall be retained for three years after expiration of the grant.

(M) Payroll records. Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(N) Publications received. Publications received by a court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.

(O) Receipt records. Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(P) Requests for proposals, bids, and resulting contracts. Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

RULE 26.02. Courts of Appeals--Records Retention Schedule.

(A) Definition of docket. As used in this rule, "docket" means the record where the clerk of the court of appeals enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

(B) Required records.

(1) The court of appeals shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and divisions (A) and (C) of this rule.

(2) Upon the filing of any paper or electronic entry permitted by the court of appeals, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(C) Content of docket. The docket of the court of appeals shall be programmed to allow retrieval of orders and judgments of the court in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the court of appeals, and shall include:

(1) Names and addresses of all parties in full;

(2) Names, addresses, and Supreme Court attorney registration numbers of all counsel;

(3) The issuance of documents for service upon a party and the return of service or lack of return;

(4) A brief description of all records and orders filed in the proceeding, the date and time filed, and a cross reference to other records as appropriate;

(5) A schedule of court proceedings for the court of appeals and its officers to use for case management purposes;

(6) All actions taken by the court of appeals to enforce orders or judgments.

(D) Retention schedule for the index, docket, and journal. The index, docket, and journal of the court of appeals shall be retained permanently.

(E) Retention schedule for case files.

(1) Court of appeals case files shall be retained for two years after the final order of the court, except for files of death penalty cases, which shall be retained permanently in their original form.

(2) Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

RULE 26.03. General, Domestic Relations, and Juvenile Divisions of the Courts of Common Pleas--Records Retention Schedule.

(A) Definitions.

(1) As used in divisions (A) to (D) of this rule, "division" means the general, domestic relations, or juvenile division of the court of common pleas or any combination of the general, domestic relations, or juvenile divisions of the court of common pleas.

(2) As used in this rule, "docket" means the record where the clerk of the division enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

(B) Required records.

(1) Each division shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and divisions (A) and (C) of this rule.

(2) Upon the filing of any paper or electronic entry permitted by the division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(C) Content of docket. The docket of a division shall be programmed to allow retrieval of orders and judgments of the division in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the division, and shall include:

(1) Names and addresses of all parties in full;

(2) Names, addresses, and Supreme Court attorney registration numbers of all counsel;

(3) The issuance of documents for service upon a party and the return of service or lack of return;

(4) A brief description of all records and orders filed in the proceeding, the time and date filed, and a cross reference to other records as appropriate;

(5) A schedule of court proceedings for the division and its officers to use for case management;

(6) All actions taken by the division to enforce orders or judgments; and

(7) Any information necessary to document the activity of the clerk of the division regarding the case.

(D) Retention schedule for the index, docket, and journal. The index, docket, and journal of a division shall be retained permanently.

(E) Judge, magistrate, and clerk notes, drafts, and research. Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

(F) Retention schedule for case files--general division of the court of common pleas.

(1) Death penalty cases. Death penalty case files shall be retained permanently.

(2) Real estate. Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

(3) Search warrant records. Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

(4) Voluntary dismissals. Case files of matters that are voluntarily dismissed shall be retained for three years after the date of the dismissal.

(5) Other case files. Any case file not listed in division (F) of this rule shall be retained for twelve years after the final order of the general division. Documents within a case file admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty years after the final order of the general division.

(G) Retention schedule for case files--domestic relations division of the court of common pleas.

(1) Certified mail receipts in uncontested cases and post-decree motions. In new cases and cases involving post-decree motions where personal jurisdiction is established by certified mail receipt and the defendant/respondent fails to answer, enter an appearance, or otherwise defend, the certified mail receipt shall be retained for thirty years after the date of issuance and may be retained in a separate file from the case file.

(2) Divorce or dissolution: Minor children. Case files of divorce and dissolution that involve minor children shall be retained for twenty-five years after the date of the final order of the domestic relations division.

(3) Divorce or dissolution: No children. Case files of divorce and dissolution not involving minor children shall be retained for twelve years after the final order of the domestic relations division.

(4) Domestic violence petitions. Case files of petitions for domestic violence protection orders shall be retained for one year after the expiration of any resulting protection order. If the parties to a petition for a domestic violence protection order are also parties to a divorce, the case file of the petition shall be retained for one year after the expiration of any resulting protection order or until the parties are divorced, whichever is later. In case files of petitions for domestic violence protection orders in which no protection order is issued, the case file shall be retained for one year from the date the petition was filed. If post-decree motions have been filed, the case file shall be retained for one year after the adjudication of the post-decree motion or the date specified for case files of petitions for domestic violence protection orders in division (G)(4) of this rule, whichever is later.

(5) Legal separation. Case files of legal separation shall be retained until the parties are divorced or for two years after the spousal support terminates, whichever is later, unless otherwise ordered by the court. If post-decree motions have been filed, the case file shall be retained for two years after the adjudication of the post-decree motion or the date specified for case files in division (G)(5) of this rule, whichever is later.

(6) Real estate. Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

(7) Registration or adoption of foreign decree. Case files of registrations or adoptions of foreign decrees shall be retained for two years after the emancipation of all of the parties' minor children. If post-decree motions have been filed, records shall be retained for two years after the adjudication of the post-decree motion or the date specified for case files in division (G)(7) of this rule, whichever is later.

(8) Uniform Reciprocal Enforcement of Support Act ("URESA") filings. Case files involving URESA filings shall be retained for nineteen years after the final order of the domestic relations division or for one year after transfer of the case to another jurisdiction.

(H) Retention schedule for case files--juvenile division of the court of common pleas.

(1) Delinquency and adult records. Delinquency and adult records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Documents admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty years after the final order of the juvenile division.

(2) Juvenile by-pass records. Juvenile by-pass records shall be maintained in two separate and secure files. The first file shall contain the first page of the form complaint and other relevant documents and the second file shall contain the second page of the form complaint bearing the signature of the complainant. Each file shall be retained for two years after the final order of the juvenile division or, if an appeal is sought, for two years after the filing of the appeal.

(3) Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency, and URESA records. Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency, and URESA records shall be retained for two years after the child who is the subject of the case obtains the age of majority. If post-decree motions have been filed, records shall be retained for one year after the adjudication of the post-decree motion or the date specified for case files in division (H)(3) of this rule, whichever is later.

(4) Search warrant records. Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

(5) Traffic, unruly, and marriage consent records. Unruly and marriage consent records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Minor misdemeanor traffic records shall be retained for five years after the final order of the juvenile division. Misdemeanor traffic records shall be retained for twenty-five years after the final order of the juvenile division. All other traffic records shall be retained for fifty years after the final order of the juvenile division.

RULE 26.04. Probate Divisions of the Courts of Common Pleas--Records Retention Schedule.

(A) Definitions. As used in this rule:

(1) "Docket" means a reference record that provides the dates and a summary of all hearings, pleadings, filings, orders, and other matters that are essential to an action, proceeding, or other matter in the probate division.

(2) "Probate record" means a record that pertains to the duties of the probate division including, but not limited to, adoptions, marriage licenses, name changes, birth records, orders of civil commitment, the resolution of civil actions, and the appointment and supervision of fiduciaries.

(3) "Record of documents" means a collection of single or several page documents in which each document represents the probate division's action in a single incident of the same duty of the probate division, such as the issuance of marriage licenses.

(B) Closed probate record or case file. For purposes of this rule, a probate record or case file of an estate, trust, or other fiduciary relationship shall be considered closed when a final accounting has been filed and, if required by law at the time of the filing, the account has been approved and settled. All other probate records and case files shall be considered closed when the probate division orders the matter closed or there is a final disposition of the action or proceeding for which the probate record or case file is kept.

(C) Required records.

(1) Dockets.

(a) The probate division shall maintain all of the following dockets:

(i) An administration docket showing the name of the deceased;

(ii) A guardian's docket showing the name of each ward and, if the ward is a minor, the ward's age and name of the ward's parents and any limited powers or limited duration of powers;

(iii) A civil docket in which the names of the parties to actions and proceedings shall be noted;

(iv) A testamentary trust docket showing the names of the testator and trustee or trustees;

(v) A change of name docket showing the name of the petitioner and the present and proposed names of the person whose name is to be changed;

(vi) A birth registration and correction docket showing the name of the person whose birth certificate is being registered or corrected;

(vii) A civil commitment docket showing the name of the prospective patient;

(viii) A separate adoption docket, in accordance with section 3107.17 of the Revised Code, showing the name of the child as it would exist after finalization of the adoption and the name or names of the adoptive parent or parents;

(ix) A paternity docket showing the birth name of the child who is the subject of the petition, the names of the parents, and the name of the child after adjudication;

(x) A miscellaneous docket showing the names of parties or petitioners and the nature of the action or proceeding. The miscellaneous docket shall be limited to actions within the probate division's jurisdiction that are not kept in one of the other dockets described in division (C)(1) of this rule. If the number of filings warrants, a miscellaneous docket may be subdivided or grouped into sections containing files or records of similar content.

(b) All dockets of the probate division shall contain the dates of filing or occurrence and a brief description of any bond and surety, letter of authority, and each filing, order, or record of proceeding related to the case or action, with a reference to the file or record where the bond and surety, letter of authority, filing, order, or record of proceeding is to be found, and such other information as the court considers necessary.

(2) Records of documents.

(a) The probate division shall maintain both of the following records of documents:

(i) A record of wills, if wills are not copied and permanently retained as part of an estate case file under division (D)(2) of this rule, in which the wills proved in the court shall be recorded with a certificate of the probate of the will, and wills proved elsewhere with the certificate of probate, authenticated copies of which have been admitted to record by the court;

(ii) A marriage record, in which shall be entered licenses, the names of the parties to whom the license is issued, the names of the persons applying for a license, a brief statement of the facts sworn to by the persons applying for a license, and the returns of the person solemnizing the marriage.

(b) Records of documents of the probate division shall contain documents, applications or affidavits, either original or copies, and information pertaining to those documents, as found in division (C)(2)(a) of this rule or as considered necessary by the court.

(3) Journal. The probate division shall maintain a journal for orders, entries, or judgments pertaining to the business and administration of the division, and other miscellaneous orders, entries, or judgments which the court may consider necessary to journalize, including all of the following:

(a) Orders of appointment and oaths of office pursuant to section 2101.11 of the Revised Code of court personnel and other nonfiduciary appointees;

(b) Orders of reference to magistrates;

(c) Changes of the local rules of the probate division;

(d) Orders changing the hours for the opening and closing of the probate court.

(4) Indexes. The probate division shall maintain an index for each docket, record of documents, and journal described in division (C) of this rule. Each index shall be kept current with names or captions of proceedings in alphabetical order and references to a docket, record or documents, journal, or case file where information pertaining to those names or proceedings may be found.

(5) Upon the filing of any paper or electronic entry permitted by the probate division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(D) Destruction and preservation of probate records.

(1) The vouchers, proof, or other evidence filed with the probate division in support of the expenditures or distribution slated in an account, after review and reconciliation with the accounting and notation of reconciliation in the record or file, may be returned to the fiduciary or retained in accordance with divisions (D)(2) and (E) of this rule.

(2) All records, vouchers, inventories, accounts, pleadings, applications, petitions, records of adoptions, marriages, and mental health commitments, wills, trusts, journals, indexes, dockets, records or documents related to estate or inheritance taxes, and other papers and filings of the probate division, may be preserved using any nationally accepted records and information management process in accordance with Sup. R. 26(D).

(3) In the probate division's discretion, any nonessential note, notice, letter, form, or other paper, document, or memorandum in a case file that is not essential to providing a record of the case and the judgment of the probate division may be destroyed prior to, or after, the case is closed. For purposes of division (D)(3) of this rule, evidence of service of notice of the initial complaint, petition, or application that establishes the probate division’s jurisdiction is essential to providing a record of a probate case.

(4) Judge, magistrate, investigator, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

(E) Case file and probate record retention schedule.

(1) Adoption records. Adoption records shall be retained permanently.

(2) Birth and death registrations. Birth and death registrations dated prior to 1908 shall be retained permanently.

(3) Civil commitment records. Civil commitment records shall be retained for three years after the case is closed.

(4) Dockets, records of documents, journals and indexes. Dockets, records of documents, journals, and indexes shall be retained permanently.

(5) Evidence filed in support of expenditures or distributions. Vouchers, proof, or other evidence filed in support of expenditures or distributions stated in an account shall be retained for three years after the date of filing.

(6) Marriage license records. Marriage license records shall be retained permanently.

(7) Trust accountings. Trust accountings shall be retained for twelve years after the date the accounting was approved.

(8) All other records. All other records shall be retained for twelve years after the date the case, cause, proceeding, or matter is closed or completed.

(F) Temporary estate tax orders. Divisions (D) and (E) of this rule do not apply to records of estates in which temporary estate tax orders are pending.

RULE 26.05. Municipal and County Courts--Records Retention Schedule.

(A) Definition of docket. As used in this rule, "docket" means the record where the clerk of the municipal or county court enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

(B) Required records. (1) Municipal and county courts shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and divisions (A) and (C) of this rule.

(2) Upon the filing of any paper or electronic entry permitted by the municipal or county court, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(C) Content of docket. (1) The docket shall be programmed to allow retrieval of orders or judgments of the municipal or county court in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the municipal or county court and shall include all of the following:

(a) Names and addresses of all parties in full;

(b) Names, addresses, and Supreme Court attorney registration numbers of all counsel;

(c) The issuance of documents for service upon a party and the return of service or lack of return;

(d) A brief description of all records and orders filed in the proceeding, the date filed, and a cross reference to other records as appropriate;

(e) A schedule of court proceedings for the municipal or county court and its officers to use for case management;

(f) All actions taken by the municipal or county court to enforce orders or judgments.

(2) “Financial record” means a record that is related to the imposition of fines, costs, and other fees in cases and controversies heard in the municipal and county courts.

(D) Retention schedule for financial records.

(1) Auditor reports. Auditor of State reports shall be retained permanently.

(2) Monetary records. Monetary records shall be retained for three years after the issuance of an audit report by the Auditor of State.

(3) Rental escrow account records. Rental escrow account records shall be retained for five years after the last date of deposit with the municipal or county court.

(4) Yearly reports. Yearly reports shall be retained permanently.

(E) Retention schedule for the index, docket, and journal. The index, docket, and journal shall be retained for twenty-five years.

(F) Judge, magistrate, and clerk notes, drafts, and research. Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

(G) Retention schedule for case files.

(1) Civil case files. Civil case files shall be retained for two years after the issuance of an audit report by the Auditor of State.

(2) DUI case files. Driving under the influence of alcohol or drug ("DUI") case files shall be retained for fifty years after the date of the final order of the municipal or county court.

(3) First through fourth degree misdemeanor traffic and criminal case files. Except for DUI case files, first through fourth degree misdemeanor traffic files shall be retained for twenty-five years and criminal case files shall be retained for fifty years after the date of the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

(4) Minor misdemeanor traffic and minor misdemeanor criminal case files. Minor misdemeanor traffic and minor misdemeanor criminal case files shall be retained for five years after the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

(5) Parking ticket records. Parking ticket records shall be retained until the ticket is paid and the Auditor of State issues an audit report.

(6) Real estate. Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

(7) Search warrant records. Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

Rule 27. Approval of Local Rules of Court Relative to Information Technology.

Approval of local rules. Before adopting any local rule of practice that relates to the use of information technology, a court shall submit a copy of the proposed local rule to the Supreme Court Commission on Technology and the Courts for review in accordance with the process established by the Commission. A local rule of practice that relates to the use of information technology shall be considered inconsistent with this rule and of no force and effect unless the Commission determines that the local rule complies with the minimum, uniform standards adopted by the Commission.

Commentary (2007 amendments)

Rule 27 is amended to reflect the creation of the Commission on Technology and the Courts by the Supreme Court of Ohio. The Commission replaces the Advisory Committee on Technology and the Courts and assumes the duties formerly held by the Advisory Committee. The rule continues to require local courts to submit local rules related to information technology to the Commission for its review.

RULES 28-33 are reserved for future use

RULE 34. Electronic Case Management System Connectivity to the Ohio Courts Network.

(A) Definitions

As used in this rule:

(1) Computer case management system

"Computer case management system" means the system of one or more software applications that dockets and indexes all cases filed with a court and includes features such as the management of case information, workflow implementation, data organization, and the generation of notices and reports.

(2) Ohio courts network

"Ohio courts network" means the electronic statewide information exchange system operated by the Supreme Court that facilitates the exchange of data and information by and between the courts of the state and other justice system partners through a centralized warehouse.

(B) Connectivity of current computer case management systems

Effective July 1, 2016, a computer case management system utilized by a court or division of a court that is capable of sending case data to the Ohio courts network in the data formats required shall be connected with that network.

(C) Connectivity of new or upgraded case management systems

Effective July 1, 2016, any new computer case management system purchased, built, or otherwise procured by a court or division of a court and any existing computer case management system upgraded by a court or division of a court shall be capable of sending case data to the Ohio courts network in the data formats required and shall be connected with that network.

RULE 35. Case Management Section.

There shall be a Case Management Section of the Supreme Court. The Case Management Section shall have the authority and responsibility to do all of the following:

(A) Receive, analyze, maintain, audit, and publish, at the direction of the Chief Justice of the Supreme Court, statistical data from the courts of Ohio, including an annual compilation of the reports required by Sup. R. 37;

(B) Assist and train judges, court administrators, clerks, and other court personnel in performing the reporting functions required by these rules;

(C) Monitor statistical reporting by conducting audits of the various courts in accordance with statistical auditing standards and procedures;

(D) Review audit results with judges and court personnel;

(E) Prepare and provide an implementation manual that contains commentary and explanatory material pertaining to these rules and the report forms required by these rules;

(F) Make ongoing recommendations regarding both of the following:

(1) Amendments to the Rules of Superintendence in order that the rules remain current with changes in the law;

(2) Auditing standards and procedures so that the Case Management Section can effectively accomplish its stated objectives.

Commentary (July 1, 1997)

The purpose of creating the Case Management Section is to provide the administrative staff, structure, and procedure to implement the goals set forth in the Preface to these rules. In addition, the Case Management Section assists the administrative judges in resolving docket problems within their courts that the administrative judge has been unable to resolve at the local level.

The intent of conducting audits is to ensure uniform, accurate, and timely reporting of statistical information by all courts. One of the primary responsibilities of the Case Management Section is to provide continuing education and in-depth training for judges and court personnel in the proper preparation of statistical reports.

RULE 36. Designation of Trial Attorney; Assignment System.

(A) Designation of trial attorney. In civil cases the attorney who is to try the case shall be designated as trial attorney on all pleadings. In criminal cases, except felonies, the attorney who is to try the case, upon being retained or appointed, shall notify the court that he or she is the trial attorney by filing a written statement with the clerk of the court.

(B)(1) Individual assignment system. As used in these rules, "individual assignment system" means the system in which, upon the filing in or transfer to the court or a division of the court, a case immediately is assigned by lot to a judge of the division, who becomes primarily responsible for the determination of every issue and proceeding in the case until its termination. All preliminary matters, including requests for continuances, shall be submitted for disposition to the judge to whom the case has been assigned or, if the assigned judge is unavailable, to the administrative judge. The individual assignment system ensures all of the following:

(a) Judicial accountability for the processing of individual cases;

(b) Timely processing of cases through prompt judicial control over cases and the pace of litigation;

(c) Random assignment of cases to judges of the division through an objective and impartial system that ensures the equitable distribution of cases between or among the judges of the division.

(2) Each multi-judge general, domestic relations, and juvenile division of the court of common pleas shall adopt the individual assignment system for the assignment of all cases to judges of the division. Each multi-judge municipal or county court shall adopt the individual assignment system for the assignment of all cases to the judges of that court, except as otherwise provided in division (C) of this rule. Modifications to the individual assignment system may be adopted to provide for the redistribution of cases involving the same criminal defendant, parties, family members, or subject-matter. Any modifications shall satisfy divisions (B)(1)(a) to (c) of this rule and be adopted by local rule of court.

(C) Assignment system. In each multi-judge municipal or county court, cases may be assigned to an individual judge or to a particular session of court pursuant to the following system:

(1) Particular session. A particular session of court is one in which cases are assigned by subject category rather than by the individual assignment system. The following subject categories shall be disposed of by particular session:

(a) Civil cases in which a motion for default judgment is made;

(b) Criminal cases in which a plea of guilty or no contest is entered;

(c) Initial appearance in criminal cases;

(d) Preliminary hearings in criminal cases;

(e) Criminal cases in which an immediate trial is conducted upon initial appearance;

(f) Small claims cases;

(g) Forcible entry and detainer cases in which the right to trial by jury is waived or not demanded.

(h) Cases where a party has made application to, or has been accepted into, a specialized court or docket.

To guarantee a fair and equal distribution of cases, a judge who is assigned a case by subject matter pursuant to Sup. R. 36(B)(2), or by virtue of a specialized court or docket pursuant to Sup. R. 36(C)(1)(h), may request the administrative judge to reassign a similar case by lot to another judge in that multi-judge common pleas, municipal, or county court.

(2) Assignment. Cases not subject to assignment in a particular session shall be assigned using the individual assignment system. Civil cases shall be assigned under division (C)(2) of this rule when an answer is filed or when a motion, other than one for default judgment, is filed. Criminal cases shall be assigned under division (C)(2) of this rule when a plea of not guilty is entered.

(3) Duration of assignment to particular session. The administrative judge shall equally apportion particular session assignments among all judges. A judge shall not be assigned to a particular session of court for more than two consecutive weeks.

(D) Assignment of refiled cases. In any instance where a previously filed and dismissed case is refiled, that case shall be reassigned to the judge originally assigned by lot to hear it unless, for good cause shown, that judge is precluded from hearing the case.

(E) Assignment--new judicial positions. After the date of election, but prior to the first day of the term of a new judicial position, the administrative judge of a court or division through a random selection of pending cases shall equitably reassign cases pending in the court or division between or among the judges of the court or division and shall create a docket similar to a representative docket. Reassignment shall be completed in a manner consistent with this rule and may exclude criminal cases and cases scheduled for trial. Any matters arising in cases assigned to the docket for the new judicial position prior to the date on which the judge elected to that position takes office shall be resolved by the administrative judge or assigned to another judge.

Commentary (November 1, 2006)

Rule 36 (C)(1)(h)

This amendment specifies that if a judge is assigned cases as a result of a specialized docket, that judge may request that the administrative judge of the court assign similar cases to another judge in order to ensure the fair and equitable distribution of cases within a court.

Commentary (July 1, 1997)

This rule merges the provisions of former C.P. Sup. R. 4 and M.C. Sup. R. 3 into a single rule governing the assignment of cases pursuant to the individual assignment system.

Rule 36(A) Designation of trial attorney

Rule 36(A) requires attorneys who are to serve as trial counsel in either civil or criminal cases to notify the court of that fact. Notification in civil cases is accomplished by designation of the trial attorney on all pleadings. In criminal cases, immediately upon being retained or appointed, the trial attorney is required to file a written notification of the attorney's retention or appointment with the clerk of court.

Rule 36(B)(1) Individual assignment

The individual assignment system is defined by the rule as a system whereby, upon the filing or transfer of a civil case, or upon arraignment in a criminal case, the case is immediately assigned to a judge of the court. The rule sets forth three purposes of the individual assignment system. All multi-judge divisions of the court of common pleas and all multi-judge municipal and county courts, except as provided in division (C)(2) of the rule, are required to adopt the individual assignment system. Courts or divisions are permitted to deviate from the individual assignment system only if the modifications satisfy the three stated purposes of the system and are adopted by local rule of court pursuant to Rule 5. Permissible modifications include the assignment and consideration of cases involving the same criminal defendant, parties, family members, or subject-matter.

The distinguishing feature of the individual assignment system is that it places responsibility upon one judge for the disposition of cases. Once a case is assigned to a judge under this system, all matters pertaining to the case are to be submitted to that judge for determination. An exception is made where that judge is unavailable. In that instance, the administrative judge may act in the assigned judge's absence.

Under Rule 36(B), the administrative judge is responsible for the assignment of cases to the individual judges of the court. Assignment may be made by the administrative judge personally or by court personnel at the administrative judge's direction. All assignments of cases to individual judges must be made by lot.

The purpose of the random assignment, by lot, of cases is to avoid judge-shopping on the part of counsel and to distribute the cases equitably among the judges. "Lot" mandates an assignment arbitrated by chance; the determination must be fortuitous, wholly uncontrolled.

Assignment to the judges of the division in an established order of rotation does not comply with the rule, even if the order of rotation is altered periodically.

An acceptable method of assignment is a form of drawing from a pool of the names of the judges, using paper, balls, or other objects as lots or counter. The pea pool system or the bingo cage are examples. To be an assignment by lot, the entire base of the number of judges in the division must be utilized in each assignment.

A computer may be used for lot selection as long as random assignment is maintained.

Assignment by lot can be systematized. Judges can be identified by number. Those numbers can then be arranged in random order by chance over any given range of numbers. The greater the range, the greater the validity of the arrangement. The range of numbers might well represent the total of three years or so of filings. Slips of paper are then printed with serial control numbers on the front and a line for writing in a case number upon assignment. The judges' numbers are printed in the order of their lot determination on the back of the serially arranged slips. The slips are then padded so that the judges' numbers may not be seen. The evidence of the selection or printing list shall not be revealed. When a case is to be assigned, a slip is removed, the case number written on it, the code number of an individual judge is revealed, and a control sheet maintained.

The practice of making no assignment until “X” number of cases have accumulated when there are “X” number of judges, merely provides for assignment by lot within a very small control and the operation of chance is minimized. That method is only a modified form of rotation and is not assignment by lot.

Once a case is assigned to an individual judge, by lot, it may be reassigned or transferred to another judge by order of the administrative judge. See the Instructions for Preparation concerning the proper use and reporting of transfers.

Although many ancillary matters, and in fact the entire case, frequently may be handled by a magistrate, the assignment system mandates responsibility for every case be affixed to a judge. The assigned judge’s report form will reflect action taken by the magistrate.

See Rule 43(E) and its commentary concerning how the numbering system is geared to the record keeping requirements of the individual assignment system.

Rule 36(C) Assignment system

In multi-judge municipal and county courts, Rule 36(C) establishes a dual system for the assignment of cases. Under this system, certain types of cases are processed in a court session, designated particular session, presided over by a judge or magistrate for a specified period of time. Other types of cases are assigned to an individual judge pursuant to the individual assignment system.

Rule 36(C)(1) and (2) Particular session; assignment

The types of cases designated in division (C)(1) for disposition in particular sessions of court are high volume cases that may be processed by a judge or magistrate at a single session. The rule does not preclude the processing of types of cases, other than those listed, that are susceptible to disposition in particular sessions.

Cases that may not be processed by particular session are civil cases where an answer is filed or a motion, other than one for default judgment, is filed and criminal cases in which a plea of not guilty is entered. These cases are to be assigned pursuant to the individual assignment system at the time the answer, motion, or plea is filed or made.

Rule 36(C)(3) Duration of assignment to particular session

Assignments to particular session are to be equally divided among the judges of the court and are to be limited to two-week periods. The two week limitation accommodates the individual assignment system, and allows each judge adequate time to work on the cases individually assigned to the judge. Judges should not be assigned to a particular session or a series of particular sessions for more than two consecutive weeks.

Rule 36(D) Assignment of refiled cases

To promote judicial economy and discourage judge-shopping, this division mandates that all dismissed and subsequently refiled cases be reassigned to the originally assigned judge. An exception exists for circumstances in which the original judge is barred from hearing the refiled case.

Rule 36(E) Assignment--new judicial positions

This provision governs the reassignment of pending cases where a new judicial position is added to the court or division. Reassignment of cases must be random, equitable, and accomplished in a manner consistent with the principles set forth in division (B)(1) of the rule. In effect, a random selection system must be used, rather than culling cases from pending dockets. Certain dockets or portions of dockets may be created through the individual assignment system. This method may be particularly useful in assigning criminal cases. The process set forth in division (E) should facilitate the creation of a balanced docket with a minimum disruption of the pending caseload of the court or division.

RULE 36.01 is reserved for future use

RULE 36.02. Creation of Commission on Specialized Dockets.

There is hereby created by the Supreme Court the Commission on Specialized Dockets.

RULE 36.03. Duties and Authority.

(A) Duties

The Commission on Specialized Dockets shall advise the Supreme Court and its staff on all of the following:

(1) The promotion of statewide rules and uniform standards concerning specialized dockets in Ohio courts;

(2) The development and delivery of specialized docket services to Ohio courts, including training programs for judges and court personnel;

(3) The consideration of any other issues the commission deems necessary to assist the Supreme Court and its staff regarding specialized dockets in Ohio courts.

(B) Authority

The commission shall have no independent policy-setting authority.

RULE 36.04. Membership.

(A) Appointments

The Commission on Specialized Dockets shall consist of the following twenty-two members appointed by the Chief Justice and Justices of the Supreme Court:

(1) One member who shall be a judge of a court of common pleas assigned to a juvenile drug docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(2) One member who shall be a judge of a court of common pleas assigned to a juvenile family dependency treatment docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(3) One member who shall be a judge of a court of common pleas assigned to a juvenile mental health docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(4) One member who shall be a judge of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges;

(5) One member who shall be a judge of a court of common pleas assigned to a drug docket of the court nominated by the President of the Ohio Common Pleas Judges Association;

(6) One member who shall be a judge of a court of common pleas assigned to a mental health docket of the court nominated by the President of the Ohio Common Pleas Judges Association;

(7) Two members, each of whom shall be a judge of a court of common pleas assigned to a specialized docket of the court, nominated by the President of the Ohio Common Pleas Judges Association;

(8) One member who shall be a judge of a municipal court assigned to a drug docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio;

(9) One member who shall be a judge of a municipal court assigned to a mental health docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio;

(10) Three members, each of whom shall be a judge of a municipal court assigned to a specialized docket of the court, nominated by the President of the Association of Municipal and County Judges of Ohio;

(11) One member who shall be a magistrate of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Association of Magistrates;

(12) One member who shall be a magistrate of a court of common pleas assigned to a family dependency treatment docket of the court nominated by the President of the Ohio Association of Magistrates;

(13) One member who shall be a prosecutor nominated by the Executive Director of the Ohio Prosecuting Attorneys Association or the President of the Ohio Municipal Prosecuting Attorneys Association;

(14) One member who shall be a public defender nominated by the Director of the Ohio Public Defender Office;

(15) One member who shall be an adult probation officer nominated by the President of the Ohio Chief Probation Officers Association;

(16) One member who shall be a juvenile probation officer nominated by the President of the Ohio Chief Probation Officers Association;

(17) One program coordinator;

(18) Two at-large members.

(B) Nominations

The Administrative Director of the Supreme Court shall solicit a minimum of two nominees from each individual responsible for nominating a member of the commission pursuant to division (A) of this rule.

(C) Qualifications

Each commission member shall be a member of a treatment team established pursuant to Standard 1(B) of Appendix I to this rule.

(D) Composition

Commission membership should be broad based and multidisciplinary to represent a cross section of interests related to specialized dockets and reflect the gender, racial, ethnic, and geographic diversity of the state.

RULE 36.05. Terms and Vacancies.

(A) Initial terms

Initial terms for members of the Commission on Specialized Dockets shall be as follows:

(1) The member who is a judge of a court of common pleas assigned to a juvenile drug docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; the member who is a judge of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; one of the members who is a judge of a court of common pleas assigned to a specialized docket of the court nominated by the President of the Ohio Common Pleas Judges Association; the member who is a judge of a municipal court assigned to a mental health docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; one of the members who is a judge of a municipal court assigned to a specialized docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; the member who is a prosecutor nominated by the Executive Director of the Ohio Prosecuting Attorneys Association or the President of the Ohio Municipal Prosecuting Attorneys Association; the member who is a juvenile probation officer nominated by the President of the Ohio Chief Probation Officers Association; and one of the at-large members shall be appointed to a term that ends on December 31, 2013;

(2) The member who is a judge of a court of common pleas assigned to a juvenile family dependency treatment docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; the member who is a judge of a court of common pleas assigned to a drug docket of the court nominated by the President of the Ohio Common Pleas Judges Association; one of the members who is a judge of a court of common pleas assigned to a specialized docket of the court nominated by the President of the Ohio Common Pleas Judges Association; one of the members who is a judge of a municipal court assigned to a specialized docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; the member who is a magistrate of a court of common pleas assigned to a juvenile specialized docket of the court nominated by the President of the Ohio Association of Magistrates; the member who is a public defender nominated by the Director of the Ohio Public Defender Commission; and the program coordinator shall be appointed to a term that ends on December 31, 2014;

(3) The member who is a judge of a court of common pleas assigned to a juvenile mental health docket of the court nominated by the President of the Ohio Association of Juvenile Court Judges; the member who is a judge of a court of common pleas assigned to a mental health docket of the court nominated by the President of the Ohio Common Pleas Judges Association; the member who is a judge of a municipal court assigned to a drug docket of the court nominated by the President of the Association of Municipal and County Judges of Ohio; one of the members who is a judge of a municipal court assigned to a specialized docket of

the court nominated by the President of the Association of Municipal and County Judges of Ohio; the member who is a magistrate of a court of common pleas assigned to a family dependency treatment docket of the court nominated by the President of the Ohio Association of Magistrates; the member who is an adult probation officer nominated by the President of the Ohio Chief Probation Officers Association; and one of the at-large members shall be appointed to a term that ends on December 31, 2015.

(B) Subsequent terms and reappointment

Except as provided in division (A) of this rule, the term of a commission member shall be for three years. A commission member shall be eligible for reappointment, but shall not serve more than three consecutive full terms. A commission member shall be eligible for reappointment after serving three consecutive full terms, but only upon at least a one-year break in service. Abbreviated initial terms and appointments to fill a vacancy shall not constitute a full term.

(C) Judge, magistrate, and attorney vacancies

(1) If a commission member who is a judge involuntarily leaves office by reason other than Article IV, Section 6(C) of the Ohio Constitution, the member shall be disqualified and a vacancy shall occur.

(2) If a commission member who is a magistrate ceases to serve as a magistrate with an Ohio court, the member shall be disqualified and a vacancy shall occur.

(3) If a commission member who is an attorney no longer practices in Ohio, the member shall be disqualified and a vacancy shall occur.

(D) Filling of vacancies

Vacancies on the commission shall be filled in the same manner as original appointments. A commission member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold the position for the remainder of that term.

RULE 36.06. Chairperson and Vice-Chairperson.

The members of the Commission on Specialized Dockets shall elect one member as chairperson and one member as vice-chairperson. The chairperson and vice-chairperson shall serve for two years and may be reelected to a second two-year term. The chairperson and vice-chairperson shall not serve in that position for more than two consecutive full terms, provided elections to fill a vacancy in the position of chairperson or vice-chairperson shall not constitute a full term.

RULE 36.07. Staff Support.

The Administrative Director of the Supreme Court shall assign to the Commission on Specialized Dockets one or more Supreme Court employees as may be necessary for the commission's work. The Supreme Court employee shall assist the commission as necessary, but shall at all times be considered an employee of the Supreme Court.

RULE 36.08. Meetings.

(A) Manner

The Commission on Specialized Dockets may meet in person or by telephonic or other electronic means available to the Supreme Court.

(B) Frequency

The commission shall meet as often as required to complete its work, provided the commission shall meet in person a minimum of two times per year. The commission may meet at the call of the chairperson or at the request of a majority of the commission members.

(C) Scheduling

All commission meetings shall be scheduled for a time and place so as to minimize costs to the Supreme Court and to be accessible to commission members, Supreme Court staff, and the public.

(D) Public attendance and notice

All commission meetings shall be open to the public. Public notice of all commission meetings shall be provided on the Supreme Court's website.

(E) Member attendance

(1) For a fully effective commission, a commission member shall make a good faith effort to attend, in person, each commission meeting. Should a commission member miss three consecutive meetings, the commission or the Supreme Court employee who staffs the commission may recommend to the Chief Justice and Justices of the Supreme Court that the member relinquish the member's position on the commission.

(2) A commission member who is unable to attend a meeting due to an unavoidable conflict may request the chairperson allow the member to participate by **telephonic** or other electronic means available to the Supreme Court. A commission member participating in this manner shall be considered present for meeting attendance, quorum, and voting purposes.

(3) A commission member may not designate a replacement for participation in meetings.

(F) Minutes

Minutes shall be kept at every commission meeting and distributed to the commission members for review prior to and approval at the next meeting.

(G) Quorum

There shall be a quorum of the commission present when a majority of commission members is present for the meeting, including those members participating by telephonic or other electronic means.

(H) Actions

At any commission meeting at which a quorum is present, the commission members may take action by affirmative vote of a majority of the members in attendance.

RULE 36.09. Subcommittees.

(A) Creation

The Commission on Specialized Dockets may form such subcommittees it believes necessary to complete the work of the commission. A subcommittee should consist of select commission members and such other persons who the chairperson believes will assist in a full exploration of the issue under the review of the subcommittee.

(B) Size

A subcommittee should remain relatively small in size, not exceeding eight to twelve members, and have a ratio of commission members to non-commission members not exceeding one to three.

(C) Application of rules

Sup.R. 36.07, 36.08(A) through (D), (G), and (H), 36.10, and 36.12 through 36.15 shall also apply to the work of a subcommittee.

RULE 36.10. Code of Ethics.

Members of the Commission on Specialized Dockets shall comply with the requirements of the Supreme Court's *Code of Ethics for Court Appointees*. The Supreme Court employee who staffs the commission shall provide each commission member with a copy of the code following the member's appointment to the commission and thereafter at the first meeting each year of the commission.

RULE 36.11. Annual Report.

By January 31st of each year, the chairperson of the Commission on Specialized Dockets shall issue a report to the Chief Justice and Justices of the Supreme Court detailing the activities and accomplishments of the commission during the previous calendar year. The chairperson shall submit the report to the Administrative Director of the Supreme Court for publication on the Supreme Court's website and distribution to the Chief Justice and Justices.

RULE 36.12. Work Product.

The work product of the Commission on Specialized Dockets shall be the property of the Supreme Court.

RULE 36.13. Budget.

The budget of the Commission on Specialized Dockets shall be set by the Supreme Court through its internal budget process and as implemented by the Supreme Court Specialized Dockets Section. The commission shall have no authority to set its own budget.

RULE 36.14. Compensation.

A member of the Commission on Specialized Dockets shall serve without compensation.

RULE 36.15. Reimbursement of Expenses.

A member of the Commission on Specialized Dockets shall be reimbursed for expenses incurred in service to the commission as permitted by the Supreme Court's *Guidelines for Travel by Court Appointees*.

RULES 36.16 through 36.19 are reserved for future use

RULE 36.20. Specialized Docket Certification.

(A) Procedure for certification

A court of common pleas, municipal court, or county court or division of the court operating or establishing a particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals may receive certification of the session from the Supreme Court by doing both of the following:

(1) Complying with and adopting a local rule or issuing an administrative order implementing the "Specialized Docket Standards," as set forth in Appendix I to this rule;

(2) Successfully completing the certification application process pursuant to Sup.R. 36.21 through 36.26.

(B) Application

Division (A) of this rule shall not apply to a commercial docket of a court of common pleas or a housing or environmental division of a municipal court.

RULE 36.21. Submission of Certification Application.

(A) General

A court of common pleas, municipal court, or county court or division of the court seeking certification from the Supreme Court of a particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals pursuant to Sup.R. 36.20(A) shall submit an application to the Specialized Dockets Section of the Supreme Court. The application shall be in the form and manner as prescribed by the section and include all of the following:

(1) A copy of the local rule adopted or administrative order issued by the court or division pursuant to Sup.R. 36.20(A)(1);

(2) A copy of the program description created by the court or division pursuant to Standard 1(C) of Appendix I to this rule;

(3) A copy of the written participation agreement and participant handbook created by the court or division pursuant to Standard 1(D) of Appendix I to this rule.

(B) Notification of receipt

Upon receipt of an application submitted by a court or division pursuant to division (A) of this rule, the section shall provide the court or division notice by regular or electronic mail of the receipt.

RULE 36.22. Initial Review of Certification Application.

(A) Review by Section

Upon receipt of an application for certification submitted by a court of common pleas, municipal court, or county court or division of the court pursuant to Sup.R. 36.21(A), staff of the Specialized Dockets Section of the Supreme Court shall review the application to determine whether the application is complete.

(B) Deficiency in application

If pursuant to division (A) of this rule it is determined that an application for certification is incomplete, staff of the section shall provide the court or division notice by regular or electronic mail identifying the deficiency. If the court or division fails to correct the deficiency within thirty days after the notice is issued, the manager of the section, pursuant to Sup.R. 36.26(A), may recommend the application be denied.

RULE 36.23. Substantive Review of Certification Application.

(A) Review by Section

Upon the determination of staff of the Specialized Dockets Section of the Supreme Court pursuant to Sup.R. 36.22(A) that an application for certification submitted by a court of common pleas, municipal court, or county court or division of the court pursuant to Sup.R. 36.21(A) is complete, staff of the section shall substantively review the application by assessing the application and the accompanying documents for completeness and compliance with the "Specialized Docket Standards" of Appendix I to this rule.

(B) Deficiency in application

If pursuant to division (A) of this rule it is determined that an application for certification is substantively deficient, staff of the section shall provide the court or division notice by regular or electronic mail identifying the deficiency. If the court or division fails to correct the deficiency within forty-five days after the notice is issued, the manager of the section, pursuant to Sup.R. 36.26(A), may recommend the application be denied.

RULE 36.24. Initial Certification.

Upon the determination of staff of the Specialized Dockets Section of the Supreme Court pursuant to Sup.R. 36.23(A) that an application for certification submitted by a court of common pleas, municipal court, or county court or division of the court pursuant to Sup.R. 36.21(A) is substantively complete, the court or division shall receive initial certification of the session. The initial certification shall be effective until a determination is made on final certification pursuant to Sup.R. 36.26.

RULE 36.25. Site Review.

(A) Performance of site review

Staff of the Specialized Dockets Section of the Supreme Court shall conduct a site review of the treatment team meeting and status review hearing for a court of common pleas, municipal court, or county court or division of the court that has received initial certification pursuant to Sup.R. 36.24. The section shall provide the court or division notice by regular or electronic mail specifying the date and time for the visit and identifying which staff of the court or division shall be available for interview during the visit. If the identified staff are not available for interview during the visit, the manager of the section, pursuant to Sup.R. 36.26(A), may recommend the application be denied.

(B) Unsatisfactory site review

If upon conducting the site review pursuant to division (A) of this rule a deficiency is identified, staff of the section shall provide the court or division notice by regular or electronic mail identifying the deficiency. If the court or division fails to correct the deficiency within forty-five days after the notice is issued, the manager of section, pursuant to Sup.R. 36.26(A), may recommend the application be denied.

RULE 36.26. Determination on Final Certification.

(A) Recommendation on Certification

Upon the completion of the review of an application for certification and a site visit pursuant to Sup.R. 36.22 through 36.25, the manager of the Specialized Dockets Section of the Supreme Court shall issue a recommendation on final certification of the session of the court of common pleas, municipal court, or county court or division of the court. The manager shall provide the court or division notice by regular or electronic mail of the recommendation.

(B) Review by Commission

The Commission on Specialized Dockets shall review and make a determination on a recommendation on final certification issued by the manager of the section pursuant to division (A) of this rule. Staff of the section shall provide to the court or division notice by regular or electronic mail specifying the date and time the commission will meet to review the recommendation. The notice shall also inform the court or division that at the meeting a representative of the court or division may be present and offer evidence and arguments in support of the application for certification. The decision of the commission on certification shall be final and not appealable.

RULE 36.27. Specialized Docket Title.

Beginning January 1, 2014, a particular session of court that offers a therapeutically oriented judicial approach to providing court supervision and appropriate treatment to individuals may be styled a "specialized docket" only upon receipt of initial certification pursuant to Sup.R. 36.24 or final certification pursuant to Sup.R. 36.26.

RULE 36.28. Maintenance of Certification.

To maintain certification of a specialized docket issued by the Supreme Court pursuant to Sup.R. 36.26, the court of common pleas, municipal court, or county court or division of the court operating the specialized docket shall do both of the following:

(A) Every three years after receipt of certification or within six months after a change in the judge assigned to the session, whichever occurs first, successfully recomplete the certification application process pursuant to Sup.R. 36.21 through 36.26, provided the Specialized Dockets Section of the Supreme Court may abbreviate the first certification period to allow for rotating certification periods among the courts and divisions;

(B) Notify the section of any changes to the procedures of or the documents or treatment providers used by the section in the specialized docket.

RULE 37. Statistical Reports and Information.

(A) Submission of reports in hard-copy format

Except as provided division (B) of this rule, the judges of the courts of appeals, courts of common pleas, municipal courts, and county courts shall submit to the Case Management Section of the Supreme Court in hard-copy format report forms as required by Sup.R. 37.01 through 37.03. The report forms shall be as prescribed by the Manager of Case Management Programs and submitted no later than the fifteenth day after the close of the reporting period.

(B) Submission of reports in electronic format

(1) Upon receipt of written notification to a court of appeals, court of common pleas, municipal court, or county court from the manager indicating the section is prepared to receive reports from the court in electronic format, the judges of the court shall submit to the section in electronic format via the Supreme Court website reports as required by Sup.R. 37.01 through 37.03. The reports shall be as prescribed by the manager and submitted no later than the fifteenth day after the close of the reporting period.

(2) The presiding or administrative judge of each court of appeals, court of common pleas, municipal court, or county court to which division (B)(1) of this rule applies shall take steps necessary to ensure the security of the Supreme Court website login credentials.

RULE 37.01. Courts of Appeals Reports.

(A) Presiding judge reports

The presiding or administrative judge of a court of appeals shall prepare and submit quarterly a completed "Presiding Judge Report," which shall be a report of the status of all pending cases in the court. If submitted in hard-copy format pursuant to Sup.R. 37(A), the report form shall contain the signatures of the presiding or administrative judge and the preparer, if other than the presiding or administrative judge, attesting to the accuracy of the report. If submitted in electronic format pursuant to Sup.R. 37(B)(1), the presiding or administrative judge shall be deemed to have attested to the accuracy of the report.

(B) Judge reports

Each judge of a court of appeals shall prepare and submit quarterly a completed "Appellate Judge Report," which shall be a report of the judge's work. The report shall be submitted through the presiding or administrative judge of the court. If submitted in hard-copy format pursuant to Sup.R. 37(A), the report form shall contain the signatures of the reporting judge, the presiding or administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report. If submitted in electronic format pursuant to Sup.R. 37(B)(1), the reporting judge and presiding or administrative judge shall be deemed to have attested to the accuracy of the report.

RULE 37.02. Courts of Common Pleas Reports.

(A) Judge reports

Each judge of a general, domestic relations, or juvenile division of a court of common pleas shall prepare and submit monthly a completed report of the judge's work in that division. Each judge of a probate division of a court of common pleas shall prepare and submit quarterly a completed report of the judge's work in that division. If submitted in hard-copy format pursuant to Sup.R. 37(A), the report form shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report. If submitted in electronic format pursuant to Sup.R. 37(B)(1), the reporting judge and administrative judge shall be deemed to have attested to the accuracy of the report.

(B) Assigned judge reports

Each judge temporarily assigned to a court of common pleas by the Chief Justice of the Supreme Court and each judge of a court of common pleas temporarily assigned to another division of the court by the presiding judge of the court shall prepare and submit monthly a completed report of the judge's work in the division to which the judge has been assigned. The reports shall be submitted to the judge for whom the assigned judge is sitting and included in that judge's report to the Case Management Section of the Supreme Court submitted by the administrative judge of the division pursuant to division (A) of this rule. If submitted in hard-copy format pursuant to Sup.R. 37(A), the report form shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report. If submitted in electronic format pursuant to Sup.R. 37(B)(1), the reporting judge and administrative judge shall be deemed to have attested to the accuracy of the report.

RULE 37.03. Municipal and County Court Reports.

(A) Administrative judge reports

Each administrative judge of a municipal or county court shall prepare and submit monthly a completed "Administrative Judge Report," which shall be a report of all cases not individually assigned. If submitted in hard-copy format pursuant to Sup.R. 37(A), the report form shall contain the signatures of the administrative judge and the preparer, if other than the administrative judge, attesting to the accuracy of the report. If submitted in electronic format pursuant to Sup.R. 37(B)(1), the administrative judge shall be deemed to have attested to the accuracy of the report.

(B) Individual judge reports

Each judge of a municipal or county court shall prepare and submit monthly a completed "Individual Judge Report," which shall be a report of all cases assigned to the individual judge. If submitted in hard-copy format pursuant to Sup.R. 37(A), the report form shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report. If submitted in electronic format pursuant to Sup.R. 37(B)(1), the reporting judge and administrative judge shall be deemed to have attested to the accuracy of the report.

(C) Assigned judge reports

Each judge temporarily assigned to a municipal or county court by the Chief Justice of the Supreme Court and each judge of a municipal or county court temporarily assigned to another division of the court by the presiding judge of the court shall prepare and submit monthly a completed report of the judge's work in the division to which the judge has been assigned. The report shall be submitted to the judge for whom the assigned judge is sitting and included in that judge's report to the Case Management Section of the Supreme Court submitted by the administrative judge of the division pursuant to division (B) of this rule. If submitted in hard-copy format pursuant to Sup.R. 37(A), the report form shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report. If submitted in electronic format pursuant to Sup.R. 37(B)(1), the reporting judge and administrative judge shall be deemed to have attested to the accuracy of the report.

Staff Notes

Reports to administrative judge

Under Sup.R. 4(B)(3), the administrative judge may require reports from each judge as are necessary to discharge the overall responsibility for the administration, docket, and calendar of the court. Sup.R. 38 sets out the duties of the administrative judge with respect to the preparation of reports.

Municipal and county court reports

The Administrative Judge Report pertains to cases pending on the docket of the court which have not been individually assigned pursuant to Sup.R. 36. The preparation of this report and the review of cases

required by Sup.R. 40 are the principal tools that the administrative judge uses to discharge the responsibilities under Sup.R. 4.

The timely and accurate preparation of the Individual Judge Report and the review of cases required by Sup.R. 40 provide the information necessary for the individual judge to discharge the judge's duties.

For purposes of this reporting requirement, an assigned judge may be an active or retired judge. Additionally, assigned judges, as well as acting judges, report their work in accordance with the instructions regarding the Visiting Judge column.

RULE 37.04. Reporting Standards.

The following standards shall apply in completing the statistical reports required by Sup.R. 37.01 through 37.03:

(A) In domestic relations cases, motions filed prior or subsequent to a final decree of divorce or dissolution shall be considered part of the original case and reported under the original case number;

(B) A motion filed in delinquency and unruly cases shall be considered part of the case in which the motion is filed, unless the motion is considered a separate delinquency case under R.C. 2151.02(B);

(C) A criminal case and a traffic case arising from the same act, transaction, or series of acts or transactions shall be considered separate cases.

RULE 37.05. Capital Case Reporting.

Each judge of a court of common pleas required to submit reports in hard-copy format to the Case Management Section of the Supreme Court pursuant to Sup.R. 37(A) and who is assigned a criminal case in which an indictment or a count in an indictment charges the defendant with aggravated murder and contains one or more specifications of aggravating circumstances listed in R.C. 2929.04(A) shall include with the report form notice, on a form prescribed by the Manager of Case Management Programs, of any of the following events that occur during the reporting period:

(A) The assignment of the case to the judge;

(B) The defendant pleading guilty or no contest to any offense in the case or the dismissal of the indictment or any count in the indictment;

(C) The final disposition of the charges and specifications in the case. This shall include when the defendant is found guilty of capital charges and specifications, but does not receive the death penalty.

RULE 37.06. Public Access to Submitted Reports and Information.

All reports and information submitted to the Case Management Section of the Supreme Court pursuant to Sup.R. 37 shall be available for public access pursuant to Sup.R 44 through 47.

RULE 37.07. Requests for Additional Information; Accuracy of Reports.

(A) Chief Justice requests

The Chief Justice of the Supreme Court or the Chief Justice's designee may require additional information concerning the disposition of cases and the management of the courts in order to discharge the Chief Justice's constitutional and statutory duties. All judges, clerks, and other officers of all courts shall furnish any requested information.

(B) Accuracy of reports

All judges, clerks, and other officers of all courts shall cooperate with the Case Management Section of the Supreme Court to ensure the accuracy of the reports submitted to section pursuant to Sup.R. 37.

RULE 38. Annual Case Inventory; New Judge Inventory.

(A) Definitions

As used in this rule:

(1) "Case inventory" means the review of the physical or electronic case files, as applicable, to ensure an accurate count and to evaluate the accuracy of the court's case management practice.

(2) "Case file" means the compendium of documents and information in documents submitted to a court or filed with a clerk of court in a judicial action or proceeding.

(B) Requirement

Within three months of the date of a judge taking office to the court of appeals, court of common pleas, municipal court, or county court and thereafter annually on or before October 1st, the judge shall be responsible for the completion of a case inventory of all cases reported as pending on the applicable statistical report forms filed by the judge in accordance with the instructions prescribed by the Case Management Section of the Supreme Court. If determined necessary by the judge, the judge may include in the case inventory all cases reported as closed or inactive on the applicable statistical report forms filed by the judge.

(C) Documentation of inventory

A judge shall document completion of a case inventory performed pursuant to division (B) of this rule in the appropriate space on the applicable statistical report forms.

(D) Reporting of discrepancies

A judge shall report corrections of discrepancies found during a case inventory performed pursuant to division (B) of this rule on the next statistical report form filed after the inventory is completed.

INSTRUCTIONS FOR COMPLETION OF CASE INVENTORY

New Judge Inventory.

1. Within three months of the date of a judge taking office to the court of appeals, court of common pleas, municipal court, or county court, the judge shall be responsible for the completion of a physical or electronic case inventory, as applicable, of all pending cases.

2. A case inventory involves actually reviewing the physical case files, if the court maintains paper files, or the electronic case files, if the court maintains electronic files through a case management system. A judge decides whether reviewing closed or inactive cases is necessary; however, pending cases must be reviewed. A computer-generated list of pending cases may be used to identify the pending cases which must be physically or electronically retrieved and reviewed.

3. Once the physical or electronic case files, as applicable, are retrieved, a judge should review each file and do the following:

    a. Identify cases in which a conflict of interest exists and therefore must be reassigned to another judge of the court or assigned to a visiting judge;

    b. Identify cases that lack a next scheduled event date;

    c. Identify cases that should be terminated or closed for purposes of reporting on the Supreme Court of Ohio Statistical Report Form;

    d. Identify cases that are ripe for settlement or resolution prior to the scheduled trial date;

    e. Identify cases that have been incorrectly classified on a previous report.

4. A judge shall document completion of the case inventory in the space provided on the applicable statistical report form by indicating the date the most recent case inventory was completed.

5. A judge may amend any report the judge's predecessors previously submitted. For example, a case inventory performed pursuant to Sup.R. 38 might reveal cases that are pending that were not previously being reported as such or cases that had been previously reported as pending which in fact have been terminated. In these and similar instances, the report preparer (if other than the judge) should confer with the reporting judge to determine the best solution for resolving the discrepant pending case counts or contact the Case Management Section for assistance. The most important goal is to ensure good quality data going forward.

Annual Case Inventory.

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2. A case inventory involves actually reviewing the physical case files, if the court maintains paper files, or the electronic case files, if the court maintains electronic files through a case management system. A judge decides whether reviewing closed or inactive cases is necessary; however, pending cases must be reviewed. A computer-generated list of pending cases may be used to identify the pending cases which must be physically or electronically retrieved and reviewed.

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RULE 39. Case Time Limits.

(A) Appellate and civil case time limits. The time limits for disposition of appellate and civil cases shall be as indicated on the Supreme Court report forms.

(B) Criminal case time limits. (1) In common pleas court, all criminal cases shall be tried within six months of the date of arraignment on an indictment or information. In municipal and county court, all criminal cases shall be tried within the time provided in Chapter 2945. of the Revised Code. Whenever a hearing or trial time is extended or shortened pursuant to section 2945.72 of the Revised Code or Criminal Rule 5 or 45, the judge shall state the reason for the change in an order and journalize the order.

(2) Grand jury proceedings. When an accused has been bound over to a grand jury and no final action is taken by the grand jury within sixty days after the date of the bindover, the court or the administrative judge of the court shall dismiss the charge unless for good cause shown the prosecuting attorney is granted a continuance for a definite period of time.

(3) Felony preliminary hearing. A preliminary hearing in a felony case shall be held within one month of the date of arrest or the date of issuance of the summons.

(4) Sentencing. Provided the defendant in a criminal case is available, the court shall impose sentence or hold a sentencing hearing with all parties present within fifteen days of the verdict or finding of guilt or receipt of a completed pre-sentence investigation report. Any failure to meet this time standard shall be reported to the administrative judge, who shall take the necessary corrective action. In a single judge division, the failure shall be reported by the judge to the Case Management Section, which shall refer the matter to the Chief Justice of the Supreme Court for corrective action.

(5) Post-conviction relief petitions; death penalty cases. All post-conviction relief petitions filed in death penalty cases shall be ruled upon within one hundred eighty days of the date of filing. In any month where a post-conviction relief petition in a death penalty case is filed, pending, or terminated, the administrative judge shall submit the Post-Conviction Relief Petition Report detailing the status of the petition.

(C) Reporting. Any failure to comply with the time limits specified in this rule, and the reason for the failure, shall be reported immediately to the administrative judge, who shall take the necessary corrective action. In a single-judge court or division, the failure shall be reported by the judge to the Case Management Section. The Case Management Section shall report to the Chief Justice, who may take such action as may be necessary to cause the delinquent case to be tried forthwith.

Commentary (July 1, 1997)

Rule 39 consolidates the time limits contained in former C.P. Sup. R. 8 and 8.01 and M.C. Sup. R. 5. The provisions of C.P. Sup. R. 8.01(B) have been moved to Rule 42. Division (B)(5) is a new time guideline and reporting requirement.

The time limits applicable to criminal cases are for the purpose of facilitating the prompt disposition of criminal cases. These time limits in no way affect the statutorily mandated limits contained in R.C. 2945.71. However, the failure to dispose of cases within these time guidelines may result in intervention by the Chief Justice. While the administrative guidelines set out in Rule 8(B) are keyed to the date of arraignment, the requirement of R.C. 2945.71 begins to run from the date of arrest.

Although criminal cases are not reported as filed on Common Pleas Form A until the accused is arraigned on an indictment or information, the responsibility of the court of common pleas for the processing of the case beings upon receipt of the papers in the case pursuant to Crim. R. 5 (B)(7). When no final action has been taken by a grand jury within sixty days after bindover, the court or administrative judge should dismiss the charge unless the prosecutor is, for good cause, granted a continuance. The key date for purposes of division (B)(2) is the date of bindover. Thus, the summoning of a grand jury under Crim. R. 8 should not be unduly delayed. Although R.C. 2945.71 does not mandate a time limit for completion of the grand jury process, the statutory time limit runs from the date of arrest, including time taken in the grand jury process.

The dismissal contemplated by division (B)(2) is not a dismissal with prejudice.

Crim. R. 5(B)(1) provides time guidelines for preliminary hearings only. Crim. R. 5(A)(2) and 5(B)(1) each contain provisions pertaining to the extension of preliminary hearing time limits. Crim. R. 45(A) explains the method to be used in computing time. Crim. R. 45(B) provides for the enlargement or reduction of time provisions.

Division (B)(1) provides for the journalization of all actions taken pursuant to section 2945.72 of the Revised Code, Crim. R. 5(A)(2), 5(B)(1) or 45(B), which either extend or shorten the time periods provided in section 2945.71 of the Revised Code or Crim. R. 5. The journal entry must include the fact of the extension or shortening of time and a statement of the reasons therefor to provide a record should any question arise concerning compliance with section 2945.71 of the Revised Code.

Rule 39(B)(4) Sentencing

If the defendant is available, the court must take action within fifteen days of the verdict or finding of guilty or within fifteen days of the receipt of a completed presentence investigation report. This action may be to impose sentence, to place on probation, or to hold a hearing on the report.

Although R.C. 2945.71 is satisfied if the accused is brought to trial within the appropriate period from arrest, the Form A report keys termination to the sentencing or granting of probation. Thus, the six month guidelines contained on the report form includes any period of time between the commencement of trial and the imposition of sentence.

Failure to meet the time standard of this section must be reported to the administrative judge for corrective action. In a single judge division, any failure is to be reported to the Case Management Section.

The fifteen day time limit of division (B)(4) of this rule should not be confused with the requirement of Sup. R. 7 that the journal entry be made within thirty days of the judgment.

Rule 39(B)(5) Post-conviction relief petitions; death penalty cases

Prior to July 1997, no reporting requirements existed for post-conviction relief petitions, and these petitions were treated as motions in previously terminated cases. In view of the public policies reflected by the November 1994 constitutional amendment abolishing intermediate appeals in death penalty cases and legislation affecting post-conviction relief actions (Am. Sub. S.B. 4 of the 121st General Assembly, effective September 21, 1995), it is imperative that courts provide timely consideration of death penalty cases and ensuing post-conviction relief petitions in those cases. To assist in the management of post-conviction relief petitions in death penalty cases, division (B)(5) of this rule establishes a one hundred eighty day time

guideline for the disposition of these petitions and provides for the monthly reporting of the status of the petitions. The one hundred eighty day time guideline is identical to the guideline contained in Rule 35 of the Ohio Rules of Criminal Procedure, effective July 1, 1997.

Although the assigned judge is ultimately responsible for the termination of the case and is so designated on the report form, the administrative judge is responsible for tracking and reporting the status of these petitions.

Rule 39(C) Reporting

The time limits imposed by this rule are for administrative purposes only. Failure to comply with these time limits does not give rise to the sanctions imposed by R.C. 2945.71. However, failure to dispose of cases within these times limits may result in the intervention of the administrative judge and the Chief Justice.

The reports required by this rule should be submitted monthly to the administrative judge or the Case Management Section. A case should be listed on this report for each month during which it is delinquent.

Although no specific form is prescribed for this report, it should contain, at a minimum, the style of the case, the offense charged, the date of its filing, an explanation of the delay in disposition, and the date on which it is anticipated that the case will be completed.

Failure to meet the time standard of this section must be reported to the administrative judge for corrective action. In a single-judge division, any failure is to be reported to the Case Management Section.

RULE 40. Review of Cases; Dismissal; Rulings on Motions and Submitted Cases.

(A) Review; dismissal; rulings.

(1) Each trial judge shall review, or cause to be reviewed, all cases assigned to the judge. Cases that have been on the docket for six months without any proceedings taken in the case, except cases awaiting trial assignment, shall be dismissed, after notice to counsel of record, for want of prosecution, unless good cause be shown to the contrary.

(2) All cases submitted for determination after a court trial shall be decided within ninety days from the date the case was submitted.

(3) All motions shall be ruled upon within one hundred twenty days from the date the motion was filed, except as otherwise noted on the report forms.

(4) All child support hearings involving an obligor or obligee called to active military service in the uniformed services, as defined in section 3119.77 of the Revised Code, shall be heard within thirty days from the date the court receives notice that the obligor or oblige has requested a hearing.

(B) Reporting.

(1) Each judge shall report to the administrative judge decisions that have not been ruled upon within the applicable time period. The administrative judge shall confer with the judge who has motions pending beyond the applicable time period and shall determine the reasons for the delay on the rulings. If the administrative judge determines that there is no just cause for the delay, the administrative judge shall seek to rectify the delay within sixty days. If the delay is not rectified within sixty days, the administrative judge shall report the delay to the Case Management Section of the Supreme Court.

(2) In a single-judge court, if the judge has not rectified the delay, the judge shall report the delay in the rulings to the Case Management Section within one hundred eighty days from the date of the filing of the overtime motion or the submission of the case.

(3) All reports submitted to the administrative judge and the Case Management Section under this rule shall be available for public access pursuant to Sup. R. 44 through 47.

(C) Assigned judges. The provisions of this rule apply to judges sitting by assignment of the Chief Justice of the Supreme Court.

Commentary (July 1, 1997)

Rule 40 is identical to former C.P. Sup. R. 6 and M.C. Sup. R. 6.

Rule 40(A) Review; dismissal; rulings

Each trial judge is required to periodically review all cases assigned to the judge. This requirement applies to civil and criminal cases. The dismissal sanction does not apply in criminal cases because it is overridden by Rule 39 and by R.C. 2945.73, which contain specific provisions as to criminal cases. The review may be conducted personally or be done under the direction of the judge.

The purpose of the review of assigned cases is to: (1) identify and dismiss those cases that have been on the docket for six months without any activity or action being taken; (2) dismiss those inactive cases for want of prosecution; and (3) bring to the attention of each judge those matters which are pending and require decision.

"Been on the Docket" as used in the rule means pending, that is, being on the appearance docket. It does not refer to being on the trial docket for six months.

"Except cases awaiting trial assignment" does not refer to cases that are not yet placed on the trial docket by reason of the issues not being made up or that are awaiting the next establishment of the trial docket. It refers to those cases that are ready for trial but have not been tried because of the volume of cases in the court. The exception exists to prevent the dismissal of those cases where the delay is not the responsibility of the parties or their counsel.

"Without any proceedings taken in the case" means a case that has been totally inactive as revealed by the appearance docket and the case file. The absence of appearance docket entries over a six-month period indicates a case either is ready for trial or is an inactive case.

Dismissal is not summary; notice to the parties or counsel is a condition precedent. The notice is not limited to plaintiff's counsel, but must go to the counsel of record for all parties. Ordinary mail notice suffices under the rule. The return of ordinary mail notice should not be permitted to frustrate the action of the court.

Counsel is required to provide counsel's address with all pleadings and motions; Civ. R. 11. The address must be kept current so that the notice requirements of the Civil Rules function throughout the litigation. The requirement of notice to counsel is not a requirement for an oral hearing on the matter of dismissal. Such a requirement does not appear in the rule and does not appear in Civ. R. 41(B)(1) (dismissal for failure to prosecute). An oral hearing may be conducted. The notice issued by the court may set a time period within which counsel can show cause as to why the action should not be dismissed.

The control and supervision of the docket is the responsibility of the administrative judge. The administrative judge must rely on the individual judges in implementing this assignment. The review, with its sanction of dismissal, is a powerful tool in keeping cases moving and dockets current.

"For want of prosecution", as used in the rule, does not limit the dismissal of cases to those situations where the inactivity is directly attributable to the plaintiff. When a defendant fails to take a required step, the plaintiff, under the Civil Rules, has an available remedy. If the plaintiff files a complaint and the defendant does not answer, and the court finds no proceedings taken for six months, the court may dismiss the case for want of prosecution because the plaintiff could have prosecuted the case by seeking a default judgment. The rule is an example of the intent of the rules of superintendence to expedite the disposition of cases.

Each trial judge is required by the rule to review, or cause to be reviewed, all pending motions and cases that have been submitted to the judge for determination following court trial.

As to motions, the applicable time period begins to run on the day the motion is filed or made. As to cases submitted, the ninety days runs from the day the trial is ended or, if applicable, the day all post-trial pleadings have been filed.

Rule 40 (B) Reporting

Each trial judge is required to report to the administrative judge motions and submitted cases pending beyond the applicable time period. If the administrative judge is unable to resolve the delay, or, in a single judge court, the matter is referred to the Case Management Section for reporting to the Chief Justice for corrective action.

Rule 40(C) Assigned judges

Visiting judges and retired judges sitting by assignment of the Chief Justice are subject to the applicable time periods for disposition of motions and submitted cases, and to the reporting requirements of this rule.

Commentary (July 4, 2005)

The 2005 amendment to Rule 40(A) added an expedited process for hearings regarding child support orders for those called to active military service pursuant to Amended Substitute House Bill 149 (eff. 06/02/04).

RULE 41. Conflict of Trial Court Assignment Dates, Continuances and Engaged Counsel.

(A) Continuances; granting of. The continuance of a scheduled trial or hearing is a matter within the sound discretion of the trial court for good cause shown.

No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel, provided that the trial judge may waive this requirement upon a showing of good cause. No court shall grant a continuance to any party at any time without first setting a definite date for the trial or hearing.

When a continuance is requested by reason of the unavailability of a witness at the time scheduled for trial or hearing, the court shall consider the feasibility of resorting to the several methods of recording testimony permitted by Civil Rule 30(B) and authorized for use by Civil Rule 32(A)(3).

(B) Conflict of Trial Date Assignments

(1) When a continuance is requested for the reasons that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The court should not consider any motion for a continuance due to a 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 thirty days prior to trial.

(2) Except as provided in division (B)(3) of this rule, a continuance shall be granted, upon request, under either of the following circumstances:

(a) A party, counsel, or witness under subpoena is scheduled to appear on the same date at a hearing before the Board of Professional Conduct of the Supreme Court as a member of the Board, as a party, as counsel for a party, or as a witness under subpoena for the hearing;

(b) Counsel requesting the continuance will be unavailable to participate in the judicial proceeding because counsel is a member of the General Assembly whose attendance is required at a scheduled voting session or committee meeting of the General Assembly.

(3) In considering a continuance requested pursuant to division (B)(2)(b) of this rule, the court may require counsel to obtain the consent of the client and provide notice to all other parties to the action. The court may deny the requested continuance if either or both of the following apply:

(a) Counsel has been granted prior continuances in the same case based on attendance at scheduled voting sessions or committee meetings of the General Assembly;

(b) The court determines that further delay in the proceeding would result in substantial prejudice to a party.

(C) Engaged counsel. If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the administrative judge may summon such trial attorney who persistently requests continuances and extensions to warn the attorney of the possibility of sanctions and to encourage the attorney to make necessary adjustments in the management of his or her practice. Where such measures fail, restrictions may properly be imposed by the administrative judge on the number of cases in which the attorney may participate at any one time.

(D) Continuances; reporting. Trial continuances shall be reported on a monthly basis to the administrative judge. Where a judge is persistently and unreasonably indulgent in granting continuances or extensions, the administrative judge shall investigate the reasons for the excessive continuances and take appropriate corrective action at the local level. If corrective action at the local level is unsuccessful, the administrative judge shall report that fact to the Case Management Section of the Supreme Court. If it comes to the attention of the Case Management Section that the judge of a single-judge division is persistently and unreasonably indulgent in granting continuances, it shall report the information to the Chief Justice, who shall take appropriate corrective action.

Commentary (July 1, 1997)

Rule 41 consolidates the provisions of former C.P. Sup. R. 7 and M.C. Sup. R. 16.

Rule 41(A) Continuances; granting of

Division (A) provides that the granting of a continuance is within the sound discretion of the court, and only upon a showing of good cause.

Written motion must be filed specifying the reason for the continuance. The motion must be signed by the party requesting the continuance, as well as their counsel. The requirement that the motion be signed by the party may be waived by the trial judge, for good cause. If a continuance is granted, the court shall, at that time, reset the trial or hearing for a definite date.

If a continuance is requested because of the unavailability of a witness, the court is required to consider the feasibility of recording testimony as permitted by Civ. R. 30(B).

The standards relating to court delay reduction adopted by the American Bar Association focus, to a great extent, upon the limitation of continuances as a means of expediting case dispositions.

Rule 41(B) Conflict of trial assignment dates

Division (B) sets priorities among all trial courts for resolution of conflicts when counsel is assigned for trial in more than one court on the same date.

When a continuance is requested by reason of conflict, the case first set for trial is to be given priority and tried on the date assigned. Priority is dependent on firm assignment for trial. Thus, a general policy of early assignment to achieve priority would be inconsistent with the purpose of this rule. Within this general system, criminal cases assigned for trial are to be accorded priority over civil cases.

Attached to the motion for a continuance should be a copy of the conflicting assignment, and the motion should be filed not less than thirty days prior to the trial sought to be continued. These provisions are not mandatory, and there may be situations where compliance with one or both is not possible.

Rule 41(C) Engaged counsel

Division (C) gives the administrative judge authority to restrict the number of cases that an attorney may handle at one time if trial counsel has so many cases assigned for trial that undue delay is caused in the disposition of those cases.

Rule 41(D) Continuances; reporting

Division (D) of this rule requires the administrative judge to take action if it appears that a judge grants an inappropriate number of continuances. The administrative judge shall first take corrective action at the local level. If that action is not successful, the administrative judge has the duty to refer the matter to the Case Management Section. The Case Management Section also has the responsibility to refer any matter to the Chief Justice for corrective action if it is brought to its attention that the judge of a single-judge division or court appears to be granting an inappropriate number of continuances.

RULE 42. Complex Litigation--Court of Common Pleas.

(A) Complex litigation determination. An attorney representing a party to an action filed in the general division of the court of common pleas may request that the case be designated as complex litigation. The attorney filing the request shall certify that the attorney has approval from his or her client to file the request. In determining whether a case shall be designated as complex litigation, the judge to whom the case is assigned shall consider all of the following:

(1) Number of parties involved;

(2) Whether a class action is involved;

(3) Whether it is a products liability case;

(4) Whether there are other related cases involving unusual multiplicity or complexity of factual or legal issues;

(5) Extent of discovery necessary to prepare the case for trial;

(6) Number or availability of parties and witnesses for trial;

(7) Any endorsement of or objections to the request from an opposing party or counsel for an opposing party.

(B) Complex litigation determination--judicial. The judge to whom the case is assigned may designate a case as complex litigation without a request from an attorney representing a party to the action. The designation shall be made after the judge considers the factors set forth in divisions (A)(1) to (7) of this rule.

(C) Time; reporting. A designation of a case as complex litigation pursuant to division (A) or (B) of this rule shall be made within six months of the date on which the case was filed. If a case is designated as complex litigation, the judge shall submit to the Case Management Section of the Supreme Court a report specifying the reasons for the designation of the case as complex litigation. The judge shall include the case in the statistical report submitted pursuant to Sup.R. 37.02(A) under the category of complex litigation. The judge shall have thirty-six months from the date of filing to terminate the case.

(D) Authority of the Chief Justice. The Case Management Section shall periodically report the designation of cases as complex litigation to the Chief Justice of the Supreme Court, who may decide that a case should not be classified as complex litigation. If the Chief Justice determines that a case should not be classified as complex litigation, the Case Management Section shall notify the judge who shall remove the case from the complex litigation docket and notify the parties.

Commentary (July 1, 1997)

This rule is analogous to former C.P. Sup. R. 8.01(B). No changes were made in the 1997 amendments to the Rules of Superintendence.

Commentary (January 1, 1996 Amendment)

Two significant changes have been made to this rule pertaining to complex litigation. First, counsel and the trial judge are in the best position to assess the factors set forth in division (A)(1) to (7) of the rule and determine whether the case merits designation as complex litigation. Accordingly, the process of designating a case as complex litigation is revised to allow an attorney, with the consent of his or her client, to make a request and to have the designation made by the trial judge. The trial judge also may designate a case as complex litigation without a request from counsel. Through Sup. R. 4 and by reviewing and signing Common Pleas Report Form A, the administrative judge of the general division will continue to monitor complex litigation determinations and ensure uniform application of the criteria throughout the division. If the trial judge is considering the designation of a case as complex litigation without a request from counsel, he or she should inform the parties of that fact and the significance of the designation. Once a determination has been made, the judge should notify the parties.

The second revision extends the time for making a complex litigation determination from ninety days to six months. Under the former rule, the complexities of a case often were not apparent within three months of filing, and the additional three months provided by this rule will allow for a more complete and accurate assessment and designation.

RULE 43. Case Numbering--Municipal and County Court.

(A) Method. When filed in the clerk's office, cases shall be categorized as civil, criminal, or traffic and serially numbered within each category on an annual basis beginning on the first day of January of each year. Cases shall be identified by year and by reference to the case type designator on the administrative judge report form. Additional identifiers may be added by local court rule.

(B) Multiple defendants or charges in criminal cases. (1) In criminal cases, including traffic cases, all defendants shall be assigned separate case numbers.

(2) Where a defendant is charged with a misdemeanor and a traffic offense, the defendant shall be assigned separate case numbers pursuant to Sup. R. 37.04(C). The category selected for the case number and its case type designator shall be that of the offense having the greatest potential penalty.

(3) Where as a result of the same act, transaction, or series of acts or transactions, a defendant is charged with a felony or felonies and a misdemeanor or misdemeanors, including traffic offenses, the defendant shall be assigned separate case numbers, one for the felony or felonies and one for each other type of offense pursuant to Sup. R. 37.04(C). The category selected for the case number and its case type designator shall be that of the offense having the greatest potential penalty.

Commentary (July 1, 1997)

Rule 43 is analogous to former M.C. Sup. R. 12(E).

Rule 43(A) Method

This division provides the basis for the case numbering system to be used by all courts to which these rules are applicable. The rule states the following minimum requirements:

(a) All cases must be categorized as civil, criminal, or traffic;

(b) All cases must be serially numbered within one of the three categories listed above on an annual basis;

(c) All cases must be identified by year;

(d) All cases must be identified with the appropriate alphabetic case type designator from the Administrative Judge Report.

The civil case category is used for Personal Injury and Property Damage cases, Contracts cases, F.E.D. cases, Other Civil cases and Small Claims cases. The criminal case category is used for Felony cases and non-traffic Misdemeanor cases. The traffic case category is used for O.M.V.I. cases and for all Other Traffic cases. Definitions of these case types are contained in the comment concerning preparation of the Administrative Judge Report.

The numbering system can be explained by example. If the first case filed in 2000 is a felony, its case number would be 00-CR-A-00001. The "00" is the year reference. The "CR" is the criminal case

category reference. The “A” is the reference to the case type column on the Administrative Judge Report. The “00001” is the serial number for 2000 within the criminal case category. If the second case filed is a non-traffic misdemeanor, it would be numbered 00-CR-B-00002. If the third case filed is a driving under the influence case, it would be numbered 00-TR-C-00001.

(Note that this is the first serial number for 2000 in the traffic category.) If the fourth case filed is an Other Traffic case, it would be numbered 00-TR-D-00002. If the fifth case filed is a Personal Injury or Property Damage case, it would be numbered 00-CV-E-00001.

There are certain circumstances in which a case has been reported in one column on the Administrative Judge Report and the need subsequently arises for the case to be moved to another column.

Since the case designation on the Administrative Judge Report corresponds to the alphabetic designator segment of the case number, the alphabetic designator in the case number must be changed to reflect the change made on the Administrative Judge Report. This is the only segment of the case number which should ever be altered once a number is assigned. The combination of the year, category, and serial number form a unique number to identify a particular case. No matter what the alphabetic designator is, there should never be more than one case which has the same combination of year, category, and serial number. Thus, the alteration of the alphabetic designator segment cannot effect the uniqueness of the number.

The changes in the report and case number can be illustrated by the following example: Assume that a Small Claims case is filed. It is assigned the number 00-CV-I-00006. It is reported as filed on the Administrative Judge Report and is shown as pending at the end of the report period. After the close of the report period the defendant files a counterclaim on a contract which exceeds the jurisdiction of the small claims division. The following action would be taken pursuant to the case numbering rule and the monthly report form requirements:

(a) The case would be listed as terminated by transfer on line 7 of Column I, Administrative Judge Report;

(b) The case would be shown as transferred in on line 3 of Column F, Administrative Judge Report;

(c) The case number would be changed from 00-CV-I-00006 to 00-CV-F-00006;

(d) The case would be shown as terminated by transfer to an individual judge on line 7, Column F, Administrative Judge Report; and,

(e) The case would be shown as a new case filed on line 2, Column F, Individual Judge Report.

The last sentence of Rule 43(A) provides that courts may add additional identifiers to suit their needs. For example, an identifier for the judge to whom the case is assigned, or an identifier for the degree of misdemeanor charged, may be added.

Rule 43(B) Multiple defendants or charges in criminal cases

Under division (B), each criminal defendant is assigned at least one case number.

Multiple defendants charged with the same offense arising out of the same act or transaction or series of acts or transactions receive separate case numbers. Where there are multiple defendants, they may be charged in a single complaint or each may be charged by separate complaints. In any event, each defendant is assigned a separate case number and a copy of the complaint is placed in the defendant’s file.

Where one defendant is charged with more than one offense arising from the same act or transaction or series of acts or transactions, the defendant will be assigned separate case numbers pursuant to Rule 37.04(C). If the offenses charged fall in more than one category, *e.g.,* both criminal and traffic, the case number assigned will correspond to the category. If the offenses charged fall into one category, *e.g.,* traffic, but could be listed in more than one column on the Administrative Judge Report, then the case number assigned will be that of the offense which has the greatest potential penalty. For example, a defendant charged with O.M.V.I. and with a traffic offense other than O.M.V.I. would be assigned the case number of the offense having the greatest potential penalty.

Where a defendant is charged with more than one offense arising out of the same act or transaction or series of acts or transactions and one or more but not all of the offenses charged are felonies, case numbers for each offense type are assigned. One number is for the felony or felonies, and the other numbers are for each of the non-felony offense types. For example, a multi-count indictment that includes two felonies, two misdemeanors, and two traffic offenses would result in the assignment of three case numbers. In determining what number to assign to the non-felony offenses, the normal rule described above in this Comment is applied.

The criminal case numbering rule is illustrated by the following example. Assume that a defendant is charged with aggravated assault under section 2903.12(A)(2) of the Revised Code, disorderly conduct under section 2917.11(B)(2) of the Revised Code, menacing under section 2903.22(A) of the Revised Code, and driving under the influence of alcohol under section 4511.19 of the Revised Code. Three case numbers are assigned to this defendant as follows:

00-CR-A-00895.
Charge: Aggravated assault, R.C. 2903.12(A)(2)

00-CR-B-000896.
Charge: Disorderly conduct, R.C. 2917.11(B)(2),
Menacing, R.C. 2903.22(A)

00-TR-C-001334.
Charges: Operating a motor vehicle under the influence of alcohol, R.C. 4511.19

The first case number is for the offense of aggravated assault, which is a felony. The rule states that a felony charged against a defendant will always receive a case number separate from any non-felony offenses charged which occur from the same act or transaction or series of acts or transactions. The “CR” indicates that the case is in the criminal category and the “A” indicates that the case is reported in the Felonies column of the Administrative judge Report.

The second case number is for all the other criminal offenses. The third case number is for all the traffic offenses. The case number assigned is determined by comparing the potential penalties for the offenses charged. The case number is assigned based upon the offenses charged. In the example given, the offenses are as follows:

Driving under the influence of alcohol - imprisonment for six months. R.C. 2929.21(B)(1)

Disorderly conduct - fine of not more than $100. R.C. 22929.21(D)

Menacing - imprisonment for thirty days. R.C. 2929.21(B)(4)

In the example, the case number assigned is 00-TRC-001334 and 00-CR-B-000896. The “TR” represents the Traffic category and the “C” represents the O.M.V.I. column on the Administrative Judge Report. The “CR” represents the Criminal category and the “B” represents the misdemeanor column on the Administrative Judge Report. Regardless of the number of offenses, there will never be more than three case numbers for a defendant stemming from one incident.

Rule 43(B) is designed to make the case numbering system consistent with the reporting requirements established by Rule 37.03. If this rule is utilized properly, less bookkeeping will be needed to complete the review of pending cases required by Rule 40, and the record keeping necessary under the individual assignment system will be simplified.

RULE 44. Court Records - Definitions.

In addition to the applicability of these rules as described in Sup. R. 1, Sup. R. 44 through 47 apply to the Supreme Court.

As used in Sup. R. 44 through 47:

(A) "Actual cost" means the cost of depleted supplies; records storage media costs; actual mailing and alternative delivery costs, or other transmitting costs; and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(B) "Court record" means both a case document and an administrative document, regardless of physical form or characteristic, manner of creation, or method of storage.

(C)(1) "Case document" means a document and information in a document submitted to a court or filed with a clerk of court in a judicial action or proceeding, including exhibits, pleadings, motions, orders, and judgments, and any documentation prepared by the court or clerk in the judicial action or proceeding, such as journals, dockets, and indices, subject to the exclusions in division (C)(2) of this rule.

(2) The term "case document" does not include the following:

(a) A document or information in a document exempt from disclosure under state, federal, or the common law;

(b) Personal identifiers, as defined in division (H) of this rule;

(c) A document or information in a document to which public access has been restricted pursuant to division (E) of Sup. R. 45;

(d) Except as relevant to the juvenile's prosecution later as an adult, a juvenile's previous disposition in abuse, neglect, and dependency cases, juvenile civil commitment files, post-adjudicatory residential treatment facility reports, and post-adjudicatory releases of a juvenile's social history;

(e) Notes, drafts, recommendations, advice, and research of judicial officers and court staff;

(f) Forms containing personal identifiers, as defined in division (H) of this rule, submitted or filed pursuant to division (D)(2) of Sup. R. 45;

(g) Information on or obtained from the Ohio Courts Network, except that the information shall be available at the originating source if not otherwise exempt from public access;

(h) In a court of common pleas or a division thereof with domestic relations or juvenile jurisdiction, the following documents, including but not limited to those prepared pursuant to R.C. 2151.281, 3105.171(E)(3), and 3109.04 and Sup.R. 48:

(i) Health care documents, including but not limited to-physical health, psychological health, psychiatric health, mental health, and counseling documents;

(ii) Drug and alcohol use assessments and pre-disposition treatment facility reports;

(iii) Guardian ad litem reports, including collateral source documents attached to or filed with the reports;

(iv) Home investigation reports, including collateral source documents attached to or filed with the reports;

(v) Child custody evaluations and reports, including collateral source documents attached to or filed with the reports;

(vi) Domestic violence risk assessments;

(vii) Supervised parenting time or companionship or visitation records and reports, including exchange records and reports;

(viii) Financial disclosure statements regarding property, debt, taxes, income, and expenses, including collateral source documents attached to or filed with records and statements;

(ix) Asset appraisals and evaluations.

(D) "Case file" means the compendium of case documents in a judicial action or proceeding.

(E) "File" means to deposit a document with a clerk of court, upon the occurrence of which the clerk time or date stamps and dockets the document.

(F) "Submit" means to deliver a document to the custody of a court for consideration by the court.

(G)(1) "Administrative document" means a document and information in a document created, received, or maintained by a court that serves to record the administrative, fiscal, personnel, or management functions, policies, decisions, procedures, operations,

organization, or other activities of the court, subject to the exclusions in division (G)(2) of this rule.

(2) The term "administrative document" does not include the following:

(a) A document or information in a document exempt from disclosure under state, federal, or the common law, or as set forth in the Rules for the Government of the Bar;

(b) Personal identifiers, as defined in division (H) of this rule;

(c) A document or information in a document describing the type or level of security in a court facility, including a court security plan and a court security review conducted by a local court, the local court's designee, or the Supreme Court;

(d) An administrative or technical security record-keeping document or information;

(e) Test questions, scoring keys, and licensing, certification, or court-employment examination documents before the examination is administered or if the same examination is to be administered again;

(f) Computer programs, computer codes, computer filing systems, and other software owned by a court or entrusted to it;

(g) Information on or obtained from the Ohio Courts Network, except that the information shall be available at the originating source if not otherwise exempt from public access;

(h) Data feeds by and between courts when using the Ohio Courts Network.

(H) "Personal identifiers" means social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; employer and employee identification numbers; and a juvenile's name in an abuse, neglect, or dependency case, except for the juvenile's initials or a generic abbreviation such as "CV" for "child victim."

(I) "Public access" means both direct access and remote access.

(J) "Direct access" means the ability of any person to inspect and obtain a copy of a court record at all reasonable times during regular business hours at the place where the record is made available.

(K) "Remote access" means the ability of any person to electronically search, inspect, and copy a court record at a location other than the place where the record is made available.

(L) "Bulk distribution" means the distribution of a compilation of information from more than one court record.

(M)(1) "New compilation" means a collection of information obtained through the selection, aggregation, or reformulation of information from more than one court record.

(2) The term "new compilation" does not include a collection of information produced by a computer system that is already programmed to provide the requested output.

RULE 45. Court Records – Public Access.

(A) Presumption of public access

Court records are presumed open to public access.

(B) Direct access

(1) A court or clerk of court shall make a court record available by direct access, promptly acknowledge any person's request for direct access, and respond to the request within a reasonable amount of time.

(2) Except for a request for bulk distribution pursuant to Sup. R. 46, a court or clerk of court shall permit a requestor to have a court record duplicated upon paper, upon the same medium upon which the court or clerk keeps it, or upon any other medium the court or clerk determines it can be reasonably duplicated as an integral part of its normal operations.

(3) A court or clerk of court shall mail, transmit, or deliver copies of a requested court record to the requestor within a reasonable time from the request, provided the court or clerk may adopt a policy allowing it to limit the number of court records it will mail, transmit, or deliver per month, unless the requestor certifies in writing that the requestor does not intend to use or forward the records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include news reporting, the gathering of information to assist citizens in the understanding of court activities, or nonprofit educational research.

(4) A court or clerk of court may charge its actual costs incurred in responding to a request for direct access to a court record. The court or clerk may require a deposit of the estimated actual costs.

(C) Remote access

(1) A court or clerk of court may offer remote access to a court record. If a court or clerk offers remote access to a court record and the record is also available by direct access, the version of the record available through remote access shall be identical to the version of the record available by direct access, provided the court or clerk may exclude an exhibit or attachment that is part of the record if the court or clerk includes notice that the exhibit or attachment exists and is available by direct access.

(2) Nothing in division (C)(1) of this rule shall be interpreted as requiring a court or clerk of court offering remote access to a case document in a case file to offer remote access to other case documents in that case file.

(3) Nothing in division (C)(1) of this rule shall be interpreted as prohibiting a court or clerk of court from making available on a website any court record that exists only in electronic form, including an on-line journal or register of actions.

(D) Omission of personal identifiers prior to submission or filing

(1) When submitting a case document to a court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document.

(2) When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule, the party shall submit or file that information on a separate form. The court or clerk may provide a standard form for parties to use. Redacted or omitted personal identifiers shall be provided to the court or clerk upon request or a party to the judicial action or proceeding upon motion.

(3) The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule shall rest solely with the party. The court or clerk is not required to review the case document to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file the document on that basis.

(E) Restricting public access to a case document

(1) Any party to a judicial action or proceeding or other person who is the subject of information in a case document may, by written motion to the court, request that the court restrict public access to the information or, if necessary, the entire document. Additionally, the court may restrict public access to the information in the case document or, if necessary, the entire document upon its own order. The court shall give notice of the motion or order to all parties in the case. The court may schedule a hearing on the motion.

(2) A court shall restrict public access to information in a case document or, if necessary, the entire document, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following:

(a) Whether public policy is served by restricting public access;

(b) Whether any state, federal, or common law exempts the document or information from public access;

(c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

(3) When restricting public access to a case document or information in a case document pursuant to this division, the court shall use the least restrictive means available, including but not limited to the following:

(a) Redacting the information rather than limiting public access to the entire document;

(b) Restricting remote access to either the document or the information while maintaining its direct access;

(c) Restricting public access to either the document or the information for a specific period of time;

(d) Using a generic title or description for the document or the information in a case management system or register of actions;

(e) Using initials or other identifier for the parties' proper names.

(4) If a court orders the redaction of information in a case document pursuant to this division, a redacted version of the document shall be filed in the case file along with a copy of the court's order. If a court orders that the entire case document be restricted from public access, a copy of the court's order shall be filed in the case file. A journal entry shall reflect the court's order. Case documents ordered restricted from public access or information in documents ordered redacted shall not be available for public access and shall be maintained separately in the case file.

(F) Obtaining access to a case document that has been granted restricted public access

(1) Any person, by written motion to the court, may request access to a case document or information in a case document that has been granted restricted public access pursuant to division (E) of this rule. The court shall give notice of the motion to all parties in the case and, where possible, to the non-party person who requested that public access be restricted. The court may schedule a hearing on the motion.

(2) A court may permit public access to a case document or information in a case document if it finds by clear and convincing evidence that the presumption of allowing public access is no longer outweighed by a higher interest. When making this determination, the court shall consider whether the original reason for the restriction of public access to the case document or information in the case document pursuant to division (E) of this rule no longer exists or is no longer applicable and whether any new circumstances, as set forth in that division, have arisen which would require the restriction of public access.

RULE 46. Court Records - Bulk Distribution.

(A) Requests for bulk distribution and new compilations

(1) Bulk distribution

(a) Any person, upon request, shall receive bulk distribution of information in court records, provided that the bulk distribution does not require creation of a new compilation. The court or clerk of court shall permit the requestor to choose that the bulk distribution be provided upon paper, upon the same medium upon which the court or clerk keeps the information, or upon any other medium the court or clerk determines it can be reasonably duplicated as an integral part of its normal operations, unless the choice requires a new compilation.

(b) The bulk distribution shall include a time or date stamp indicating the compilation date. A person who receives a bulk distribution of information in court records for redistribution shall keep the information current and delete inaccurate, sealed, or expunged information in accordance with Sup. R. 26.

(2) New compilation

(a) A court or clerk of court may create a new compilation customized for the convenience of a person who requests a bulk distribution of information in court records.

(b) In determining whether to create a new compilation, a court or clerk of court may consider if creating the new compilation is an appropriate use of its available resources and is consistent with the principles of public access.

(c) If a court or clerk of court chooses to create a new compilation, it may require personnel costs in addition to actual costs. The court or the clerk may require a deposit of the estimated actual and personnel costs to create the new compilation.

(d) A court or clerk of court shall maintain a copy and provide public access to any new compilation. After recouping the personnel costs to create the new compilation from the original requestor, the court or clerk may later assess only actual costs.

(B) Contracts with providers of information technology support

A court or clerk of court that contracts with a provider of information technology support to gather, store, or make accessible court records shall require the provider to comply with requirements of Sup. R. 44 through 47, agree to protect the confidentiality of the records, notify the court or clerk of court of all bulk distribution and new compilation requests, including its own, and acknowledge that it has no ownership or proprietary rights to the records.

RULE 47. Court Records – Application, Remedies, and Liability.

(A) Application

(1) The provisions of Sup.R. 44 through 47 requiring redaction or omission of information in case documents or restricting public access to case documents shall apply only to case documents in actions commenced on or after July 1, 2009. Access to case documents in actions commenced prior to July 1, 2009, shall be governed by federal and state law.

(2) The provisions of Sup.R. 44 through 47 restricting public access to administrative documents shall apply to all documents regardless of when created.

(3) The provisions of Sup.R. 44(C)(2)(h) restricting public access to certain case documents of a court of common pleas or a division thereof with domestic relations or juvenile jurisdiction shall apply only to case documents in actions commenced on or after January 1, 2016.

(B) Denial of public access - remedy

A person aggrieved by the failure of a court or clerk of court to comply with the requirements of Sup. R. 44 through 47 may pursue an action in mandamus pursuant to Chapter 2731. of the Revised Code.

(C) Liability and immunity

Sup. R. 44 through 47 do not affect any immunity or defense to which a court, court agency, clerk of court, or their employees may be entitled under section 9.86 or Chapter 2744. of the Revised Code.

(D) Review

Sup. R. 44 through 47 shall be subject to periodic review by the Commission on the Rules of Superintendence.

RULE 48. Guardians ad litem.

(A) Applicability

This rule shall apply in all domestic relations and juvenile cases in the courts of common pleas where a court appoints a guardian ad litem to protect and act in the best interest of a child.

(B) Definitions

For purposes of this rule:

(1) "Guardian ad litem" means an individual appointed to assist a court in its determination of a child's best interest.

(2) "Child" means:

(a) A person under eighteen years of age, or

(b) A person who is older than eighteen years of age who is deemed a child until the person attains twenty-one years of age under section 2151.011(B)(5) or section 2152.02(C) of the Revised Code.

(c) A child under R.C. 3109.04 or a disabled child under R.C.3119.86 who falls under the jurisdiction of a domestic relations court or of a juvenile court with a paternity docket.

(C) Appointment of guardian ad litem

(1) Each court appointing a guardian ad litem under this rule shall enter an Order of Appointment which shall include:

(a) A statement regarding whether a person is being appointed as a guardian ad litem only or as a guardian ad litem and attorney for the child.

(b) A statement that the appointment shall remain in effect until discharged by order of the court, by the court filing a final order in the case or by court rule.

(c) A statement that the guardian ad litem shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices and other documents filed in the case.

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

(3) The court shall make provisions for fees and expenses in the Order.

(D) Responsibilities of a guardian ad litem

In order to provide the court with relevant information and an informed recommendation regarding the child's best interest, a guardian ad litem shall perform, at a minimum, the responsibilities stated in this division, unless impracticable or inadvisable to do so.

(1) A guardian ad litem shall represent the best interest of the child for whom the guardian is appointed. Representation of best interest may be inconsistent with the wishes of the child whose interest the guardian ad litem represents.

(2) A guardian ad litem shall maintain independence, objectivity and fairness as well as the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom and shall have no ex parte communications with the court regarding the merits of the case.

(3) A guardian ad litem is an officer of the court and shall act with respect and courtesy to the parties at all times.

(4) A guardian ad litem shall appear and participate in any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed.

(5) A non-attorney guardian ad litem must avoid engaging in conduct that constitutes the unauthorized practice of law, be vigilant in performing the guardian ad litem's duties and request that the court appoint legal counsel, or otherwise employ the services of an attorney, to undertake appropriate legal actions on behalf of the guardian ad litem in the case.

(6) A guardian ad litem who is an attorney may file pleadings, motions and other documents as appropriate under the applicable rules of procedure.

(7) When a court appoints an attorney to serve as both the guardian ad litem and attorney for a child, the attorney shall advocate for the child's best interest and the child's wishes in accord with the Rules of Professional Conduct. Attorneys who are to serve as both guardian ad litem and attorney should be aware of Rule 3.7 of the Rules of Professional Conduct and act accordingly.

(8) When a guardian ad litem determines that a conflict exists between the child's best interest and the child's wishes, the guardian ad litem shall, at the earliest practical time, request in writing that the court promptly resolve the conflict by entering appropriate orders.

(9) A guardian ad litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem shall avoid self-dealing or associations from which the guardian ad litem might benefit, directly or indirectly, except from compensation for services as a guardian ad litem.

(10) Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem shall immediately take action to resolve the conflict, shall advise the court and the parties of the action taken and may resign from the matter with leave of court, or seek court direction as necessary. Because a conflict of interest may arise at any time, a guardian ad litem has an ongoing duty to comply with this division.

(11) Unless excepted by statute, by court rule consistent with this rule, or by order of court pursuant to this rule, a guardian ad litem shall meet the qualifications and satisfy all training and continuing education requirements under this rule and under any local court rules governing guardians ad litem. A guardian ad litem shall meet the qualifications for guardians ad litem for each county where the guardian ad litem serves and shall promptly advise each court of any grounds for disqualification or unavailability to serve.

(12) A guardian ad litem shall be responsible for providing the court or its designee with a statement indicating compliance with all initial and continuing educational and training requirements so the court may maintain the files required in division (G) of this rule. The compliance statement shall include information detailing the date, location, contents and credit hours received for any relevant training course.

(13) A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. In order to provide the court with relevant information and an informed recommendation as to the child's best interest, a guardian ad litem shall, at a minimum, do the following, unless impracticable or inadvisable because of the age of the child or the specific circumstances of a particular case:

(a) Meet with and interview the child and observe the child with each parent, foster parent, guardian or physical custodian and conduct at least one interview with the child where none of these individuals is present;

(b) Visit the child at his or her residence in accordance with any standards established by the court in which the guardian ad litem is appointed;

(c) Ascertain the wishes of the child;

(d) Meet with and interview the parties, foster parents and other significant individuals who may have relevant knowledge regarding the issues of the case;

(e) Review pleadings and other relevant court documents in the case in which the guardian ad litem is appointed;

(f) Review criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties in the case;

(g) Interview school personnel, medical and mental health providers, child protective services workers and relevant court personnel and obtain copies of relevant records;

(h) Recommend that the court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court; and

(i) Perform any other investigation necessary to make an informed recommendation regarding the best interest of the child.

(14) A guardian ad litem shall immediately identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and shall inform these individuals about the guardian ad litem's role and that documents and information obtained may become part of court proceedings.

(15) As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of personal identifiers, as defined in Rule 44 of the Rules of Superintendence, or addresses where there are allegations of domestic violence or risk to a party's or child's safety. A guardian ad litem may recommend that the court restrict access to the 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. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure of or access to the information that addresses the need to challenge the truth of the information received from the confidential source.

(16) A guardian ad litem shall perform responsibilities in a prompt and timely manner, and, if necessary, an attorney guardian ad litem may request timely court reviews and judicial intervention in writing with notice to parties or affected agencies.

(17) A guardian ad litem who is to be paid by the court or a party, shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment.

(E) Training requirements

In order to serve as a guardian ad litem, an applicant shall have, at a minimum, the following training:

(1) Successful completion of a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education training in each succeeding calendar year to qualify for continued appointment.

(2) The pre-service training course must be the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's pre-service training program, or with prior approval of the appointing court, be a course at least six hours in length that covers the topic areas in division (E) (3).

(3) To meet the requirements of this rule, the pre-service course shall include training on all the following topics:

(a) Human needs and child development including, but not limited to, stages of child development;

(b) Communication and diversity including, but not limited to, communication skills with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of the child, sensitivity, building trust, multicultural awareness, and confidentiality;

(c) Preventing child abuse and neglect including, but not limited to, assessing risk and safety;

(d) Family and child issues including, but not limited to, family dynamics, substance abuse and its effects, basic psychopathology for adults and children, domestic violence and its effects;

(e) Legal framework including, but not limited to, records checks, accessing, assessing and appropriate protocol, a guardian ad litem's role in court, local resources and service practice, report content, mediation and other types of dispute resolution.

(4) The continuing education course must be at least three hours in length and be provided by the Supreme Court of Ohio or by the Ohio CASA/GAL Association, or with prior approval of the appointing court, be a training that complies with division (5) of this rule.

(5) To meet the requirements of this rule, the three hour continuing education course shall:

(a) Be specifically designed for continuing education of guardians ad litem and not pre-service education; and

(b) Consist of advanced education related to topics identified in division (E)(3) (a)–(e) of this rule.

(6) If a guardian ad litem fails to complete a three hour continuing education course within any calendar year, that person shall not be eligible to serve as a guardian ad litem until this continuing education requirement is satisfied. If the person's gap in continuing education is three calendar years or less, the person shall qualify to serve after completing a three hour continuing education course offered under this rule. If the gap in continuing education is more than three calendar years that person must complete a six hour pre-service education course to qualify to serve.

(7) An individual who is currently serving as a guardian ad litem on the effective date of this rule, or who has served during the five years immediately preceding the effective date, shall

have one year from the effective date to obtain the required six hour pre-service training in order to avoid removal from the court's list of approved guardians ad litem.

(8) Attendance at an Ohio Guardian ad Litem Training Program approved by the Supreme Court of Ohio or at an Ohio CASA/Guardian Association pre-service training program at any time prior to the effective date of this rule shall be deemed compliance with the pre-service training requirement.

(F) Reports of guardians ad litem

A guardian ad litem shall prepare a written final report, including recommendations to the court, within the times set forth in this division. The report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the guardian ad litem in reaching the guardian ad litem's recommendations and in accomplishing the duties required by statute, by court rule, and in the court's Order of Appointment. In addition, the following provisions shall apply to guardian ad litem reports in the juvenile and domestic relations divisions of Courts of Common Pleas:

(1) In juvenile abuse, neglect, and dependency cases and actions to terminate parental rights:

(a) All reports, written or oral, shall be used by the court to ensure that the guardian ad litem has performed those responsibilities required by section 2151.281 of the Revised Code.

(b) Oral and written reports may address the substantive allegations before the court, but shall not be considered as conclusive on the issues.

(c) Unless waived by all parties or unless the due date is extended by the court, the final report shall be filed with the court and made available to the parties for inspection no less than seven days before the dispositional hearing. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy shall be provided to the court at the hearing.

(d) A guardian ad litem shall be available to testify at the dispositional hearing and may orally supplement the final report at the conclusion of the hearing.

(e) A guardian ad litem also may file an interim report, written or oral, any time prior to the dispositional hearing and prior to hearings on actions to terminate parental rights. Written reports may be accessed in person or by phone by the parties or their legal representatives.

(f) Any written interim report shall be filed with the court and made available to the parties for inspection no less than seven days before a hearing, unless the due date is extended by the court. Written reports may be accessed in person or by phone by the parties

or their legal representatives. A copy of the interim report shall be provided to the court at the hearing.

(2) In domestic relations proceedings involving the allocation of parental rights and responsibilities, the final report shall be filed with the court and made available to the parties for inspection no less than seven days before the final hearing unless the due date is extended by the court. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy of the final report shall be provided to the court at the hearing. The court shall consider the recommendation of the guardian ad litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.

(G) Responsibilities of the court

In order to ensure that only qualified individuals perform the duties of guardians ad litem and that the requirements of this rule are met, each court appointing guardians ad litem shall do all of the following:

(1) Maintain a public list of approved guardians ad litem while maintaining individual privacy under Rules 44 through 47 of the Rules of Superintendence.

(2) Establish criteria, which include all requirements of this rule, for appointment and removal of guardians ad litem and procedures to ensure an equitable distribution of the work load among the guardians ad litem on the list.

(3) Appoint or contract with a person to coordinate the application and appointment process, keep the files and records required by this rule, maintain information regarding training opportunities, receive written comments and complaints regarding the performance of guardians ad litem practicing before that court and perform other duties as assigned by the court.

(4) Maintain files for all applicants and for individuals approved for appointment as guardians ad litem with the court. The files shall contain all records and information required by this rule, and by local rules, for the selection and service of guardians ad litem including a certificate or other satisfactory proof of compliance with training requirements.

(5) Require all applicants to submit a resume or information sheet stating the applicant's training, experience and expertise demonstrating the person's ability to successfully perform the responsibilities of a guardian ad litem.

(6) Conduct, or cause to be conducted, a criminal and civil background check and investigation of information relevant to the applicant's fitness to serve as a guardian ad litem.

(7) Conduct, at least annually, a review of its list to determine that all individuals are in compliance with the training and education requirements of this rule and local rules, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.

(8) Require all individuals on its list to certify annually they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended to comply with division (E) of this rule.

(9) Each court shall develop a process or local rule and appoint a person for accepting and considering written comments and complaints regarding the performance of guardians ad litem practicing before that court. A copy of comments and complaints submitted to the court shall be provided to the guardian ad litem who is the subject of the complaint or comment. The person appointed may forward any comments and complaints to the administrative judge of the court for consideration and appropriate action. Dispositions by the court shall be made promptly. The court shall maintain a written record in the guardian ad litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject guardian ad litem of the disposition.

RULE 49. Definitions.

As used in Sup.R. 49 through 49.12**:**

(A) Business entity

"Business entity" means a for profit or nonprofit corporation, partnership, limited liability company, limited liability partnership, professional association, business trust, joint venture, unincorporated association, or sole proprietorship.

(B) Commercial docket judge

"Commercial docket judge" means a sitting judge designated or retired judge assigned by the Chief Justice pursuant to Sup.R. 49.02 to hear cases assigned to a commercial docket.

(C) Retired judge

"Retired judge" has the same meaning as in Sup.R. 17(A)(1).

RULE 49.01. Establishment of Commercial Docket.

A court of common pleas having six or more general division judges or located in a county having a population of three hundred thousand or more according to the latest federal decennial census may establish and maintain a dedicated docket to hear commercial litigation pursuant to Sup.R. 49 through 49.12. The docket shall be styled a "commercial docket."

RULE 49.02. Designation or Assignment of Commercial Docket Judges.

(A) Designation or assignment by Chief Justice

Each court of common pleas that has established a commercial docket pursuant to Sup.R. 49.01 shall select either of the following methods for designating or assigning commercial docket judges:

(1) Request the Chief Justice of the Supreme Court to designate two or more sitting judges of the general division of the court. The Chief Justice shall not designate a judge unless the judge agrees to participate.

(2) Request the Chief Justice to assign one or more retired judges to active duty on the court pursuant to Article IV, Section 6(C) of the Ohio Constitution.

(B) Candidate recommendations

The court of common pleas shall submit a written request for either designation or assignment of commercial docket judges to the commercial docket subcommittee of the Advisory Committee on Case Management. The request shall include the names of any candidates for designation or assignment, as applicable, as commercial docket judges. The subcommittee shall submit a written report to the Chief Justice recommending the number of commercial docket judges for the court and candidates for designation or assignment, as applicable, as commercial docket judges. In reviewing a candidate, the subcommittee shall consider each of the following:

(1) The candidate's length of judicial experience;

(2) Any commercial or business-related education or experience the candidate may possess;

(3) Any commercial or business-related litigation experience the candidate may possess, including any specific commercial or business-related litigation in which the candidate participated as an attorney or over which the candidate presided as a judge;

(4) The candidate's case management expertise and experience, including case management of complex litigation;

(5) If applicable, the candidate's current caseload, including the number of pending cases the candidate may have that are beyond the time limits for disposition pursuant to Sup.R. 39;

(6) Whether the candidate has demonstrated a continuous commitment to the commercial docket concept;

(7) Whether the candidate demonstrates a willingness to assume any additional duties and responsibilities required by the commercial docket;

(8) Whether the candidate demonstrates a willingness to participate in commercial and business law-related training and education;

(9) The candidate's judicial temperament;

(10) The input and opinion of the regional or local bar associations;

(11) Any other factors or qualifications the subcommittee determines to be relevant.

RULE 49.03. Termination of Commercial Docket.

(A) Sitting judges serving as commercial docket judge

If a vacancy in the position of a commercial docket judge occurs in a court of common pleas that has established a commercial docket with sitting judges of the general division of the court serving as the commercial docket judges pursuant to Sup.R. 49.01 and 49.02(A)(1), resulting in the court having only one commercial docket judge, and no other judge of the court volunteers to serve and is appointed by the Chief Justice to the commercial docket pursuant to Sup.R. 49.02(A)(1), the court shall terminate the commercial docket as follows:

(1) The court shall cease assigning cases to the commercial docket;

(2) Commercial docket cases assigned to the remaining commercial docket judge shall remain with the judge until final disposition;

(3) Following final disposition of all commercial docket cases assigned to the remaining commercial docket judge, the commercial docket shall cease to exist.

(B) Retired judge serving as commercial docket judge

If a vacancy in the position of a commercial docket judge occurs in a court of common pleas that has established a commercial docket with a retired judge serving as the commercial docket judge pursuant to Sup.R. 49.01 and 49.02(A)(2), resulting in the court having no commercial docket judge, and no other retired judge volunteers to serve and is appointed by the Chief Justice to the commercial docket pursuant to Sup.R. 49.02(A)(2), the court shall terminate the commercial docket and all remaining commercial docket cases shall be randomly assigned to a judge of the court in accordance with the individual assignment system adopted by the court pursuant to Sup.R. 36(B)(2).

RULE 49.04. Commercial Docket Judge Education.

(A) Initial orientation and education seminar

Each commercial docket judge shall complete an orientation and education seminar on Ohio business law and the administration of commercial dockets to be offered or approved by the Supreme Court of Ohio Judicial College. The orientation and education seminar shall be open to non-commercial docket judges.

(B) Biennial education

As part of the forty hours of continuing legal education instruction required by Gov.Jud.R. IV, Section 2(A), each commercial docket judge should complete at least twelve hours of commercial docket education.

(C) Non-commercial docket judges

Non-commercial docket judges shall be encouraged to attend commercial docket education opportunities.

RULE 49.05. Cases Eligible for the Commercial Docket.

Any civil case, including any jury case; non-jury case; injunction, including any temporary restraining order; class action; declaratory judgment; or derivative action, shall be eligible for assignment into the commercial docket of a court of common pleas pursuant to Sup.R. 49.07 if the gravamen of the case relates to any of the following:

(A) The formation, governance, dissolution, or liquidation of a business entity;

(B) The rights or obligations between or among the owners, shareholders, partners, or members of a business entity, or rights and obligations between or among any of them and the business entity;

(C) Trade secret, non-disclosure, non-compete, or employment agreements involving a business entity and an owner, sole proprietor, shareholder, partner, or member of the business entity;

(D) The rights, obligations, liability, or indemnity of an officer, director, manager, trustee, partner, or member of a business entity owed to or from the business entity;

(E) Disputes between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them, including without limitation the following:

(1) Transactions governed by the uniform commercial code, except for consumer product liability claims described in Sup.R. 49.06(B);

(2) The purchase, sale, lease, or license of; a security interest in; or the infringement or misappropriation of patents, trademarks, service marks, copyrights, trade secrets, or other intellectual property;

(3) The purchase or sale of a business entity or the assets of a business entity;

(4) The sale of goods or services by a business entity to a business entity;

(5) Non-consumer bank or brokerage accounts, including loan, deposit, cash management, and investment accounts;

(6) Surety bonds and suretyship or guarantee obligations of individuals given in connection with business transactions;

(7) The purchase, sale, lease, or license of or a security interest in commercial property, whether tangible, intangible personal, or real property;

(8) Franchise or dealer relationships;

(9) Business related torts, such as claims of unfair competition, false advertising, unfair trade practices, fraud, or interference with contractual relations or prospective contractual relations;

(10) Cases relating to or arising under federal or state antitrust laws;

(11) Cases relating to securities or relating to or arising under federal or state securities laws;

(l2) Commercial insurance contracts, including coverage disputes.

RULE 49.06. Cases Not Eligible for the Commercial Docket.

A civil case shall not be eligible for assignment into the commercial docket of a court of common pleas pursuant to Sup.R. 49.07 if a labor organization is a party in the case, a governmental entity is other than a nominal party in the case, the case does not relate to any of the topics provided under Sup.R. 49.05, or the gravamen of the case relates to any of the following:

(A) Personal injury, survivor, or wrongful death matters;

(B) Consumer claims against business entities or insurers of business entities, including product liability and personal injury cases, and cases arising under federal or state consumer protection laws;

(C) Matters involving wages or hours, occupational health or safety, workers' compensation, or unemployment compensation;

(D) Environmental claims, except those arising from a breach of contractual or legal obligations or indemnities between business entities;

(E) Matters in eminent domain;

(F) Employment law cases, except those involving owners as described in Sup.R. 49.05(C);

(G) Discrimination cases based upon the federal or state constitutions or the applicable federal, state, or political subdivision statutes, rules, regulations, or ordinances;

(H) Administrative agency, tax, zoning, and other appeals;

(I) Petition actions in the nature of a change of name of an individual, mental health act, guardianship, or government election matters;

(J) Individual residential real estate disputes, including foreclosure actions, or non-commercial landlord-tenant disputes;

(K) Any matter subject to the jurisdiction of the domestic relations, juvenile, or probate divisions of a court of common pleas;

(L) Any matter subject to the jurisdiction of a municipal court, county court, mayor's court, small claims division of a municipal court or county court, or any matter required by statute or other law to be heard in some other court or division of a court;

(M) Any criminal matter, other than criminal contempt in connection with a matter pending on the commercial docket.

RULE 49.07. Assignment of Case to the Commercial Docket.

Notwithstanding the case assignment requirements of Sup.R. 36(B)(2), the following shall apply when a case is filed with a court of common pleas that has established a commercial docket pursuant to Sup.R. 49.02:

(A) If the case is eligible for assignment to the commercial docket pursuant to Sup.R. 49.05, the attorney filing the case shall include with the initial pleading a notification that it is a commercial docket case. Upon receipt of the pleading and notification, the clerk shall randomly assign the case to one of the commercial docket judges.

(B) If the case is eligible for assignment to the commercial docket pursuant to Sup.R. 49.05, but the attorney filing the case fails to file the notification pursuant to division (A) of this rule and the case is assigned to a non-commercial docket judge, an attorney representing any other party shall file a motion for transfer of the case to the commercial docket with that party's first responsive pleading. Copies of the motion shall be delivered to the administrative judge.

(C) If the case is eligible for assignment to the commercial docket pursuant to Sup.R. 49.05, but the attorney filing the case does not file the notification pursuant to division (A) of this rule, no attorney representing a party in the case files a motion for transfer pursuant to division (B) of this rule, and the case is assigned to a non-commercial docket judge, the judge shall sua sponte request the administrative judge to transfer the case to the commercial docket. If the judge requests the transfer of the case to the commercial docket one-hundred and twenty days or more after the case was filed, the transfer of the case to the commercial docket shall be at the discretion of the commercial docket judge to whom the case would be assigned.

(D) If the case is not eligible for assignment to the commercial docket pursuant to Sup.R. 49.06, but the case is assigned to the commercial docket, upon motion of any party or sua sponte at any time during the course of the litigation, the commercial docket judge shall transfer the case from the commercial docket.

RULE 49.08. Review of Transfer to the Commercial Docket.

(A) Ruling or decision on transfer

(1) A non-commercial docket judge shall rule on a party's motion for transfer of a case to the commercial docket filed pursuant to Sup.R. 49.07(B) no later than two days after the filing of the motion. A party to the case may appeal the non-commercial docket judge's decision to the administrative judge within three days of the non-commercial docket judge's decision. The administrative judge shall decide the appeal no later than two days after the filing of the appeal.

(2) An administrative judge shall decide the sua sponte request of a non-commercial docket judge for transfer of a case to the commercial docket made pursuant to Sup.R. 49.07(C) no later than two days after the request is made.

(B) Review of transfer

(1) The factors set forth in Sup.R. 49.05 and 49.06 shall be dispositive in determining whether a case shall be transferred to or removed from the commercial docket pursuant Sup.R. 49.07(B) through (D).

(2) The ruling or decision of the administrative judge as to the transfer of a case under division (A) of this rule is final and not appealable.

RULE 49.09. Commercial Docket Judge Workload.

(A) Adjustment of other case assignments

To promote a fair and equal distribution of cases, in a court of common pleas that has established a commercial docket with sitting judges of the general division of the court serving as the commercial docket judges pursuant to Sup.R. 49.01 and 49.02(A)(1), for each commercial docket case assigned to a commercial docket judge pursuant to Sup.R. 49.07, a similar non-commercial docket civil case shall be assigned by lot from the docket of the commercial docket judge to a non-commercial docket judge of the court.

(B) Adoption of local rule reducing workload

Notwithstanding the case assignment requirements of Sup.R. 36(B)(2), a court of common pleas that has established a commercial docket with sitting judges of the general division of the court serving as the commercial docket judges pursuant to Sup.R. 49.01 and Sup.R. 49.02(A)(1) shall adopt a local rule of court reducing the number of cases assigned to each commercial docket judge through one or more of the following measures:

(1) Each commercial docket judge receiving no fourth or fifth degree felony cases;

(2) A fifty percent reduction in the number of criminal cases assigned to each commercial docket judge;

(3) A meaningful reduction in the non-commercial docket civil cases assigned to each commercial docket judge.

RULE 49.10. Dispute Resolution.

(A) Referral of case

A commercial docket judge may refer a commercial docket case to any available dispute resolution process, including but not limited to dispute resolution by a commercial docket judge in another county or a retired or sitting former commercial docket judge with the approval of the judge to whom the case would be referred.

(B) Compensation

A sitting, retired, or sitting former commercial docket judge accepting a dispute resolution assignment pursuant to division (A) of this rule shall not be entitled to additional compensation. However, in appropriate circumstances where out-of-county travel, overnight lodging, or other out-of-pocket expenses are reasonably incurred, the judge shall be reimbursed from the court in which the commercial docket case is pending. Such expenses may be taxed as costs.

RULE 49.11. Rulings on Motions and Submitted Cases.

(A) Deadline for motions

A commercial docket judge shall rule upon all dispositive motions in a commercial docket case no later than ninety days from the completion of briefing or oral arguments, whichever is later, and all other motions no later than sixty days from the completion of briefing or oral arguments, whichever is later.

(B) Deadline for submitted cases

A commercial docket judge shall issue a decision in all commercial docket cases submitted for determination after a court trial no later than ninety days from the date on which the case was submitted.

RULE 49.12. Commercial Docket Case Disposition Time Guideline.

Except for a case designated as complex litigation pursuant to Sup.R. 42, a court shall aspire to dispose of a commercial docket case within eighteen months of the date on which the case was filed. This time guideline is not mandatory, but shall serve as a benchmark and assist courts and commercial docket judges in measuring the effectiveness of commercial docket case management.

RULE 50. Definitions.

As used in Sup. R. 50 to 82 "case" means any of the following when filed in the probate division of the court of common pleas:

(A) A civil complaint, petition, or administrative appeal;

(B) A decedent's estate; a testamentary, inter vivos or wrongful death trust; a guardianship, conservatorship or request for emergency orders pursuant to division (B)(3) of 2111.02 of the Revised Code; an adoption or name change. Each beneficiary of a wrongful death trust, each ward or conservatee, each adoptee and each individual requesting a change of name in those proceedings with multiple interested parties, shall be considered a separate "case."

(C) Any other proceeding for which a case number is assigned including but not limited to the following: tax filings, filings of wills for probate or record, real estate transfers, and filings of foreign records where an estate is not opened; release from administration; minor's settlements; birth corrections; delayed birth registrations; mental retardation or tuberculosis commitments; petition for protective services; petition to compel HIV testing; an application to appoint a guardian, trustee, protector, or conservator of a mentally retarded or developmentally disabled person; acknowledgment of paternity; a petition for release of adoption information; powers of attorney including those for health care; declarations concerning life-sustaining treatment; proceedings to designate heir; applications to disinter or to oppose disinterment; and voluntary assignment for the benefit of creditors.

Commentary (July 1, 1997)

Rule 50 is a new rule that defines "case" as used in the rules applicable to the probate division of the court of common pleas.

Commentary (March 25, 2002)

The March 25, 2002 amendment deleted an obsolete reference to the recording of chiropractic licenses in the probate division of the court of common pleas. See former R.C. 4734.08, repealed in H.B. 506 of the 123rd General Assembly.

RULE 51. Standard Probate Forms.

(A) Applicability. This rule prescribes the format, content, and use of standard forms for designated applications, pleadings, waivers, notices, entries, and other filings in certain proceedings in the probate division of the courts of common pleas.

Where a standard form has not been prescribed by this rule, the form used shall be that required by the Civil Rules, or prescribed or permitted by the probate division of the court of common pleas in which it is being filed.

(B) Effective date; use of standard and nonstandard forms.

(1) This rule takes effect July 1, 1977 and applies to proceedings had on and after that date, including proceedings in pending cases.

(2) The standard forms shall be used on and after January 1, 1978, and nonstandard forms shall be rejected for filing.

(C) Modification of standard forms; pleadings and filings prepared for particular cases.

(1) A printed, blank standard form may be modified by deletion or interlineation to meet the circumstances of a particular case or proceeding, if the modification can be accomplished neatly and conveniently. No court shall require the modification of a standard form as a routine matter. If any allegation, statement, data, information, pleading, or filing is required by an appropriate local rule of court and a standard form does not make provision therefor, it shall be provided in a separate or supplemental filing.

(2) Even though a standard form is prescribed, an original instrument may be prepared for filing. Any such instrument shall be typed on eight and one-half by eleven inch paper. The caption prescribed in Sup. R. 52 shall be used, and the instrument shall follow the format prescribed for the standard forms. Any such instrument may modify the language of the standard form, omit inapplicable matter required by the standard form, and add matter not included in the standard form to the extent required by the circumstances of the particular case or proceeding.

(D) Standard probate forms. The standard forms prescribed for use in the probate division of the courts of common pleas are as follows.

Commentary (October 1, 1997)

This rule is identical to former C.P. Sup. R. 16.

This rule was amended effective December 13, 1989, to add a temporary provision suspending the use of Standard Probate Forms 15.0 through 17.5, the guardianship forms. This was necessitated by the revisions to the guardianship laws embodied in Substitute Senate Bill 46 of the 118th General Assembly, effective January 1, 1990. New guardianship forms were adopted effective September 1, 1991 and the temporary provision was repealed. In addition, additional estate forms were adopted as the result of

Amended Substitute House Bill 346 of the 118th General Assembly, effective May 31, 1990. See R.C. 2113.03 and 2113.533.

The December 1989 amendment to this rule also added new Standard Probate Forms 18.0 through 19.1, which are used for adoptions.

RULE 52. Specifications for Printing Probate Forms.

(A) Applicability.

(1) The specifications in this rule govern the reproduction of blank forms intended for, or used in, the administration of decedents' estates, guardianships, and adoptions in this state, including:

(a) Standard forms prescribed in Sup. R. 51;

(b) Commercially prepared blank forms, including standard and nonstandard forms, designed for use in any aspect of the administration of decedents' estates, guardianships, and adoptions;

(c) Blank forms prescribed by local rule of court for use in situations for which no standard form is prescribed.

(2) This rule does not apply to any of the following:

(a) Any pleading, application, entry, waiver, notice, or other filing that is prepared ad hoc for use in a particular case or proceeding, or that is not reproduced in any manner for use as a blank form;

(b) Any routing slip, memorandum index, cost bill, or other form designed solely for internal administrative or clerical use;

(c) Forms intended for use in matters other than the administration of decedents' estates, guardianships, or adoptions;

(d) Estate tax returns, reports, and other forms prescribed by the Department of Taxation.

(B) Size of forms; stock. All forms shall be on paper size eight and one-half by eleven inches, printed on twenty-four pound bond or heavier stock.

(C) Margins. Right and left margins shall be approximately one-half to three-quarters of one inch, and shall be justified. The top margin shall be approximately seven-eighths to one and one-eighth inches, measured from the top edge of the paper to the top of the first line of the caption. The distance between the bottom of the repeat of the main heading at the foot of the first page shall be as required by division (K) of this rule.

(D) Type styles.

(1) All type shall be sans serif. Bold face type shall be used only as required or permitted by division (D)(2) of this rule. Italics shall not be used. Except as provided in division (D)(3) of this rule, all type shall be upper and lower case.

(2) Bold face type shall be used for the main heading immediately following the caption, and for the form number and repeat of the main heading at the foot of the first page. In addition bold face type may be used for:

(a) The caption;

(b) Subheadings;

(c) Directions enclosed in brackets;

(d) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer;

(e) Column headings;

(f) Any matter not covered in division (D)(2)(a) to (e) of this rule, for which the use of bold face type is expressly indicated on a standard form in Sup. R. 51.

(3) The following shall be printed in all capital letters:

(a) The first two lines of the caption;

(b) The main heading immediately following the caption;

(c) All subheadings;

(d) The form number and repeat of the main heading at the foot of the first page;

(e) Any matter not covered in division (D)(3)(a) to (d) of this rule, for which the use of all capital letters is expressly indicated on a standard form in Sup. R. 51.

(E) Type sizes.

(1) The following type sizes shall be used:

(a) Main headings immediately following the caption shall use sixteen-point or larger type;

(b) The first line of the caption, and all subheadings, shall use not smaller than twelve-point nor larger than sixteen-point type;

(c) The last two lines of the caption, the body, and the form number and repeat of the main heading at the foot of the first page, shall use not smaller than eight-point nor larger than twelve-point type;

(d) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer, shall use not larger than eight-point type.

(2) Whatever type size is used with the limitations of division (E)(1) of this rule:

(a) The first line of the caption and all subheadings shall use type at least two points smaller than the main heading immediately following the caption;

(b) The last two lines of the caption, the body, and the form number and repeat of the main heading at the foot of the first page, shall use type at least two points smaller than the subheadings;

(c) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer, shall use type at least two points smaller than the body.

(F) Vertical spacing.

(1) The vertical spacing on all forms shall be in units of one pica, to conform to standard typewriter vertical spacing.

(2) In order to permit optimum placement and promote visual appeal, the main heading and any subheading may be moved up or down within the available area without regard to the vertical spacing of the rest of the form, provided the rest of the form from head to foot maintains vertical spacing in units of one pica.

(G) Centering. The first line of the caption, the main heading, any explanatory information supplementing the main heading and appearing directly below it, subheadings, and the form number and repeat of the main heading at the foot of the first page of a form, shall be centered.

(H) Blank lines; length; vertical spacing in series.

(1) Blanks to be filled in shall be indicated by a printed solid line. Wherever possible, such lines shall be of sufficient length to accommodate comfortably all characters included in any word, phrase, name, date, or other information that might reasonably be expected to be placed in the blank. Spaces and punctuation shall be included in counting characters. It shall be assumed that six pica will accommodate ten characters in calculating the length of a line.

(2) Wherever possible, blank lines shall be a minimum length of:

(a) Eight pica, when the name of a county is to be inserted;

(b) Eighteen pica, when a date is to be inserted;

(c) Twenty pica, when a name or signature is to be inserted;

(d) Eight pica, not counting the dollar sign, when a dollar amount is to be inserted.

(3) One, or two or more blank lines may be used for the insertion of an address. Wherever possible, such lines shall be a minimum length of:

(a) Forty pica when a single line is used;

(b) Twenty pica per line when two or more lines are used.

(4) When a series of signature lines, lines for tabulating particular information, or other blank lines in vertical series are called for in a form, then except where expressly indicated on a standard form in Sup. R. 51, the vertical spacing between lines shall be two pica. This spacing shall be maintained without regard to instructions or identification printed below a line.

(I) Boxes to be checked.

(1) Where a form calls for a "check" or "X" to be inserted, a box shall be used for the purpose. The box shall precede the information to which it refers.

(2) When a series of "checks" or "X's" are called for in the same sentence or paragraph, each box and the information to which it refers shall be set apart visually from the preceding and following information in the same sentence or paragraph. Any device that provides visual separation and minimizes possible confusion may be used, including without limitation space-hyphen-space or a double or triple space, as in the following example:

"[check one of the following] - - [ ]Decedent's will has been admitted to probate in this court - [ ]To applicant's knowledge decedent did not leave a will."

(J) Caption.

(1) Except as provided in division (J)(3) of this rule, the following captions shall be used, respectively, on all forms for the administration of decedents' estates, guardianships, and adoptions:

PROBATE COURT OF _____COUNTY, OHIO

ESTATE OF _____ DECEASED

CASE NO. _____;

PROBATE COURT OF _____ COUNTY, OHIO

GUARDIANSHIP OF_____

CASE NO. _____ ;

PROBATE COURT OF _____ COUNTY, OHIO

ADOPTION OF_____
(Name after adoption)

CASE NO._____.

(2) The first line of the caption shall be centered. The second and third lines shall begin at the left margin and end at the right margin. The vertical space between the first and second lines may be two or three pica. The vertical space between the second and third lines shall be two pica.

(3) The following variations from the caption prescribed in division (J)(1) and (2) of this rule are permitted:

(a) The blank line in the first line of the caption may be replaced by the imprinted name of a particular county.

(b) The caption may be expanded to include the address of a particular court, using type of any suitable size. In such case, the blank lines intended for the court's address in the body of any form and introductory material for the address such as, "the court is located at _____," shall be omitted.

(c) In Standard Decedents' Estates Form 5.5, and in any other decedents' estates form dealing with two or more estates, the last two lines of the caption shall be omitted.

(K) Form number and repeat of main heading.

(1) The main heading of a form, which appears immediately below the caption on the first page of a form, shall be repeated at the foot of the first page. If the form is a standard form, the repeat of the main heading shall be preceded on the same line by the form number.

(2) The form number and repeat of the main heading shall be centered, and located not higher than three-eighths inch above the bottom edge of the form.

(L) Printing front and back. When a standard probate form consists of more than one page, each page shall contain the case number in the upper portion of the page.

(M) Standard forms to govern; variations.

(1) Matters not specifically covered in this rule are governed by the standard forms prescribed in Sup. R. 51. Overall, the format of all printed blank forms, whether standard or nonstandard, shall conform substantially to the standard forms. Except as provided in division (M)(2) of this rule, no additions to, deletions from, or changes in the form, content, or language of the standard forms are permitted when printing blank standard forms.

(2) The following variations from the standard forms in Sup. R. 51 are permitted:

(a) In any form calling for a court's address, the blank lines intended for the insertion of such information may be replaced by the imprinted information itself. If the court's address is imprinted in the caption, the blank lines in the body of the form for the address and introductory material for the address shall be omitted as provided in division (J)(3) of this rule.

(b) The name as well as the title of the probate judge may be imprinted below a judge's signature line on any form.

(c) In any form calling for the attorney's typed or printed name, address, telephone number, and attorney identification number, the blank lines intended for the insertion of that information may be replaced by the imprinted information itself. The signature line for the attorney shall be retained.

(d) In Standard Decedents' Estates Form 4.2, the portion of the form below the date line and principal's signature line, and above the repeat at the foot of the page, may be replaced by the imprinted name and address of a corporate surety, identified in some appropriate manner as the surety on the particular bond, and including a signature line for the attorney in fact. The last paragraph of the body of the form, relating to justification of personal sureties, shall be omitted.

(e) When standard forms are generated by computer, they shall conform to all specifications for standard forms stated in this rule. A court may accept for filing nonstandard computer generated forms for the receipts and disbursements attached to a standard account form or the schedule of assets attached to a standard inventory and appraisal form.

(f) All forms may include suitable coding for optical or magnetic scanning, or similar system designed to aid docketing, indexing, cost accounting, or other administrative or clerical activities.

(g) On all forms, the publisher may add its name, logotype, or other suitable identification. The size, style, and placement shall be such as not to detract from, interfere with, or overpower any part of the form.

(h) Wherever a form contains "19__" or "199__", a blank line shall be substituted to accommodate the correct year.

(N) Effective date.

(1) This rule takes effect July 1, 1977.

(2) On and after January 1, 1978, any pleading, application, entry, waiver, notice, or other filing, prepared using a blank form to which this rule applies, shall not be accepted for filing by the probate division of a court of common pleas of this state unless such blank form complies with the specifications in this rule.

(3) The amendment to division M(2)(h) shall take effect on November 16, 1999.

Commentary (November 16, 1999)

This amendment permits the change of preprinted dates on existing standard probate forms.

Commentary (October 1, 1997)

This rule is unchanged substantively from former C.P. Sup. R. 17.

RULE 53. Hours of the Court.

Each court shall establish hours for the transaction of business.

Commentary (October 1, 1997)

This rule is unchanged from former C.P. Sup. R. 18.

RULE 54. Conduct in the Court.

(A) Proper decorum in the court is necessary to the administration of the court's function. Any conduct that interferes or tends to interfere with the proper administration of the court's business is prohibited.

(B) No radio or television transmission, voice recording device, other than a device used by a court reporter making a record in a proceeding, or the making or taking of pictures shall be permitted without the express consent of the court in advance and pursuant to Sup. R. 12.

Commentary (October 1, 1997)

This rule is identical to former C.P. Sup. R. 19.

RULE 55. Examination of Probate Records.

(A) Records shall not be removed from the court, except when approved by the judge. Violation of this rule may result in the issuance of a citation for contempt.

(B) Copies of records may be obtained at a cost per page as authorized by the judge.

(C) Adoption, mental illness, and mental retardation proceedings are confidential. Records of those proceedings, and other records that are confidential by statute, may be accessed as authorized by the judge.

(D) A citation for contempt of court may be issued against anyone who divulges or receives information from confidential records without authorization of the judge.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 20 and summarizes local practice and current law. In general, see R.C. 2101.11(A)(1), 2101.12, 2101.13, 3107.17, 5122.31, 5122.34.

Sup. R. 55 has been amended to make the rule grammatically correct and to make the rule applicable to all confidential records as opposed to specific enumerated confidential records.

RULE 56. Continuances.

(A) Motions for continuance shall be submitted in writing with the proper caption and case number.

(B) Except on motion of the court, no continuance shall be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or the party's counsel. Failure to object to the continuance within a reasonable time after receiving notice shall be considered consent to the continuance.

(C) A proposed entry shall be filed with a motion for continuance, leaving the time and date blank for the court to set a new date.

Commentary (October 1, 1997)

Sup. R. 56 is analogous to former C.P. Sup. R. 23 and is the basic continuance rule within Sup. R. 50 through Sup. R. 78.

Sup. R. 56 has been amended to be gender neutral and to require a "proposed" entry as opposed to a "judgment" entry to be submitted to the court with all motions for a continuance.

RULE 57. Filings and Judgment Entries.

(A) All filings, except wills, shall be on eight and one-half by eleven inch paper, without backings, of stock that can be microfilmed.

(B) All filings shall contain the name, address, telephone number, and attorney registration number of the individual counsel representing the fiduciary and, in the absence of counsel, the name, address, and telephone number of the fiduciary. Any filing not containing the above requirements may be refused.

(C) Failure of the fiduciary to notify the court of the fiduciary's current address shall be grounds for removal. Not less than ten days written notice of the hearing to remove shall be given to the fiduciary by regular mail at the last address contained in the case file or by other method of service as the court may direct.

(D) Filings containing partially or wholly illegible signatures of counsel, parties or officers administering oaths may be refused, or, if filed, may be stricken, unless the typewritten or printed name of the person whose signature is purported to appear is clearly indicated on the filing.

(E) All pleadings, motions, or other filings are to be typed or printed in ink and correctly captioned.

(F) Unless the court otherwise directs, counsel for the party in whose favor a judgment is rendered, shall prepare the proposed judgment entry and submit the original to the court with a copy to counsel for the opposing party. The proposed judgment entry shall be submitted within seven days after the judgment is rendered. Counsel for the opposing party shall have seven days to object to the court. If the party in whose favor a judgment is rendered fails to comply with this division, the matter may be dismissed or the court may prepare and file the appropriate entry.

(G) When a pleading, motion, judgment entry or other filing consists of more than one page, each page shall contain the case number in the upper portion of the page.

Commentary (October 1, 1997)

Sup. R. 57 is analogous to former C.P. Sup. R. 24.

Sup. R. 57(A) is unchanged.

Sup. R. 57(B) has been amended to require the attorney's Supreme Court Registration Number on all filings in addition to the name, address and telephone number of the attorney.

Sup. R. 57 (B) and (D) have been amended to substitute the term "filings" for "papers" as being more descriptive of the documents received by the court.

Sup. R. 57(C) has been amended to provide for removal of a fiduciary who fails to keep the court apprised of a current address. Sup. R. 57(C) has also been amended to reflect the notice requirements of R.C. 2109.24 requiring ten days notice upon the removal of the fiduciary. Sup. R. 57(C) has been amended to allow for service of notice to be by regular mail at the fiduciary's last known address instead of pursuant to Civil Rule

73(E). The amendment is to expedite the removal of dilatory fiduciaries and to timely complete the administration of estates by avoiding the eventual requirement of publication pursuant to Civil Rule 73(E)(6) and the requirement for certified mail notice when such notice is being given by the court.

See, generally R.C. 2109.02, 2109.06, 2109.18, 2109.19, 2109.24, 2109.31, 2109.53.

Sup. R. 57(E) has been amended to reflect recent case law that has noted a distinction between motions, pleadings and filings. The rule now requires all filings to be in ink.

Former C.P. Sup. R. 24(F) and (G) have been combined into new Sup. R. 57(F) since both matters were interrelated. There were no substantive changes made.

RULE 58. Deposit for Court Costs.

(A) Deposits in the amount set forth in a local rule shall be required upon the filing of any action or proceeding and additional deposits may be required.

(B) The deposit may be applied as filings occur.

Commentary (October 1, 1997)

Sup. R. 58 summarizes local practice and is analogous to former C.P. Sup. R. 25.

The reference to R.C. 2101.16 has been deleted as unnecessary in that the statute delegates the amount of the deposit to local rule.

RULE 59. Wills.

(A) Before an application is made to admit the will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, each applicant or the applicant's attorney shall examine the index of wills deposited pursuant to section 2107.07 of the Revised Code. Wills deposited pursuant to section 2107.07 of the Revised Code previous to the will offered for probate shall be filed in the estate proceedings for record purposes only.

(B) Fiduciaries appointed to administer testate estates shall file a Certificate of Service of Notice of Probate of Will (Standard Probate Form 2.4) within two months of their appointment or be subject to removal proceedings. If required by the court, proof of service shall consist of either waivers of notice of the probate of will or certified mail return receipt cards as provided under Civil Rule 73(E)(3), or if necessary, under Civil Rule 73(E)(4) and (5). A waiver of notice may not be signed by any minor, or on behalf of a minor sixteen or seventeen years of age. See Civil Rule 4.2.

Commentary (October 1, 1997)

This rule substantially revises former C.P. Sup. R. 26. The title of Sup. R. 59 has been amended because the subject matter of the rule is more inclusive.

The provisions of former C.P. Sup. R. 26(A) and (D) have been deleted to reflect the repeal of R.C. 2107.13 and 2107.14 and reflect the revised method of admitting a will to probate effective May 31, 1990.

Sup. R. 59(A) has been amended to reflect wills in safekeeping pursuant to R.C. 2107.07. Sup. R. 59(A) imposes a duty upon the applicant or his or her attorney to ascertain before applying to administer an estate if a will is in safekeeping. The purpose of this division is to: (1) make certain that an estate is not administered intestate when a will in safekeeping does exist, (2) make certain the decedent's last will and testament has been offered for probate, and (3) remove all prior wills of a decedent from safekeeping.

Sup. R. 59(B) is amended to require a timely filing of the "Certificate of Service of Notice of Probate of Will" so that the will contest period will expire prior to the time for the filing of the account. The amended rule also confirms that waivers of notice of probate of wills shall conform to Civil Rule 4(D).

Former C.P. Sup. R. 26(C) has been entirely deleted. The requirement of R.C. 109.26 and 109.29 are adequately provided for in Standard Probate Form 2.0.

RULE 60. Application for Letters of Authority to Administer Estate and Notice of Appointment.

(A) Notice of an application for appointment of administrator shall be served at least seven days prior to the date set for hearing. If there is no known surviving spouse or next of kin resident of the state, the notice shall be served upon persons designated by the court.

(B) The administrator shall give notice of the appointment within seven days after the appointment to all persons entitled to inherit, including persons entitled to an allowance for support, unless those persons have been provided notice of the hearing on the appointment or have waived notice.

(C) The probate court shall serve by certified mail the spousal citation and summary of rights required by R.C. 2106.02 to the surviving spouse within 7 days of the initial appointment of the administrator or executor, unless a different time is established by local court rule.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 27. The title to Sup. R. 60 has been amended to be more descriptive of the rule's requirements.

Former C.P. Sup. R. 27(A) and (B) have been joined and incorporated under amended Sup. R. 60(A). Any language changes were merely grammatical and not substantive.

Amended Sup. R. 60(B) is a new division that deals with notice of the appointment of a fiduciary. Sup. R. 60(B) reflects local practice requiring that notice of the appointment be given to all persons interested in the decedent's estate, so that they may properly monitor their particular interests.

RULE 61. Appraisers.

(A) Without special application to the court, a fiduciary may allow to the appraiser as compensation for services a reasonable amount agreed upon between the fiduciary and the appraiser, provided the compensation does not exceed the amount allowed by local court rule. If no local court rule exists, the compensation shall be subject to court approval.

(B) If, by reason of the special and unusual character of the property to be appraised, the fiduciary is of the opinion that the appraisal requires the services of persons qualified in the evaluation of that property, a qualified appraiser may be appointed and allowed compensation as provided in division (A) of this rule.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 28. The title to Sup. R. 61 has been amended to be more inclusive and applies to appraisers in all probate matters. The term "appointment" in the title has been deleted since the rule no longer deals with this issue.

Former law required three disinterested appraisers. Former C.P. Sup. R. 28(A) was intended to clarify the transition from three appraisers to one appraiser. The rule is no longer needed and has been deleted.

Former divisions (B), (C), (D), and (F) attempted to set guidelines for appraiser fees when the court did not set forth a local rule. Division (A) now permits the compensation to be set by agreement of the fiduciary and appraiser unless set by local rule. All disputes shall be settled by the probate court.

Former C.P. Sup. R. 28(A), (B), (C), (D), and (F) are unnecessary since the appraiser's compensation is adequately addressed by R.C. 2115.06.

Former C.P. Sup. R. 28(E) has been redesignated as Sup. R. 61(B) without substantive changes.

RULE 62. Claims Against Estate.

(A) When a claim has been filed with the court pursuant to section 2117.06 of the Revised Code, the fiduciary shall file a copy of any rejection of the claim with the court.

(B) If the court requires a hearing on claims or the fiduciary requests a hearing on claims or insolvency, the fiduciary shall file a schedule of all claims against the estate with the court. The schedule of claims shall be filed with the fiduciary's application for hearing or within ten days after the court notifies the fiduciary of a court-initiated hearing.

Commentary (October 1, 1997)

The rule is analogous to former C.P. Sup. R. 30. The title of Sup. R. 62 has been amended to be more inclusive and descriptive. R.C. 2117.06 neither limits nor requires that claims be filed with the court. Filing with the court is merely one alternative pursuant to R.C. 2117.06(A)(2).

The last sentence of former C.P. Sup. R. 30(A) has been deleted because the issue is adequately addressed by R.C. 2117.06(I).

The statutory reference in Sup. R. 62(B) has been deleted as limiting the former rule. Insolvency hearings have been added to the requirement of Sup. R. 62(B). There is no statutory provisions regarding advising the court of the specific claims in an insolvent estate. The court requires this information and the rule supplements this void.

RULE 63. Application to Sell Personalty.

An application to sell personal property shall include an adequate description of the property. Except for good cause shown, an order of sale shall not be granted prior to the filing of the inventory.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 31. Sup. R. 63 has been amended to delete requirements that are currently required by statute. See, R.C. 2109.45.

The first and last sentences of former C.P. Sup. R. 31 have been deleted as they duplicate the requirements of the statute. The second sentence has been amended to permit an order of sale to issue upon the filing of the inventory as opposed to the previous version, which permitted the order to be granted upon the approval of the inventory. This would expedite the administration by permitting the order to be granted at an earlier date.

RULE 64. Accounts.

(A) The vouchers or other proofs required by section 2109.302 and 2109.303 of the Revised Code and receipts filed or exhibited pursuant to section 2109.32(B)(1)(b) of the Revised Code, shall be referenced to the account by number, letter, or date.

(B) If land has been sold during the accounting period, the account shall show the gross amount of the proceeds and include a copy of the closing statement itemizing all of the disbursements.

(C) Receipts for distributive shares signed by persons holding power of attorney may be accepted, provided the power of attorney is recorded in the county in which the estate is being administered and a copy of the recorded power is attached to the account.

(D) Exhibiting assets.

(1) The court may require that all assets be exhibited at the time of filing a partial account.

(2) Cash balances may be verified by exhibiting a financial institution statement, passbook, or a current letter from the financial institution in which the funds are deposited certifying the amount of funds on deposit to the credit of the fiduciary. Assets held in a safe deposit box of a fiduciary or by a surety company on fiduciary's bond may be exhibited by filing a current inventory of the assets. The inventory shall be certified by the manager of the safe deposit box department of the financial institution leasing the safe deposit box or by a qualified officer of the surety company if the assets are held by a surety. If the assets are held by a bank, trust company, brokerage firm, or other financial institution, exhibition may be made by proper certification as to the assets so held. For good cause shown, the court may designate a deputy clerk of the court to make an examination of the assets located in the county, not physically exhibited to the court or may appoint a commissioner for that purpose if the assets are located outside the county. The commissioner appointed shall make a written report of findings to the court.

(E) A final or distributive account shall not be approved until all court costs have been paid.

Commentary (October 1, 1997)

This rule revises former C.P. Sup. R. 32.

Former C.P. Sup. R. 32(A) and (B) have been deleted. This subject matter is more appropriately addressed in proposed Sup. R. 78, the case management rule.

Former C.P. Sup. R. 32(C) has been changed grammatically and relettered as division (A). The substance has remained the same in that it requires the vouchers to be cross referenced to the account entries. Former divisions (A)(1) to (4) have been deleted in that they describe the parameters of the probate forms created under Sup. R. 52(D) and are therefore superfluous.

Former C.P. Sup. R. 32(D) has been relettered as division (B). The rule has been amended to require a closing statement to be submitted in lieu of the reporting requirements under the former rule.

Former C.P. Sup. R. 32(E) has been deleted to reflect local practice where each guardianship of a minor's estate is administered in a separate case file and a separate corresponding case number.

Former C.P. Sup. R. 32(F) has been relettered as division (C) and amended to require that when a power of attorney is used for the receipt of assets, the instrument must be recorded in the county of the court accepting the account. The previous rule required the instrument to be recorded in the State of Ohio.

Former C.P. Sup. R. 32(G) has been relettered as division (D). The term "safety deposit box" has been amended to "safe deposit box" to parallel Revised Code references. The term "financial institution" has been substituted for "bank" in order to be consistent with the terminology of Title XI of the Revised Code and to be more inclusive.

Former C.P. Sup. R. 32(H) has been relettered as division (E), and no amendments or language changes have been made.

Commentary (April 8, 2004)

This Rule Amendment is necessary because of the adoption of Sub. H.B. 85, effective October 31, 2001.

RULE 65. Land Sales - R.C. Chapter 2127.

(A) In all land sale proceedings, the plaintiff, prior to the issuance of an order finding the sale necessary, shall file with the court evidence of title showing the record condition of the title to the premises described in the complaint and prepared by a title company licensed by the state of Ohio, an attorney's certificate, or other evidence of title satisfactory to the court. Evidence of title shall be to a date subsequent to the date on which the complaint was filed.

(B) The plaintiff shall give notice of the time and place of sale by regular mail at least three weeks prior to the date of a public sale to all defendants at their last known addresses. Prior to the public sale, the plaintiff shall file a certificate stating that the required notice was given to the defendants and the sale was advertised pursuant to section 2127.32 of the Revised Code.

(C) In all private land sale proceedings by civil action, the judgment entry confirming sale, ordering issuance of deed, and ordering distribution shall show the gross amount of the proceeds and include a copy of the proposed closing statement itemizing all of the proposed disbursements.

(D) The court may appoint a disinterested person, answerable to the court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified and report findings in writing. The report shall be a part of the record. The compensation for the person performing these services shall be fixed by the court, according to the circumstances of each case, and shall be taxed as costs.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 33 and has been amended to be inclusive and to apply to all land sale proceedings. Former C.P. Sup. R. 33(A) only applied to public land sale, and not private land sale proceedings. The rule has been amended to require that evidence of title prepared by a title company must be prepared by a title company that is licensed in the State of Ohio.

Former C.P. Sup R. 33(B) has been amended to delete the requirement of giving notice by posting the notice of sale upon the premises. This appeared unnecessary since actual notice of the sale must be given to all defendants, and R.C. 2127.32 requires notice by publication to the general public.

Reference to the filing of an affidavit has been amended to refer to a "certificate," to reflect Civil Rule 73(H), which does not require certificates and pleadings to be under oath. An affidavit, by definition, is under oath. The content of the "certificate" has been amended to comply with the amended notice requirements of division (B).

Former C.P. Sup. R. 33(C) has been deleted in that the requirements are unnecessary and adequately covered by R.C. 2127.23 and 2127.35.

Amended division (C) requires that a proposed closing statement be attached to the order of confirmation of sale issued pursuant to R.C. 2127.35. The inclusion of the proposed closing statement provides the court with the details of the costs associated with the land sale proceedings.

Division (D) has been amended in order to be made gender neutral. No substantive changes have been made.

RULE 66. Guardianships.

(A) All applications for the appointment of a guardian on the grounds of mental incompetency shall be accompanied by either a statement of a physician or clinical psychologist or a statement that the prospective ward has refused to submit to an examination.

(B) An Application for Authority to Expend Funds (Standard Probate Form 15.7) shall not be approved until an Inventory (Standard Probate Form 15.5) has been filed.

(C) An application for allowance of care and support of a minor shall allege, if such is the fact, that the parents are financially unable to provide the items for which the amount is sought.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 34, and the title has been amended to be more inclusive in that the rule does not only apply to the guardian but also to all issues affecting the guardianship.

Division (A) has been deleted in that it described the parameters of the probate forms created under Sup. R. 51(D) and is therefore superfluous.

Former C.P. Sup. R. 34(B) has been relettered as division (A). The rule required the submission of a statement of a physician upon the filing of an application for guardianship or an application for dismissal of a guardianship or a declaration of competency. The rule has been amended to permit a clinical psychologist to complete the expert evaluation. This amendment recognizes that a psychologist's report is often more thorough than that of the physician and recognizes that the psychologist may complete the expert evaluation for the biennial report. The rule has not been expanded to permit the initial evaluation to be completed by a licensed clinical social worker.

The requirement for an expert evaluation for the dismissal or termination of a guardianship has been deleted due to statutory changes under R.C. 2111.49(C).

Former C.P. Sup. R. 34(C) has been deleted and incorporated in part in amended division (B), which continues the requirement to file an inventory prior to the authorization of any expenditure required in former C.P. Sup. R. 34(C).

Former C.P. Sup. R. 34(D) has been relettered as division (C). Division (C) has been amended to delete the term "parent-guardian" from the rule and to allow the application to be filed by the appointed guardian, who is not in all cases also the parent of the minor ward. With an application to expend funds for support of a minor ward, the rule formerly required a parent-guardian to state whether the parents had the ability to provide the support. The amendment expands the rule to require any guardian to state whether the parents can provide the support when requesting expenditure of the ward's funds for support.

RULE 66.01. Definitions.

As used in Sup.R. 66.01 through 66.09:

(A) Best interest

"Best interest" means the course of action that maximizes what is best for a ward, including consideration of the least intrusive, most normalizing, and least restrictive course of action possible given the needs of the ward.

(B) Direct services

"Direct services" means services typically provided by home and community-based care and institutionally-based care providers, including medical and nursing care, care or case management services, care coordination, speech therapy, occupational therapy, physical therapy, psychological services, counseling, residential, legal representation, job training, and any other similar services. The term "direct services" does not include services of a guardian.

(C) Guardian

"Guardian" has the same meaning as in R.C. 2111.01(A).

(D) Ward

"Ward" means any adult person found by the probate division of a court of common pleas to be incompetent and for whom a guardianship is established.

(E) Guardianship services

"Guardianship services" means the duties assigned to a guardian in an adult guardianship case pursuant to R.C. Chapters 2109 and 2111.

RULE 66.02. Application of Rules.

(A) General

Sup.R. 66.01 through 66.09 shall apply in an adult guardianship case where the probate division of a court of common pleas appoints a guardian to protect and control a ward pursuant to R.C. 2111.02, provided the appointing court for good cause may, by order of the court, exempt a guardian who is related to the ward by consanguinity or affinity.

(B) Corporation as guardian

Sup.R. 66.01 through 66.09 shall apply to the employees of a corporation who provide guardianship services in an adult guardianship case where the probate division of a court of common pleas appoints the corporation as guardian.

RULE 66.03. Local Guardianship Rule.

The probate division of a court of common pleas that establishes guardianships shall adopt local rules governing the establishment of guardianships that do all of the following:

(A) Establish a process for emergency guardianships;

(B) Establish a process for submitting in electronic format or hard copy comments and complaints regarding the performance of guardians appointed by the court and for considering such comments and complaints. The process shall include each of the following:

(1) The designation of a person for accepting and considering comments and complaints;

(2) A requirement that a copy of the submitted comment or complaint be provided to the guardian who is the subject of the comment or complaint;

(3) A requirement that the court give prompt consideration to the comment or complaint and take appropriate action;

(4) A requirement that the court maintain a record regarding the nature and disposition of the comment or complaint;

(5) A requirement that the court notify the person making the comment or complaint and the guardian of the disposition of the comment or complaint.

(C) Addresses other provisions as the court considers necessary and appropriate, including but not limited to indicating where filed comments and complaints will be kept.

RULE 66.04. Establishment of Guardianship.

(A) Scope of guardianship

When establishing a guardianship, the probate division of a court of common pleas shall consider a limited guardianship before establishing a plenary guardianship.

(B) County of residence

The last county of residence in Ohio in which a ward resided prior to losing the cognitive ability to choose shall be the ward's county of residence for purposes of establishing a guardianship, unless determined otherwise by the probate division of the court of common pleas establishing the guardianship.

(C) Guardianship of estate

The probate division of a court of common pleas may waive establishing or continuing the guardianship of the estate of a ward if the assets and principal income of the ward do not support a guardianship of the estate.

(D) Restrictions on direct service providers

The probate division of a court of common pleas shall not issue letters of guardianship to any direct service provider to serve as a guardian for a ward for whom the provider provides direct services, unless otherwise authorized by law.

RULE 66.05. Responsibilities of Court Establishing Guardianships.

(A) General responsibilities

The probate division of a court of common pleas that establishes a guardianship shall do both of the following:

(1) Conduct, or cause to be conducted, a criminal background check. If the applicant to serve as a guardian is an attorney, the court may accept a certificate of good standing with disciplinary information issued by the Supreme Court in place of a criminal background check.

(2) Require each guardian appointed by the court to submit to the court information documenting compliance with the guardian qualifications pursuant to Sup.R. 66.06 or 66.07, as applicable.

(B) Responsibilities regarding guardians with ten or more wards

The probate division of a court of common pleas shall do all of the following with respect to guardians with ten or more wards under the guardian's care:

(1) Maintain a roster, including the name, address, telephone number, and electronic mail address, of the guardians. The court shall require the guardians to notify the court of any changes to this information.

(2) Require the guardians to include in the guardian's report a certification stating that the guardian is unaware of any circumstances that may disqualify the guardian from serving as a guardian;

(3) Require the guardians to submit to the court an annual fee schedule that differentiates guardianship services fees, as established pursuant to local rule, from legal or other direct services;

(4) On or before March 1st of each year, review the roster of guardians to determine if the guardians are in compliance with the education requirements of Sup.R. 66.06 or 66.07, as applicable, and that the guardians are otherwise qualified to serve.

RULE 66.06. Guardian Pre-Appointment Education.

(A) Requirement

Except as provided in division (B) of this rule, the probate division of a court of common pleas shall not appoint an individual as a guardian unless, at the time of appointment or within six months thereafter, the individual has successfully completed, at a minimum, a six-hour guardian fundamentals course provided by the Supreme Court or, with the prior approval of the appointing court, another entity. The fundamentals course shall include, at a minimum, education on the following topics:

(1) Establishing the guardianship;

(2) The ongoing duties and responsibilities of a guardian;

(3) Record keeping and reporting duties of a guardian;

(4) Any other topic that concerns improving the quality of the life of a ward.

(B) Exception

An individual serving as a guardian on June 1, 2015, or who served as a guardian during the five years immediately preceding that date shall have until June 1, 2016, to complete the training required under division (A) of this rule unless the appointing court waives or extends the requirement for good cause.

RULE 66.07. Guardian Continuing Education.

(A) Requirement

In each succeeding year following completion of the requirement of Sup.R. 66.06, a guardian appointed by the probate division of a court of common pleas shall successfully complete a continuing education course that meets all of the following requirements:

(1) Is at least three hours in length;

(2) Is provided by the Supreme Court or, with the prior approval of the appointing court, another entity;

(3) Is specifically designed for continuing education needs of guardians and consists of advanced education relating to the topics listed in Sup.R. 66.06(A)(1) through (4).

(B) Annual compliance

On or before January 1st of each year, a guardian shall report to each probate division of a court of common pleas from which the guardian receives appointments information documenting compliance with the continuing education requirement pursuant to division (A) of this rule, including the title, date, location, and provider of the education or a certificate of completion.

(C) Failure to comply

If a guardian fails to comply with the continuing education requirement of division (A) of this rule, the guardian shall not be eligible for new appointments to serve as a guardian until the requirement is satisfied. If the deficiency in continuing education is more than three calendar years, the guardian shall complete, at a minimum, a six-hour fundamentals course pursuant to Sup.R. 66.06(A) to qualify again to serve as a guardian.

RULE 66.08. General Responsibilities of Guardian.

(A) Orders, rules, and laws

A guardian shall obey all orders of the probate division of a court of common pleas establishing the guardianship and shall perform duties in accordance with local rules and state and federal law governing guardianships.

(B) Pre-appointment meeting

Unless otherwise determined by the probate division of a court of common pleas, an applicant guardian shall meet with a proposed ward at least once prior to appearing before the court for a guardianship appointment.

(C) Reporting abuse, neglect, or exploitation

A guardian shall immediately report to the probate division of a court of common pleas and, when applicable, to adult protective services any appropriate allegations of abuse, neglect, or exploitation of a ward.

(D) Limitation or termination of guardianship

A guardian shall seek to limit or terminate the guardianship authority and promptly notify the probate division of a court of common pleas if any of the following occurs:

(1) A ward's ability to make decisions and function independently has improved;

(2) Less restrictive alternatives are available;

(3) A plenary guardianship is no longer in the best interest of a ward;

(4) A ward has died.

(E) Change of residence

(1) A guardian shall notify the probate division of a court of common pleas of a ward's change of residence and the reason for the change. Except if impracticable, the guardian shall notify the court no later than ten days prior to the proposed change.

(2) A ward's change of residence to a more restrictive setting in or outside of the county of the guardian's appointment shall be subject to the court's approval, unless a delay in authorizing the change of residence would affect the health and safety of the ward.

(F) Court approval of legal proceedings

A guardian shall seek approval from the probate division of a court of common pleas before filing a suit for the ward.

(G) Annual plan

A guardian of a person shall file annually with the probate division of the court of common pleas a guardianship plan as an addendum to the guardian's report. A guardian of an estate may be required to file an annual guardianship plan with the probate division of the court of common pleas. The guardianship plan shall state the guardian's goals for meeting the ward's personal and financial needs.

(H) Annual registration

All guardians appointed by the court who have ten or more wards under their care shall annually register with the probate division of the court of common pleas and provide such information as the court may require, including but not limited to a fee schedule that differentiates guardianship services from legal or other direct services.

(I) Ward's principal income

A guardian shall inform the probate division of the court of common pleas and apply to close the guardianship of the estate if the principal income of the ward is from governmental entities, a payee for that income is identified, and no other significant assets or income exist.

(J) Limits on guardian's compensation

(1) A guardian's compensation is subject to Sup.R. 73.

(2) A guardian who is in receipt of fees other than through the guardianship of the estate shall report to the probate division of the court of common pleas the source and entity which reviewed and authorized payment.

(3) A guardian shall not receive incentives or compensation from any direct service provider providing services to a ward.

(K) Conflict of interest

A guardian shall avoid actual or apparent conflicts of interest regarding a ward's personal or business affairs. A guardian shall report to the probate division of the court of common pleas all actual or apparent conflicts of interest for review and determination as to whether a waiver of the conflict of interest is in the best interest of the ward.

(L) Filing of ward's legal papers

In addition to filing an inventory, if applicable, pursuant to R.C. 2111.14(A)(1) and within three months after the guardian's appointment, a guardian shall file with the probate division of the court of common pleas a list of all of the ward's important legal papers, including but not limited to estate planning documents, advance directives, and powers of attorney, and the location of such legal papers, if known at the time of the filing.

RULE 66.09. Responsibilities of Guardian to Ward.

(A) Professionalism, character, and integrity

A guardian shall act in a manner above reproach, including but not limited to avoiding financial exploitation, sexual exploitation, and any other activity that is not in the best interest of the ward.

(B) Exercising due diligence

A guardian shall exercise due diligence in making decisions that are in the best interest of a ward, including but not limited to communicating with the ward and being fully informed about the implications of the decisions.

(C) Least restrictive alternative

Unless otherwise approved by the probate division of a court of common pleas, a guardian shall make a choice or decision for a ward that best meets the needs of the ward while imposing the least limitations on the ward's rights, freedom, or ability to control the ward's environment. To determine the least restrictive alternative, a guardian may seek and consider an independent assessment of the ward's functional ability, health status, and care needs.

(D) Person-centered planning

A guardian shall advocate for services focused on a ward's wishes and needs to reach the ward's full potential. A guardian shall strive to balance a ward's maximum independence and self-reliance with the ward's best interest.

(E) Ward's support system

A guardian shall strive to foster and preserve positive relationships in the ward's life unless such relationships are substantially harmful to the ward. A guardian shall be prepared to explain the reasons a particular relationship is severed and not in the ward's best interest.

(F) Communication with ward

(1) A guardian shall strive to know a ward's preferences and belief system by seeking information from the ward and the ward's family and friends.

(2) A guardian shall do all of the following:

(a) Meet with the ward as needed, but not less than once quarterly or as determined by the probate division of the court of common pleas;

(b) Communicate privately with the ward;

(c) Assess the ward's physical and mental conditions and limitations;

(d) Assess the appropriateness of the ward's current living arrangements;

(e) Assess the needs for additional services;

(f) Notify the court if the ward's level of care is not being met;

(g) Document all complaints made by a ward and assess the need to report the complaints to the court of common pleas.

(G) Direct services

Except as provided in Sup.R. 66.04(D), a guardian shall not provide any direct services to a ward, unless otherwise approved by the court.

(H) Monitor and coordinate services and benefits

A guardian shall monitor and coordinate all services and benefits provided to a ward, including doing all of the following as necessary to perform those duties:

(1) Having regular contact with all service providers;

(2) Assessing services to determine they are appropriate and continue to be in the ward's best interest;

(3) Maintaining eligibility for all benefits;

(4) Where the guardian of the person and guardian of the estate are different individuals, consulting regularly with each other.

(I) Extraordinary medical issues

(1) A guardian shall seek ethical, legal, and medical advice, as appropriate, to facilitate decisions involving extraordinary medical issues.

(2) A guardian shall strive to honor the ward's preferences and belief system concerning extraordinary medical issues.

(J) End of life decisions

A guardian shall make every effort to be informed about the ward's preferences and belief system in making end of life decisions on behalf of the ward.

(K) Caseload

A guardian shall appropriately manage the guardian's caseload to ensure the guardian is adequately supporting and providing for the best interest of the wards in the guardian's care.

(L) Duty of confidentiality

A guardian shall keep the ward's personal and financial information confidential, except when disclosure is in the best interest of the ward or upon order of the probate division of a court of common pleas.

RULE 67. Estates of Minors of Not More than Ten Thousand Dollars.

(A) Each application relating to a minor shall be submitted by the parent or parents or by the person having custody of the minor and shall be captioned in the name of the minor.

(B) Each application shall indicate the amount of money or property to which the minor is entitled and to whom such money or property shall be paid or delivered. Unless the court otherwise orders, if no guardian has been appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interests of the minor shall prepare an entry that orders all of the following:

(1) The deposit of the funds in a financial institution in the name of the minor;

(2) Impounding the principal and interest;

(3) Releasing the funds only upon an order of the court or to the minor at the age of majority.

(C) The entry shall be presented at the time the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall be responsible for depositing the funds and for providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the court within seven days from the issuance of the entry.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 35. The title of the rule has been amended to include only the estates of minor wards, since the substantive rules even under former C.P. Sup. R. 35 only spoke of minors. The amended title is more descriptive of the subject matter covered by the rule.

Division (A) has been amended to delete any reference to one application being permitted to be filed on behalf of all minors of the same parent. This amendment is to reflect local practice whereby a separate application and corresponding case number is required for each minor ward. The rationale for the amendment is that the amount of funds received and the dates of majority are rarely the same for each ward. The remainder of the amendments to this division are grammatical and not substantive.

Divisions (B) and (C) set forth the requirements of the judgment entry counsel presents to the court for estates of minors less than $10,000. The words “unless the court otherwise orders” has been added in division (B) to alert counsel to the fact that specific circumstances or local court rule may alter these requirements. In addition, the former version of the rule required the attorney to deposit all funds within seven days of the approval of the entry and to obtain a receipt from the financial institution. As amended the rule requires the receipt to be filed with the court within seven days of the issuance of the entry and references the uniform form number of the receipt. The term “bank” has been changed to “financial institution” to reflect the term utilized in Title XI of the Revised Code and to recognize that funds are invested in institutions other than banks.

RULE 68. Settlement of Injury Claims of Minors.

(A) An application for settlement of a minor's claim shall be brought by the guardian of the estate. If there is no guardian appointed and the court dispenses with the need for a guardian, the application shall be brought by the parents of the child or the parent or other individual having custody of the child. The noncustodial parent or parents shall be entitled to seven days notice of the application to settle the minor's claim which notice may be waived. The application shall be captioned in the name of the minor.

(B) The application shall be accompanied by a current statement of an examining physician in respect to the injuries sustained, the extent of recovery, and the permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the minor as a result of the incident causing the injury to the minor. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

(C) The injured minor and the applicant shall be present at the hearing.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 36 and 37. Former C.P. Sup. R. 36 and 37 dealt with claims to minors and bifurcated the claims into claims brought by the guardian and claims of less than $10,000 where there was no guardian. The former rules were virtually identical and thus the issues relating to minors have been consolidated into Sup. R. 68 to avoid duplication.

Division (A) has been amended to incorporate the provisions of former C.P. Sup. R. 37(A). In addition, the rule has been amended to require notice to the parents of the minor regardless of their county of residence and to increase the notice time requirement to the parents from three days to seven days in order that the notice is more meaningful.

Division (B) has been amended to provide that the statement of the examining physician is mandatory as opposed to discretionary. Former C.P. Sup. R. 36(D) and (E) have been consolidated into division (B)

Division (C) has been amended to make the applicant's and the minor's appearance at the hearing mandatory. This is to comply with prevailing local practice where the court wishes to view the minor in order to evaluate the nature of the injuries. Pursuant to Sup. R. 76, the court has the ability to waive the appearance of the minor for good cause.

RULE 69. Settlement of Claims of or Against Adult Wards.

(A) An application for settlement of a claim in favor of or against an adult ward shall be brought by the guardian of the estate. Notice of the hearing on the application shall be given to all persons who are interested parties to the proposed settlement, as determined by the court. The court may authorize or direct the guardian of the ward's estate to compromise and settle claims as the court considers to be in the best interest of the ward. The court may dispense with notice of hearing.

(B) The application for settlement of an injury claim shall be accompanied by a current statement of an examining physician describing the injuries sustained, the extent of recovery from those injuries, and permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the ward as a result of the incident causing the injury to the ward. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

Commentary (October 1, 1997)

This rule is not analogous to former C.P. Sup. R. 37, which has been incorporated in Sup. R. 68.

Sup. R. 69 is basically a new rule as it applies to all claims of incompetent adult wards. The purpose for the amended rule is to provide the court with information necessary to make an informed decision regarding a proposed settlement.

Division (A) provides for the application to settle a claim to be brought by the ward's guardian. Absent a guardianship, the "ward" is competent to settle the claim without court approval. Division (A) further gives the court discretion to require notice to interested parties or to dispense with notice with court approval.

Division (B) is similar to Sup. R. 68(B), which provides the court with adequate information to make an informed decision. Division (C) is similar to the last sentence of Sup. R. 68 (B) and requires disclosure to the court and approval of the court of counsel fees in pursuing the adult ward's claim.

RULE 70. Settlement of Wrongful Death and Survival Claims.

(A) An application to approve settlement and Distribution of Wrongful Death and Survival Claims (Standard Probate Form 14.0) shall contain a statement of facts, including the amount to be allocated to the settlement of the claim and the amount, if any, to be allocated to the settlement of the survival claim. The application shall include the proposed distribution of the net proceeds allocated to the wrongful death claim.

(B) The fiduciary shall give written notice of the hearing and a copy of the application to all interested persons who have not waived notice of the hearing. Notwithstanding the waivers and consents of the interested persons, the court shall retain jurisdiction over the settlement, allocation, and distribution of the claims.

(C) The application shall state what arrangements, if any, have been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 38. The title has been amended to stress the existence and recognition of survival claims in a decedent's estate and to be in compliance with Standard Probate Forms Series 14.

Division (A) has been amended to incorporate the title of the uniform form as the description of the application to which the rule applies. The phase "right of action for conscious pain and suffering" has been changed to "survival claim" as being a more complete description of the personal claim of the decedent. The remaining changes are grammatical and intended to stress the need for an allocation between the survival claim and the wrongful death claim.

Division (A) now requires a copy of the proposed distribution in addition to the notice of hearing to be served upon all interested persons who have not waived notice of the hearing. Those who have waived notice are required to receive a copy of the proposed distribution by the requirements of Form 14.1. The amended paragraph contains instructional language to remind interested persons and counsel that the court retains jurisdiction over the settlement notwithstanding an agreement by the parties as to the distribution.

Division (C) has been amended grammatically. There are no substantive changes.

RULE 71. Counsel Fees.

(A) Attorney fees in all matters shall be governed by Rule 1.5 of the Ohio Rules of Professional Conduct.

(B) Attorney fees for the administration of estates shall not be paid until the final account is prepared for filing unless otherwise approved by the court upon application and for good cause shown.

(C) Attorney fees may be allowed if there is a written application that sets forth the amount requested and will be awarded only after proper hearing, unless otherwise modified by local rule.

(D) The court may set a hearing on any application for allowance of attorney fees regardless of the fact that the required consents of the beneficiaries have been given.

(E) Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by section 2109.30 of the Revised Code.

(F) If a hearing is scheduled on an application for the allowance of attorney fees, notice shall be given to all parties affected by the payment of fees, unless otherwise ordered by the court.

(G) An application shall be filed for the allowance of counsel fees for services rendered to a guardian, trustee, or other fiduciary. The application may be filed by the fiduciary or attorney. The application shall set forth a statement of the services rendered and the amount claimed in conformity with division (A) of this rule.

(H) There shall be no minimum or maximum fees that automatically will be approved by the court.

(I) Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the fee contract shall be filed with the court, unless otherwise ordered by local court rule. The contingent fee on the amount obtained shall be subject to approval by the court.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 40. Divisions (A), (B), (C), (D), (E), (F), and (G) have not been amended substantively.

The second sentence of division (H), pertaining to contingent fee contracts, has been transferred to a new division (I) where it has been combined with former C.P. Sup. R. 39.

Division (I) recognizes that unless a governing instrument has given the power to the fiduciary, the fiduciary has no inherent authority to enter into a contingent fee contract on behalf of the trust. Authority must be granted by the court. The rule as amended adopts the previous rule which required the fiduciary to file an application to enter into a contingent fee contract prior to the contract becoming enforceable. The rule has been amended to permit courts to establish their own procedure in the contingent fee approval process. The

second sentence of division (I) was a portion of former C.P. Sup. R. 39 and restates the court's authority to review the contingent fee contract to ascertain whether it meets with the additional standards of this rule.

RULE 72. Executor's and Administrator's Commissions.

(A) Additional compensation for extraordinary services may be allowed upon an application setting forth an itemized statement of the services rendered and the amount of compensation requested. The court may require the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73(E).

(B) The court may deny or reduce commissions if there is a delinquency in the filing of an inventory or an account, or if, after hearing, the court finds that the executor or administrator has not faithfully discharged the duties of the office.

(C) The commissions of co-executors or co-administrators in the aggregate shall not exceed the commissions that would have been allowed to one executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.

(D) Where counsel fees have been awarded for services to the estate that normally would have been performed by the executor or administrator, the executor or administrator commission, except for good cause shown, shall be reduced by the amount awarded to counsel for those services.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 41. Division (A) has primarily been amended for grammatical purposes. The term "parties" has been replaced with the more descriptive term "interested person". The manner of service pursuant to Civil Rule 4.1 has been replaced with the more appropriate reference to Civil Rule 73(E), which incorporates by reference Civil Rule 4.1.

Division (B) has been amended to parallel R.C. 2113.35. The rule defines the delinquent filing of inventories and accounts as acts that are included within the phrase "not faithfully discharged the duties of the office".

Division (D) has been amended to be more inclusive and to apply to all counsel fees and not only extraordinary fees. The rule continues to allow the probate court discretion to reduce fiduciary fees by the amount of attorney fees charged in performing fiduciary services. The remaining language changes in the division are grammatical and not substantive.

RULE 73. Guardian's Compensation.

(A) Setting of compensation

Guardian's compensation shall be set by local rule.

(B) Itemization of expenses

A guardian shall itemize all expenses relative to the guardianship of the ward and shall not charge fees or costs in excess of those approved by the probate division of a court of common pleas.

(C) Additional compensation

Additional compensation for extraordinary services, reimbursement for expenses incurred and compensation of a guardian of a person only may be allowed upon an application setting forth an itemized statement of the services rendered and expenses incurred and the amount for which compensation is applied. The probate division of a court of common pleas may require the application to be set for hearing with notice given to interested persons in accordance with Civ.R. 73(E).

(D) Co-guardians

The compensation of co-guardians in the aggregate shall not exceed the compensation that would have been allowed to one guardian acting alone.

(E) Denial or reduction of compensation

The probate division of a court of common pleas may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds the guardian has not faithfully discharged the duties of the office.

RULE 74. Trustee's Compensation.

(A) Trustee's compensation shall be set by local rule.

(B) Additional compensation for extraordinary services may be allowed upon application setting forth an itemized statement of the services rendered and the amount of compensation requested. The court may require that the application be set for hearing with notice given to interested parties in accordance with Civil Rule 73(E).

(C) The compensation of co-trustees in the aggregate shall not exceed the compensation that would have been allowed to one trustee acting alone, except where the instrument under which the co-trustees are acting provides otherwise.

(D) Except for good cause shown, neither compensation for a trustee nor fees to counsel representing the trustee shall be allowed while the trustee is delinquent in the filing of an account.

(E) The court may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds the trustee has not faithfully discharged other duties of the office.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 43. The statement requiring the filing of the local rule with the Supreme Court has been deleted from division (A) in that the filing is required by Sup. R. 5(A) and Sup. R. 75.

Former C.P. Sup. R. 43(C) has been deleted as being unnecessary.

Former C.P. Sup. R. 43(D) has been relettered division (C) and amended to clarify the requirements and procedure for extraordinary compensation for the trustee. The procedure parallels the procedure that was previously in place for extraordinary compensation to an executor or administrator. Division (C) incorporates the requirements of former C.P. Sup. R. 43(C), which has been deleted. The reference to service in accordance with Civil Rule 4.1 has been revised, since service is controlled by Civil Rule 73.

Former C.P. Sup. R. 43(E) has been relettered as division (D) and has been amended grammatically without substantive changes.

Division (E) is new and parallels R.C. 2113.35. It defines the delinquent filing of inventories and accounts as acts that are included within the phrase "not faithfully discharged other duties of the office."

RULE 75. Local Rules.

Local rules of the court shall be numbered to correspond with the numbering of these rules and shall incorporate the number of the rule it is intended to supplement. For example, a local rule that supplements Sup. R. 61 shall be designated County Local Rule 61.1.

Commentary (October 1, 1997)

This rule is analogous to former C.P. Sup. R. 44. Former C.P. Sup. R. 44(A) has been deleted entirely as its provisions are addressed adequately by Sup. R. 5.

RULE 76. Exception to the Rules.

Upon application, and for good cause shown, the probate division of the court of common pleas may grant exception to Sup. R. 53 to 79.

Commentary (October 1, 1997)

This rule is identical to former C.P. Sup. R. 45.

RULE 77. Compliance.

Failure to comply with these rules may result in sanctions as the court may direct.

Commentary (October 1, 1997)

This rule is identical to former C.P. Sup. R. 46.

RULE 78. Probate Division of the Court of Common Pleas -- Case Management in Decedent's Estates, Guardianship, and Trusts.

(A) Each fiduciary shall adhere to the statutory or court-ordered time period for filing the inventory, account, and, if applicable, guardian's report. The citation process set forth in section 2109.31 of the Revised Code shall be utilized to ensure compliance. The attorney of record and the fiduciary shall be subject to the citation process. The court may modify or deny fiduciary commissions or attorney fees, or both, to enforce adherence to the filing time periods.

(B)(1) If a decedent's estate must remain open more than six months pursuant to R.C. 2109.301(B)(1), the fiduciary shall file an application to extend administration (Standard Probate Form 13.8).

(2) An application to extend the time for filing an inventory, account, or guardian's report, shall not be granted unless the fiduciary has signed the application.

(C) The fiduciary and the attorney shall prepare, sign, and file a written status report with the court in all decedent's estates that remain open after a period of thirteen months from the date of the appointment of the fiduciary and annually thereafter. At the court's discretion, the fiduciary and the attorney shall appear for a status review.

(D) The court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory, account, or guardian's report to show cause why the attorney should not be barred from being appointed in any new proceeding before the court or serving as attorney of record in any new estate, guardianship, or trust until all of the delinquent pleadings are filed.

(E) Upon filing of the exceptions to an inventory or to an account, the exceptor shall cause the exceptions to be set for a pretrial within thirty days. The attorneys and their clients, or individuals if not represented by an attorney, shall appear at the pretrial. The trial shall be set as soon as practical after pretrial. The court may dispense with the pretrial and proceed directly to trial.

Commentary (October 1, 1997)

This rule imposes case management standards for actions filed in the probate division of the court of common pleas. In addition to establishing time periods for filing of documents and conducting pretrials and trials, the rule requires that an application for a continuance must be signed by the fiduciary and that written status reports be filed in estates that are open for more than one year. The rule also contains a citation procedure that may be employed to bar an attorney who is delinquent in the filing of an inventory, account, or guardian's report from being appointed or serving as attorney of record in any new proceeding until all delinquent pleadings have been filed.

RULE 79 is reserved for future use

RULE 80. Definitions.

As used in Sup.R. 80 through 89:

(A) Ancillary court services

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

(1) Alternative dispute resolution programs;

(2) Evaluations;

(3) Information counters;

(4) Probation or criminal diversion program functions;

(5) Pro se clinics;

(6) Specialized dockets and dedicated-subject-matter dockets.

(B) Case or court function

"Case or court function" means any hearing, trial, pre-trial conference, settlement conference, or other appearance before a court in an action, appeal, proceeding, or other matter conducted by a judge, magistrate, or other court official.

(C) Consecutive interpretation

"Consecutive interpretation" means interpretation in which a foreign language interpreter or sign language interpreter waits until the speaker finishes an entire message rendered in a source language before rendering the message in a target language.

(D) Crime of moral turpitude

"Crime of moral turpitude" means either of the following:

(1) A crime punishable by death or imprisonment in excess of one year pursuant to the law under which the person was convicted;

(2) A crime involving dishonesty or false statement, regardless of the punishment and whether based upon state or federal statute or local ordinance.

(E) Deaf blind

"Deaf blind" means a combination of hearing and vision loss of any varying degree that causes an individual extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives.

(F) Foreign language interpreter

"Foreign language interpreter" means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a limited English proficient or non-English speaking party or witness through consecutive interpretation, simultaneous interpretation, or sight translation.

(G) Limited English proficient

"Limited English proficient" means an individual who does not speak English as a primary language or who has a limited ability to read, speak, write, or understand English and requires the assistance of a foreign language interpreter or sign language interpreter to effectively communicate.

(H) Provisionally qualified foreign language interpreter

"Provisionally qualified foreign language interpreter" means a foreign language interpreter who has received provisional certification from the Supreme Court Language Services Program pursuant to Sup.R. 81(G)(3).

(I) Registered foreign language interpreters

"Registered foreign language interpreter" means a foreign language interpreter who has registered with the Supreme Court Language Services Program pursuant to Sup.R. 87.

(J) Sight translation

"Sight translation" means interpretation in which a foreign language interpreter or sign language interpreter renders in a target language a written document composed in a source language.

(K) Sign language interpreter

"Sign language interpreter" means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a deaf, hard-of-hearing, or deaf-blind party, witness, or juror through the use of sign language or other manual or oral representation of a spoken language.

(L) Simultaneous interpretation

"Simultaneous interpretation" means interpretation in which, after a brief pause to listen for or view key grammatical information, a foreign language interpreter or sign language interpreter renders in a target language the message of a person rendered in a source language as the person continues to communicate.

(M) Supreme Court certified foreign language interpreter

"Supreme Court certified foreign language interpreter" means a foreign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup.R. 81.

(N) Supreme Court certified sign language interpreter

"Supreme Court certified sign language interpreter" means a sign language interpreter who has received certification from the Supreme Court Language Services Program pursuant to Sup.R. 82.

(O) Telephonic interpretation

"Telephonic interpretation" means the use via telephone of a foreign language interpreter who is in a location that is physically separate from that of the party or witness who is limited English proficient and requires the services of the interpreter for meaningful participation.

(P) Translator

"Translator" means an individual who, as part of any case or court function, takes written text composed in a source language and renders it into an equivalent written text of a target language.

RULE 81. Certification for Foreign Language Interpreters.

(A) Certification

A foreign language interpreter may receive certification from the Supreme Court Language Services Program and be styled a "Supreme Court certified foreign language interpreter" pursuant to the requirements of this rule.

(B) General requirements for certification

An applicant for certification as a Supreme Court certified foreign language interpreter shall satisfy each of the following requirements:

(1) Be at least eighteen years old;

(2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;

(3) Have not been convicted of any crime involving moral turpitude.

(C) Application for certification

An applicant for certification as a Supreme Court certified foreign language interpreter shall file an application with the program. The application shall include each of the following:

(1) Verification the applicant is at least eighteen years old;

(2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;

(3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;

(4) A nonrefundable application fee in an amount as determined by the program.

(D) Orientation training

An applicant shall attend an orientation training session conducted or sponsored by the program providing an introductory course to interpreting and addressing ethics, legal procedure and terminology, modes of interpretation, and other substantive topics. The program may waive this requirement upon demonstration by the applicant of equivalent experience or training. The program shall charge the applicant a nonrefundable fee in an amount as determined by the program for attendance at a program-sponsored training session.

(E) Written examination

(1) An applicant for certification as a Supreme Court certified foreign language interpreter shall take the written examination of the National Center for State Courts. The examination shall be administered by the program in accordance with the standards described in the test administration manuals of the center.

(2) To pass the written examination, an applicant shall receive an overall score of eighty percent or better in the English language and grammar, court-related terms and usage, and professional conduct sections of the examination.

(3) An applicant who fails the written examination shall wait one year before retaking the examination.

(4) An applicant who has taken the written examination in another state within the past twenty-four months may apply to the program for recognition of the score. The program shall recognize the score if it is substantially comparable to the score required under division (E)(2) of this rule.

(F) Post-written examination training course

Upon compliance with the written examination requirements of division (E) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall attend a training course sponsored by the program focusing on simultaneous, consecutive, and sight translation modes of interpretation in English and the target language of the applicant. The program may charge the applicant a nonrefundable fee in an amount as determined by the program for attendance at the training course.

(G) Oral examination

(1) After attending the post-written examination training course pursuant to division (F) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall take the oral examination of the National Center for State Courts. The examination shall be administered by the program in accordance with the standards described in the test administration manuals of the center.

(2) To pass oral examination, an applicant shall receive a score of seventy percent or better in each of the sections of the examination.

(3) An applicant who receives a score of less than seventy percent but at least sixty percent in each of the sections of the oral examination shall receive provisional certification from the program and be styled a “provisionally qualified foreign language interpreter.” The applicant may maintain provisional certification for up to thirty-six months following the examination. If the applicant fails to receive an overall score of at least seventy percent in the sections of the examination within this time frame, the provisional certification of the applicant shall cease.

(4) An applicant who receives a score of at least seventy percent in two of the sections of the oral examination may carry forward the passing scores for up to thirty-six months or three testing cycles, whichever occurs last. If the applicant fails to successfully pass any previously failed sections of the examination during the time period which passing scores may be carried forward, the applicant shall complete all sections of the examination at a subsequent examination. An applicant may not carry forward passing scores from an examination taken in another state.

(H) Written and oral examination preparation

The program shall provide materials to assist applicants for certification as Supreme Court certified foreign language interpreters in preparing for the written and oral examinations, including overviews of each examination. The program also shall provide and coordinate training for applicants.

(I) Reciprocity

An applicant for certification as a Supreme Court certified foreign language interpreter who has previously received certification as a foreign language interpreter may apply to the program for certification without fulfilling the training and examination requirements of division (D) through (G) of this rule as follows:

(1) An applicant who has received certification from the federal courts shall provide proof of certification and be in good standing with the certifying body.

(2) An applicant who has received certification from another state shall provide proof of having passed the oral examination. The program may verify the test score information and testing history before approving certification.

(3) An applicant who has received certification from the National Association of Judiciary Interpreters and Translators shall provide proof of having received a score on the examination of the association substantially comparable to the scores required under divisions (E)(2) and (G)(2) of this rule. The program may verify the test score information and testing history before approving reciprocal certification.

(4) Requests for reciprocal certification from all other applicants shall be reviewed by the program on a case-by-case basis, taking into consideration testing criteria, reliability, and validity of the examination procedure of the certifying body. The program shall verify the test score of the applicant after accepting the certification criteria of the certifying body.

(J) Oath or affirmation

Each Supreme Court certified foreign language interpreter and provisionally qualified foreign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the "Code of Professional Conduct for Court Interpreters and Translators," as set forth in Appendix H to this rule.

RULE 82. Certification for Sign Language Interpreters.

(A) Certification

A sign language interpreter who has received a passing score on the "Specialist Certification: Legal" examination of the Registry of Interpreters for the Deaf may receive certification from the Supreme Court Language Services Program and be styled a "Supreme Court certified sign language interpreter" pursuant to the requirements of this rule.

(B) General requirements for certification

An applicant for certification as a Supreme Court certified sign language interpreter shall satisfy each of the following requirements:

(1) Be at least eighteen years old;

(2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;

(3) Have not been convicted of any crime involving moral turpitude.

(C) Application for certification

An applicant for certification as a Supreme Court certified sign language interpreter shall file an application with the program. The application shall include each of the following:

(1) Verification the applicant is at least eighteen years old;

(2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;

(3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;

(4) Proof of having received a passing score on the "Specialist Certification: Legal" examination;

(5) A nonrefundable application fee in an amount as determined by the program.

(D) Oath or affirmation

Each Supreme Court certified sign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the "Code of Professional Conduct for Court Interpreters and Translators," as set forth in Appendix H to this rule.

RULE 83. Revocation of Certification.

The Supreme Court Language Services Program may revoke the certification of a Supreme Court certified foreign language interpreter or a Supreme Court certified sign language interpreter or the provisional certification of a provisionally qualified foreign language interpreter for any of the following reasons:

(A) A material omission or misrepresentation in the application for certification from the interpreter;

(B) A substantial breach of the "Code of Professional Conduct for Court Interpreters and Translators," as set forth in Appendix H to this rule;

(C) Noncompliance with the applicable continuing education requirements of Sup.R. 85.

RULE 84. Code of Professional Conduct for Court Interpreters and Translators.

Supreme Court certified foreign language interpreters, Supreme Court certified sign language interpreters, provisionally qualified foreign language interpreters, and translators shall be subject to the "Code of Professional Conduct for Court Interpreters and Translators," as set forth in Appendix H to this rule.

RULE 85. Continuing Education.

(A) Requirements

(1) Each Supreme Court certified foreign language interpreter and Supreme Court certified sign language interpreter shall complete and report, on a form provided by the Supreme Court Language Services Program, at least twenty-four credit hours of continuing education offered or accredited by the program for each two-year reporting period. Six of the credit hours shall consist of ethics instruction and the remaining eighteen general credit hours shall be relevant to the work of the interpreter in the legal setting. The interpreter may carry forward a maximum of twelve general credit hours into the following biennial reporting period.

(2) Each provisionally qualified foreign language interpreter shall complete and report, on a form provided by the program, at least twenty-four credit hours of continuing education offered or accredited by the program within twenty-four months after the date of the last oral examination of the National Center for State Courts administered by the program.

(B) Compliance with requirements

The program shall keep a record of the continuing education hours of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter, provided it shall be the responsibility of the interpreter to inform the program of meeting the continuing education requirements.

(C) Accreditation

The program shall accredit continuing education programs, activities, and sponsors and establish procedures for accreditation, provided any continuing education programs or activities offered by the National Center for State Courts, the National Association of Judiciary Interpreters and Translators, and the Registry of Interpreters for the Deaf shall not require accreditation. The program may assess a reasonable nonrefundable application fee in an amount as determined by the program for a sponsor submitting a program or activity for accreditation.

RULE 86. Certification Roster.

The Supreme Court Language Services Program shall maintain a roster of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter who is in compliance with the applicable continuing education requirements of Sup.R. 85(A). The program shall post the roster on the website of the Supreme Court.

RULE 87. Registered Foreign Language Interpreters.

(A) Registration

The Supreme Court Language Services Program may register foreign language interpreters to whom both of the following apply:

(1) The interpreter is ineligible for certification as a Supreme Court certified foreign language interpreter due to the lack of an oral examination of the National Center for State Courts for that language;

(2) The interpreter demonstrates to the program's satisfaction proficiency in the interpreter's target language and sufficient preparation to properly interpret case or court functions.

(B) Title

A foreign language interpreter registered with the Supreme Court Language Services Program pursuant to division (A) of this rule shall be styled a "registered foreign language interpreter."

RULE 88. Appointment of a Foreign Language Interpreter or Sign Language Interpreter.

(A) When appointment of a foreign language interpreter is required

A court shall appoint a foreign language interpreter in a case or court function in either of the following situations:

(1) A party or witness who is limited English proficient or non-English speaking requests a foreign language interpreter and the court determines the services of the interpreter are necessary for the meaningful participation of the party or witness;

(2) Absent a request from a party or witness for a foreign language interpreter, the court concludes the party or witness is limited English proficient or non-English speaking and determines the services of the interpreter are necessary for the meaningful participation of the party or witness.

(B) When appointment of a sign language interpreter is required

(1) A court shall appoint a sign language interpreter in a case or court function in either of the following situations:

(a) A party, witness, or juror who is deaf, hard of hearing, or deaf blind requests a sign language interpreter;

(b) Absent a request from a party, witness, or juror for a sign language interpreter, the court concludes the party, witness, or juror is deaf, hard of hearing, or deaf blind and determines the services of the interpreter are necessary for the meaningful participation of the party, witness, or juror.

(2) When appointing a sign language interpreter pursuant to division (B)(1) of this rule, the court shall give primary consideration to the method of interpretation chosen by the party, witness, or juror, in accordance with 28 C.F.R. 35.160(b)(2), as amended.

(C) Appointments to avoid

A court shall use all reasonable efforts to avoid appointing an individual as a foreign language interpreter pursuant to division (A) of this rule or sign language interpreter pursuant to division (B) of this rule if any of the following apply:

(1) The interpreter is compensated by a business owned or controlled by a party or a witness;

(2) The interpreter is a friend or a family or household member of a party or witness;

(3) The interpreter is a potential witness;

(4) The interpreter is court personnel employed for a purpose other than interpreting;

(5) The interpreter is a law enforcement officer or probation department personnel;

(6) The interpreter has a pecuniary or other interest in the outcome of the case;

(7) The appointment of the interpreter would not serve to protect a party's rights or ensure the integrity of the proceedings;

(8) The interpreter does or may have a real or perceived conflict of interest or appearance of impropriety.

(D) Appointment of and certification requirement for foreign language interpreters

(1) Except as provided in divisions (D)(2) through (4) of this rule, when appointing a foreign language interpreter pursuant to division (A) of this rule, a court shall appoint a Supreme Court certified foreign language interpreter to participate in-person at the case or court function.

(2) Except as provided in divisions (D)(3) and (4) of this rule, if a Supreme Court certified foreign language interpreter does not exist or is not reasonably available to participate in-person at the case or court function and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter to participate in-person at the case or court function, a court may appoint a provisionally qualified foreign language interpreter to participate in-person at the case or court function. The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter to participate in-person at the case or court function and the reasons for using a provisionally qualified foreign language interpreter.

(3) Except as provided in division (D)(4) of this rule, if a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter does not exist or is not reasonably available to participate in-person at the case or court function and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter to participate in-person at the case or court function, a court may appoint a foreign language interpreter who demonstrates to the court proficiency in the target language and sufficient preparation to properly interpret the proceedings to participate in-person at the case or court function. Such interpreter shall be styled a "language-skilled foreign language interpreter." The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter or provisionally qualified foreign language interpreter to participate in-person at the case or

court function and the reasons for using a language-skilled foreign language interpreter. The language-skilled foreign language interpreter's experience, knowledge, and training should be stated on the record. Each language-skilled foreign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the "Code of Professional Conduct for Court Interpreters and Translators," as set forth in Appendix H to this rule.

(4) If a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter does not exist or is not reasonably available to participate in-person at the case or court function and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter to participate in-person at the case or court function, a court may appoint an interpreter to participate in the case or court function through telephonic interpretation. The court shall summarize on the record its efforts to obtain a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter to participate in-person at the case or court function and the reasons for using an interpreter who will participate in the case or court function through telephonic interpretation. In appointing the interpreter, the court shall follow the order of certification preference in divisions (D)(1) through (3) of this rule and comply with the "Standards for the Use of Telephonic Interpretation," as set forth in Appendix J to this rule.

(E) Appointment of and certification requirement for sign language interpreters

(1) Except as provided in divisions (E)(2) through (4) of this rule, when appointing a sign language interpreter pursuant to division (B) of this rule, the court shall appoint a Supreme Court certified sign language interpreter.

(2) Except as provided in divisions (E)(3) and (4) of this rule, if a Supreme Court certified sign language interpreter does not exist or is not reasonably available and after considering the gravity of the proceedings and whether the matter could be rescheduled to obtain a Supreme Court certified sign language interpreter, a court may appoint a sign language interpreter who holds one of the following certifications:

(a) A "National Interpreter Certification" from the National Association of the Deaf and the Registry of Interpreters for the Deaf;

(b) A "Certification of Interpretation" and "Certification of Transliteration" from the Registry of Interpreters for the Deaf;

(c) A "Comprehensive Skills Certificate" from the Registry of Interpreters for the Deaf;

(d) A "Master Comprehensive Skills Certificate" from the Registry of Interpreters for the Deaf;

(e) A “Level V Certification” from the National Association of the Deaf;

(f) A “Level IV Certification” from the National Association of the Deaf.

(3) If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror is unique and cannot be adequately accessed by a sign language interpreter who is hearing, a court shall appoint a sign language interpreter certified as a “Certified Deaf Interpreter” by the Registry of Interpreters for the Deaf.

(4) If the communication mode of the deaf, hard-of-hearing, or deaf-blind party, witness, or juror requires silent oral techniques, a court may appoint a sign language interpreter who possesses an “Oral Transliteration Certificate” from the Registry of Interpreters for the Deaf.

(5) A court shall summarize on the record its efforts to obtain and reasons for not using a Supreme Court certified sign language interpreter.

(F) Appointment of multiple foreign language interpreters or sign language interpreters

(1) To ensure the accuracy and quality of interpretation, when appointing a foreign language interpreter pursuant to division (A) of this rule or sign language interpreter pursuant to division (B) of this rule, a court shall appoint two or more foreign language interpreters or sign language interpreters in either of the following situations:

(a) The case or court function will last two or more hours and requires continuous, simultaneous, or consecutive interpretation;

(b) The case or court function will last less than two hours, but the complexity of the circumstances warrants the appointment of two or more interpreters.

(2) To ensure the accuracy and quality of interpretation, a court shall appoint two or more foreign language interpreters or sign language interpreters for a case or court function involving multiple parties, witnesses, or jurors requiring the services of an interpreter.

(G) Examination on record

(1) In determining whether the services of a foreign language interpreter are necessary for the meaningful participation of a party or witness pursuant to division (A) of this rule, the court shall conduct an examination of the party or witness on the record. During the examination, the court shall utilize the services of a foreign language interpreter, who may participate remotely. However, in doing so the court is not required to comply with the requirements of division (D) of this rule.

(2) In determining whether the services of a sign language interpreter are necessary for the meaningful participation of a party, witness, or juror, pursuant to division (B) of this

rule, the court shall conduct an examination of the party, witness, or juror on the record. During the examination, the court shall utilize the services of a sign language interpreter, who may participate remotely. However, in doing so the court is not required to comply with the requirements of division (E) of this rule.

(H) Waiver

A party may waive the right to a foreign language interpreter under division (A) of this rule or sign language interpreter under division (B) of this rule, unless the court has determined the interpreter is required for the protection of the party's rights and the integrity of the case or court function. When accepting the party's waiver, the court shall utilize the services of a foreign language interpreter or sign language interpreter, who may participate remotely. However, in doing so the court is not required to comply with the requirements of division (D) or (E) of this rule.

(I) Administration of oath or affirmation

A court shall administer an oath or affirmation to a foreign language interpreter appointed pursuant to division (A) of this rule or sign language interpreter appointed pursuant to division (B) of this rule in accordance with Evid.R. 604.

RULE 89. Use of Communication Services in Ancillary Services.

(A) Limited English proficient individuals

A court shall provide foreign language communication services to limited English proficient individuals in conjunction with ancillary court services. Dependent upon the significance and complexity of the ancillary court service, the following individuals may provide the communication services in person, telephonically, or via video:

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

(2) A Supreme Court certified foreign language interpreter;

(3) A provisionally qualified foreign language interpreter;

(4) A registered foreign language interpreter.

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

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

(1) A Supreme Court certified sign language interpreter;

(2) A sign language interpreter listed in Sup.R. 88(E)(2) through (4);

(3) A sign language interpreter employed by a community center for the deaf.

RULE 90. Definitions.

As used in Sup.R. 90 through 90.12:

(A) Domestic abuse

"Domestic abuse" means a pattern of abusive and controlling behavior that may include physical violence; coercion; threats; intimidation; isolation; or emotional, sexual, or economic abuse.

(B) Domestic violence

"Domestic violence" has the same meaning as in R.C. 3113.31(A)(1).

(C) Parenting coordination

"Parenting coordination" means a child-focused dispute resolution process ordered by a court of common pleas or division of the court to assist parties in implementing a parental rights and responsibilities or companionship time order using assessment, education, case management, conflict management, coaching, or decision-making. "Parenting coordination" is not mediation subject to R.C. Chapter 2710 or Sup.R. 16.

(D) Parenting coordinator

"Parenting coordinator" means an individual appointed by a court of common pleas or division of the court to conduct parenting coordination.

RULE 90.01. Local Parenting Coordination Rule.

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division shall adopt a local rule governing all ordered parenting coordination that does all of the following:

(A) Addresses the selection and referral of a case to parenting coordination at any point after a parental rights and responsibilities or companionship time order is filed;

(B) Addresses domestic abuse and domestic violence screening, both before and during parenting coordination;

(C) Addresses appropriate referrals to legal counsel, counseling, parenting courses, and other support services for all parties, including but not limited to victims and suspected victims of domestic abuse and domestic violence;

(D) Allows parties, their attorneys, and any other individuals designated by the parties to attend and participate in parenting coordination sessions;

(E) Prohibits a parenting coordinator, even with consent of the parties, from serving in multiple roles with the same family that creates a professional conflict, including but not limited to a child's attorney or child advocate; guardian ad litem; custody evaluator; therapist, consultant, coach, or other mental health role to any family member; or attorney for either party;

(F) Allows a mediator to also serve as a parenting coordinator with the same family, provided there is written consent of the parties and it is approved by the court or division;

(G) Addresses the issuance of parenting coordination agreements and reports or decisions by a parenting coordinator;

(H) Addresses terms and conditions for fees, including provisions for waiver of fees for indigent parties;

(I) Provides that the decision of a parenting coordinator is effective immediately and remains effective unless ordered otherwise by the court or division;

(J) Allows for objections to the decision of a parenting coordinator;

(K) Addresses the appointment and termination of appointment of a parenting coordinator;

(L) Establishes procedures for the periodic evaluation of parenting coordinators;

(M) Establishes procedures for the submission, investigation, and hearing of complaints regarding a parenting coordinator;

(N) Addresses other provisions as the court or division considers necessary and appropriate.

RULE 90.02. Reasons for Ordering Parenting Coordination.

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division may order parenting coordination when the court or division determines one or more of the following factors are present:

(A) The parties have ongoing disagreements about the implementation of a parental rights and responsibilities or companionship time order and need ongoing assistance;

(B) There is a history of extreme or ongoing parental conflict that has been unresolved by previous litigation or other interventions and from which a child of the parties is adversely affected;

(C) The parties have a child whose parenting time schedule requires frequent adjustments, specified in an order of the court or division, to maintain age-appropriate contact with both parties, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the court or division;

(D) The parties have a child with a medical or psychological condition or disability that requires frequent decisions regarding treatment or frequent adjustments in the parenting time schedule, specified in an order of the court or division, and the parties have been previously unable to reach agreements on their parenting time schedule without intervention by the court or division;

(E) One or both parties suffer from a medical or psychological condition or disability that results in an inability to reach agreements on or make adjustments in their parenting time schedule without assistance, even when minor in nature;

(F) Any other factor as determined by the court or division.

RULE 90.03. Inappropriate Uses of Parenting Coordination.

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division shall not order parenting coordination to determine any of the following:

(A) Whether to grant, modify, or terminate a protection order;

(B) The terms and conditions of a protection order;

(C) The penalty for violation of a protection order;

(D) Changes in the designation of the primary residential parent or legal custodian;

(E) Changes in the primary placement of a child.

RULE 90.04. Use of Parenting Coordination when Domestic Abuse or Domestic Violence is Alleged, Suspected, or Present.

When domestic abuse or domestic violence is alleged, suspected, or present, parenting coordination may proceed only if all of the following conditions are satisfied:

(A) The person who is or may be the victim of domestic abuse or domestic violence is fully informed about the parenting coordination process and of the option to have a support person present at parenting coordination sessions;

(B) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic abuse or domestic violence and all other persons involved in the parenting coordination process;

(C) Procedures are in place for the parenting coordinator to terminate a parenting coordination session if there is a continued threat of domestic abuse, domestic violence, or coercion between the parties.

RULE 90.05. General Parenting Coordinator Appointment Qualifications.

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division shall not appoint an individual as a parenting coordinator unless the individual meets all of the following qualifications:

(A) Possesses a master's degree or higher, law degree, or education and experience satisfactory to the court or division;

(B) Possesses at least two years of professional experience with situations involving children, which includes parenting coordination, counseling, casework, legal representation in family law matters, serving as a guardian ad litem or mediator, or such other equivalent experience satisfactory to the court or division;

(C) Has completed in the following order the following training that has been approved by the Dispute Resolution Section of the Supreme Court and that meets standards established by the Supreme Court Commission on Dispute Resolution:

(1) At least twelve hours of basic mediation training;

(2) At least forty hours of specialized family or divorce mediation training;

(3) At least fourteen hours of specialized training in domestic abuse and dispute resolution;

(4) At least twelve hours of specialized training in parenting coordination.

RULE 90.06. Parenting Coordinator Qualifications in Abuse, Neglect, or Dependency Cases.

In addition to the qualifications under Sup.R. 90.05, a court of common pleas or division of the court that chooses to use parenting coordination in the court or division shall not appoint an individual as a parenting coordinator in an abuse, neglect, or dependency case unless the individual meets both of the following qualifications:

(A) Possesses significant experience working with family disputes;

(B) Has completed at least thirty-two hours of specialized child-protection mediation training that has been approved by the Dispute Resolution Section of the Supreme Court and that meets standards established by the Supreme Court Commission on Dispute Resolution.

RULE 90.07. Parenting Coordinator Continuing Education.

(A) Requirement

A parenting coordinator shall complete at least three hours per calendar year of continuing education relating to children. The continuing education may include continuing education for lawyers, social workers, psychologists, or other licensed mental health professionals and professional development events that are approved by the Dispute Resolution Section of the Supreme Court and that meet standards established by the Supreme Court Commission on Dispute Resolution.

(B) Annual report

On or before January 1st of each year, a parenting coordinator shall report to each court or division from which the parenting coordinator receives appointments a list of all continuing education training completed during the previous year pursuant to division (A) of this rule, including the sponsor, title, date, and location of each training.

(C) Failure to comply

If a parenting coordinator fails to comply with the continuing education requirement of division (A) of this rule, the parenting coordinator shall not be eligible to serve as a parenting coordinator until the requirement is satisfied. The parenting coordinator shall complete three hours of continuing education for each calendar year of deficiency.

RULE 90.08. Appointment Order.

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division, when ordering parenting coordination, shall issue a written appointment order providing information regarding the appointment of the parenting coordinator, including but not limited to the following:

(A) The name of the parenting coordinator and any contact information for the parenting coordinator the court may choose to include;

(B) The specific powers and duties of the parenting coordinator;

(C) The term of the appointment;

(D) The scope of confidentiality;

(E) The parties' responsibility for fees and expenses for services rendered by the parenting coordinator.

RULE 90.09. Responsibilities of Court or Division Using Parenting Coordination.

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division shall do all of the following:

(A) Maintain a roster of all parenting coordinators appointed by the court or division, including the name; address; telephone number; and, if available, electronic mail address of each parenting coordinator. The court or division shall require each parenting coordinator to notify the court or division of any changes to this information.

(B) Require each parenting coordinator appointed by the court or division to submit to the court or division a resume documenting compliance with the parenting coordinator qualifications under Sup.R. 90.05 and, if applicable, Sup.R. 90.06. The court or division shall require each parenting coordinator to provide an updated resume to the court or division in the event of any substantive changes to the information contained in the resume.

(C) Require each parenting coordinator appointed by the court or division to submit to the court or division on or before January 1st of each year a list of continuing education training completed by the parenting coordinator during the previous calendar year pursuant to Sup.R. 90.07(A), including the sponsor, title, date, and location of each training;

(D) On or before February 1st of each year, file with the Dispute Resolution Section of the Supreme Court all of the following:

(1) A copy of the local rule adopted by the court or division pursuant to Sup.R. 90.01;

(2) A copy of the current roster of parenting coordinators appointed by the court or division maintained by the court or division pursuant to division (A) of this rule;

(3) A copy of each new or updated resume received by the court or division from a parenting coordinator during the previous year pursuant to division (B) of this rule;

(4) A copy of each list of continuing education training received by the court or division from a parenting coordinator pursuant to division (C) of this rule.

RULE 90.10. Responsibilities of Parenting Coordinator During Parenting Coordination.

(A) Compliance with appointment order

A parenting coordinator shall comply with the requirements of and act in accordance with the appointment order issued by the court of common pleas or division of the court pursuant to Sup.R. 90.08.

(B) Independence, objectivity, and impartiality

A parenting coordinator shall maintain independence; objectivity; and impartiality, including avoiding the appearance of partiality, in dealings with parties and professionals, both in and out of the courtroom.

(C) Conflicts of interest

(1) A parenting coordinator shall avoid any clear conflicts of interest arising from any relationship activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A parenting coordinator shall avoid self-dealing or associations from which the parenting coordinator may benefit, directly or indirectly, except from services as a parenting coordinator.

(2) Upon becoming aware of a clear conflict of interest, a parenting coordinator shall advise the appointing court or division and the parties of the action taken to resolve the conflict and, if unable to do so, seek the direction of the court or division.

(D) Ex parte communications

A parenting coordinator shall have no ex parte communications with the appointing court or division regarding substantive matters or issues on the merits of the case.

(E) Legal advice

A parenting coordinator shall not offer legal advice.

(F) Report of activity affecting ability to perform

A parenting coordinator shall have an ongoing duty to report any activity, criminal or otherwise, that would adversely affect the parenting coordinator's ability to perform the functions of a parenting coordinator.

(G) Disclosure of abuse, neglect, and harm

(1) A parenting coordinator shall inform the parties the parenting coordinator will report any suspected child abuse or neglect and any apparent serious risk of harm to a

family member's self, another family member, or a third party to child protective services, law enforcement, or other appropriate authority.

(2) A parenting coordinator shall report child abuse or neglect pursuant to the procedures in R.C. 2151.421.

RULE 90.11. Compliance with Guidelines for Parenting Coordination.

A court of common pleas or division of the court that chooses to use parenting coordination in the court or division and a parenting coordinator shall comply with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination. Wherever a conflict exists between the guidelines and Sup.R. 90 through 90.12, the rules shall control.

RULE 90.12. Confidentiality, Privilege, and Public Access.

(A) Confidentiality

Except as provided by law, communications made as part of parenting coordination, including communications between the parties and their children and the parenting coordinator, communications between the parenting coordinator and other relevant parties, and communications with the court, shall not be confidential.

(B) Privilege

Except as provided by law, parenting coordination shall not be privileged.

(C) Public access to parenting coordinator files.

The files maintained by a parenting coordinator but not filed with a clerk or submitted to a court shall not be available for public access pursuant to Sup.R. 44 through 47.

RULES 91-94 are reserved for future use

RULE 95. Notifying Law Enforcement Agencies of Mental Illness.

(A) Definitions

As used in this rule:

(1) "Local law enforcement agency" means the police department of a municipal corporation in which an offense occurred or, if the offense did not occur in a municipal corporation, the sheriff of the county in which the offense occurred.

(2) "Mental illness" has the same meaning as in R.C. 5122.01.

(3) "Offense of violence" has the same meaning as in R.C. 2901.01.

(B) Completion of form

A court shall complete "Form 95" upon issuance, modification, or termination of a court order doing any of the following:

(1) Ordering a person who pled guilty to or who was convicted of an offense of violence to receive a mental health evaluation;

(2) Ordering a person who pled guilty to or who was convicted of an offense of violence to receive treatment for mental illness;

(3) Approving a conditional release of a person who was found not guilty by reason of insanity;

(4) Approving a conditional release of a person who was found incompetent to stand trial with no substantial probability of becoming competent again even with a course of treatment.

(C) Filing of form

Upon completion of "Form 95," a court shall submit a copy of the court order and the form to the local law enforcement agency for entrance of the information into the "National Crime Information Center Supervised Release File" through the "Law Enforcement Automated Data System" pursuant to R.C. 2929.44(B) and 2945.402(E)(1).

FORM 95: NCIC MENTAL HEALTH NOTICE

☐ **Initial NCIC Notice** ☐ **Modification of Previous Notice** ☐ **Termination of Previous Notice**

NAME _____
Last First M.I.

ADDRESS _____
Street City State Zip

PHYSICAL DESCRIPTION _____ _____ _____ _____ _____ _____
HGT WGT Hair Eyes Race Sex

NUMERICAL IDENTIFIER (Only one identifier is required. Complete the entire line for identifiers #3 and #4.)

1. SSN _____ 2. DOB _____ / _____ / _____
3. Driver's Lic. No. _____ State _____ Expiration YR. _____
4. Vehicle Lic. No. _____ State _____ Expiration YR. _____ Lic. Type _____

COURT NAME _____ **CASE/ORDER NO.** _____
COURT ORI _____ (9 digit number assigned by NCIC)

OFFENSES

☐ R.C. 2903.01 Aggravated Murder	☐ R.C. 2903.02 Murder	☐ R.C. 2903.03 Voluntary Manslaughter	☐ R.C. 2903.04 Involuntary Manslaughter
☐ R.C. 2903.11 Felonious Assault	☐ R.C. 2903.12 Aggravated Assault	☐ R.C. 2903.13 Assault	☐ R.C. 2903.15 Permitting Child Abuse
☐ R.C. 2903.21 Aggravated Menacing	☐ R.C. 2903.211 Menacing by Stalking	☐ R.C. 2903.22 Menacing	☐ R.C. 2905.01 Kidnapping
☐ R.C. 2905.02 Abduction	☐ R.C. 2905.11 Extortion	☐ R.C. 2905.32 Trafficking in Persons	☐ R.C. 2907.02 Rape
☐ R.C. 2907.03 Sexual Battery	☐ R.C. 2907.05 Gross Sexual Imposition	☐ R.C. 2909.02 Aggravated Arson	☐ R.C. 2909.03 Arson
☐ R.C. 2909.24 Terrorism	☐ R.C. 2911.01 Aggravated Robbery	☐ R.C. 2911.02 Robbery	☐ R.C. 2911.11 Aggravated Burglary
☐ R.C. 2911.12(A)(1) Burglary	☐ R.C. 2911.12(A)(2) Burglary	☐ R.C. 2911.12(A)(3) Burglary	☐ R.C. 2917.01 Inciting Violence
☐ R.C. 2917.02 Aggravated Riot	☐ R.C. 2917.03 Riot	☐ R.C. 2917.31 Inducing Panic	☐ R.C. 2919.22(B)(1) Endangering Children
☐ R.C. 2919.22(B)(2) Endangering Children	☐ R.C. 2919.22(B)(3) Endangering Children	☐ R.C. 2919.22(B)(4) Endangering Children	☐ R.C. 2919.25 Domestic Violence
☐ R.C. 2921.03 Intimidation	☐ R.C. 2921.04 Intimidate Witness/ Attorney		☐ R.C. 2921.34 Escape
☐ Former R.C. 2907.12 Felonious Sexual Penetration	☐ R.C. 2923.161 Discharging Firearm in School or Home		☐ Other: *Indicate offense below*

☐ A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed as an offense of violence. R.C. or Ord. _____

☐ An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons. R.C. or Ord. _____

☐ A conspiracy or attempt to commit, or complicity in committing, any offense of violence. R.C. or Ord. _____

MISCELLANEOUS FIELD

☐ Defendant pled guilty to or was convicted of an offense of violence and was ordered by the court to receive a mental health evaluation.

☐ Defendant pled guilty to or was convicted of an offense of violence and was ordered by the court to receive treatment for mental illness.

☐ Defendant was found not guilty by reason of insanity. If you have contact with this person, please notify the Department of Mental Health and Addiction Services at mha.notify@mha.ohio.gov. The court approved the conditional release for the following reasons:

_____
_____
_____
_____
_____
_____
_____
_____

☐ Defendant was found incompetent to stand trial with no substantial probability of becoming competent again even with a course of treatment. If you have contact with this person, please notify the Department of Mental Health and Addiction Services at mha.notify@mha.ohio.gov. The court approved the conditional release for the following reasons:

_____
_____
_____
_____
_____
_____
_____

DATE OF ORDER: _____ / _____ / _____

NOTE: Indicate date on which the court ordered the defendant to receive a mental health evaluation or treatment, or approved conditional release.

TERMINATION OF ORDER FOR MENTAL HEALTH EVALUATION OR TREATMENT:

☐ **NONEXPIRING** (NONEXP) **OR** _____ / _____ / _____

TERMINATION OF CONDITIONAL RELEASE OR COMMITMENT:

☐ **NONEXPIRING** (NONEXP) **OR** _____ / _____ / _____

NOTE: Indicate "NONEXPIRING" if the date on which the order for mental health evaluation, mental health treatment, or conditional release or commitment would terminate is not known to the court at the time the order is issued. When the termination date is known, complete a new Form 95 and check "Termination of Previous Notice" on page 1.

POINT OF CONTACT: _____ _____
Last Name First Name

_____ _____ - _____ - _____ _____
Agency/Department Telephone E-mail

NOTE: "POINT OF CONTACT" may be a probation officer or forensic monitor to whom the defendant reports.

RULES 96-98 are reserved for future use

RULE 99. Effective Date.

(A) Except as otherwise provided in this rule, the Rules of Superintendence, adopted by the Supreme Court of Ohio on April 15, 1997, shall take effect on July 1, 1997. The rules govern all proceedings in actions brought on or after the effective date and to further proceedings in actions then pending, except to the extent that application in a particular pending action would not be feasible or would work an injustice, in which case the former procedure applies. Sup. R. 37(A)(4)(b) and (c) and 43(B)(2) shall take effect January 1, 1998.

(B) The amendments to Sup. R. 51 to 78, adopted by the Supreme Court of Ohio on July 7, 1997, shall take effect on October 1, 1997.

(C) Sup. R. 26 to 26.05, adopted by the Supreme Court of Ohio on July 7, 1997, shall take effect on October 1, 1997.

(D) The amendments to standard probate forms 18.0, 18.1, 18.2, 18.3, 18.4, 18.5, 18.6, 18.7, 18.8, and 18.9, adopted by the Supreme Court of Ohio on August 26, 1997, shall take effect on October 1, 1997.

(E) The amendments to Sup. R. 26.02 to 26.05 adopted by the Supreme Court of Ohio on September 9, 1997, shall take effect on October 1, 1997.

(F) The amendments to Sup. R. 10.01, 10.02 and standard domestic violence protection order forms (Forms 10.01-A to 10.01-J and 10.02-A), adopted by the Supreme Court of Ohio on October 7, 1997, shall take effect January 1, 1998.

(G) The amendments to standard domestic violence protection order form 10.02-A, adopted by the Supreme Court of Ohio on November 4, 1997, shall take effect on January 1, 1998.

(H) The amendments to Sup.R. 16 of the Rules of Superintendence for the Courts of Ohio, adopted by the Supreme Court on September 9, 1997, shall take effect on November 24, 1997.

(I) The amendments to Sup. R. 10 of the Rules of Superintendence for the Courts of Ohio, adopted by the Supreme Court on March 24, 1998, shall take effect on March 24, 1998.

(J) The amendments to Sup.R. 9 of the Rules of Superintendence for the Courts of Ohio, adopted by the Supreme Court on May 12, 1998, shall take effect on May 12, 1998.

(K) The amendments to Sup. R. 10, 10.03 and stalking protection order forms (Forms 10.03-A to 10.03-H), adopted by the Supreme Court of Ohio on December 14, 1999, shall take effect on March 1, 2000.

(L) The amendments to Sup. R. 10.01, Forms 10.01-A through 10.01-J, 10.02-A, and Form 10-A were adopted by the Supreme Court on April 10, 2000, shall take effect on June 1, 2000.

(M) The amendments Sup. R. 52(L) and to standard probate form 18.2, adopted by the Supreme Court of Ohio on May 9, 2000, shall take effect June 1, 2000.

(N) The amendment to Sup. R. 26 and 27 adopted by the Supreme Court on April 24, 2001, shall take effect on July 1, 2001.

(O) The amendments to Sup. R. 23.1, Forms 23.1-A to 23.1-C, Sup. R. 25 and Form 25-A adopted by the Supreme Court on September 18, 2001, shall take effect on October 15, 2001.

(P) The amendment to Sup. R. 50(C) adopted by the Supreme Court on February 26, 2002, shall take effect on March 25, 2002.

(Q) The amendment to Sup. R. 36.1 adopted by the Supreme Court on March 26, 2002, shall take effect on July 1, 2002.

(R) The amendments to Sup. R. 52(L), 57(G), 59(B), 60(C), 78(B) and (C) and Standard Probate Forms 1.0, 2.0, 2.1, 2.2, 4.0, 4.4, 6.0, 8.0, 8.1, 8.2, 8.3, 8.4, 8.5, 10.4A (eliminated), 13.0, 13.3, 13.8, 13.9, and 13.10 adopted by the Supreme Court on September 17, 2002, shall take effect on December 1, 2002.

(S) The amendment to Sup. R. 20 adopted by the Supreme Court on December 4, 2002, shall take effect on January 6, 2003.

(T) The amendments to Sup. R. 41 adopted by the Supreme Court on June 24, 2003, shall take effect on October 1, 2003.

(U) The amendments to Sup. R. 64 and Standard Probate Forms 7.0 and 8.6 adopted by the Supreme Court on February 3, 2004, shall take effect on April 8, 2004.

(V) The amendments to Sup. R. 26.03 and 26.05 adopted by the Supreme Court on September 14, 2004, shall take effect on September 23, 2004.

(W) The amendments to Sup. R. 26.03 and 26.05 adopted by the Supreme Court on February 1, 2005, shall take effect on March 23, 2005.

(X) The amendments to Sup. R. 40 adopted by the Supreme Court on June 14, 2005, shall take effect on July 4, 2005.

(Y) The amendments to standard probate form 15.2, adopted by the Supreme Court of Ohio on June 14, 2005, shall take effect on July 4, 2005.

(Z) The amendments to Sup. R. 16 adopted by the Supreme Court on August 8, 2006 shall take effect on January 1, 2007.

(AA) The amendments to Sup. R. 36 adopted by the Supreme Court of Ohio on September 19, 2006, shall take effect on November 1, 2006.

(BB) The amendments to Sup. R. 71 adopted by the Supreme Court on January 23, 2007 shall take effect on February 1, 2007.

(CC) The amendments to Sup. R. 10.02, 10.03, and protection order forms 10.01-A through 10.01-J, 10.02-A, 10.03-A through 10.03-H, 10-A shall take effect on May 1, 2007.

(DD) The amendments to standard probate form 17.8, adopted by the Supreme Court of Ohio on September 18, 2007, shall take effect on October 1, 2007.

(EE) The amendment to Sup. R. 27 adopted by the Supreme Court of Ohio on November 6, 2007, shall take effect on December 1, 2007.

(FF) The amendments to Sup. R. 19 and 19.1 adopted by the Supreme Court of Ohio on February 5, 2008, shall take effect on March 1, 2008. A magistrate appointed prior to the effective date of these amendments shall be deemed in compliance with the eligibility and qualifications requirements of Sup. R. 19.

(GG) The amendments to standard probate forms 5.10, 12.0, 15.9, 16.1, 17.0, and 18.0 and adopted by the Supreme Court of Ohio on February 5, 2008, shall take effect on March 1, 2008.

(HH) The amendments to Sup. R. 10.04 and forms 10.04-A, 10.01-G, and 10.03-H adopted by the Supreme Court of Ohio on December 15, 2008, shall take effect on February 1, 2009.

(II) The amendments to Sup. R. 9 and Appendix C, adopted by the Supreme Court on November 18, 2008, shall take effect on March 1, 2009.

(JJ) The amendments to Sup. R. 48 of the Rules of Superintendence adopted by the Court on January 20, 2009 shall take effect on March 1, 2009.

(KK) The amendments to Sup. R. 44 through 47 adopted by the Supreme Court on December 15, 2008 shall take effect on July 1, 2009.

(LL) The amendments to Sup. R. 2, 4, 35, 37, 39, 40, 41, 42, and Temp Sup. R. 1.08 and 1.10 were adopted by the Supreme Court on March 9, 2009 shall take effect on July 1, 2009.

(MM) The amendments to Sup. R. 17, adopted by the Supreme Court on November 2, 2009, shall take effect on December 1, 2009.

(NN) The amendments to Sup. R. 80 through 87 and Appendix H, adopted by the Supreme Court on November 2, 2009, shall take effect on January 1, 2010.

(OO) The amendments to standard probate forms 18.0, 18.2, 18.4, 21.5, 23.0, 23.1, 23.2, 23.3, 23.4, 23.6, and 23.7 and adopted by the Supreme Court of Ohio on November 2, 2009 shall take effect on January 1, 2010.

(PP) The amendments to Sup. R. 10, 10.01 and 10.03 and Domestic Violence Forms (10-A and 10-B, 10.01-A through 10.01-N, 10.02-A, 10.03-A, 10.03-B, 10.03-D through 10.03-H, and 10.04-A), adopted by the Supreme Court of Ohio on May 25, 2010, shall take effect on July 1, 2010.

(QQ) The amendments to Sup. R. 6 and 6.01 adopted by the Supreme Court of Ohio on December 14, 2010, shall take effect on January 1, 2011.

(RR) The amendments to Sup. R. 10.05 and juvenile domestic violence forms 10.05-A through 10.05-F, adopted by the Supreme Court of Ohio on February 3, 2011, shall take effect on March 1, 2011.

(SS) The amendments to Sup. R. 80 and 88 adopted by the Supreme Court on June 21, 2011 shall take effect on January 1, 2013.

(TT) New Sup.R. 36.02 through 36.28 and Appendix I, adopted by the Supreme Court of Ohio on November 13, 2012, shall take effect on January 1, 2013.

(UU) The amendments to standard probate forms 14.2 and 18.9 and new standard probate form 45(D), adopted by the Supreme Court of Ohio on August 8, 2011 shall take effect on September 1, 2011.

(VV) New standard probate forms 24.0 through 24.6, adopted by the Supreme Court of Ohio on December 8, 2011, shall take effect on January 1, 2012.

(WW) The amendments to Sup. R. 16 and new rules 16.01 through 16.14, adopted by the Supreme Court of Ohio on January 3, 2012, shall take effect on February 1, 2012.

(XX) New Sup. R. 10.06, adopted by the Supreme Court of Ohio on January 17, 2012, shall take effect on March 1, 2012.

(YY) The amendment to Temp. Sup. R. 1.11, adopted by the Supreme Court of Ohio on May 8, 2012, shall take effect on June 1, 2012.

(ZZ) The amendments to Sup. R. 7 and repeal of Sup. R. 36.1, adopted by the Supreme Court of Ohio on August 21, 2012, shall take effect on October 1, 2012.

(AAA) The amendments to Sup. R. 3 and 4 and new rules 3.01, 3.02, and 4.01 through 4.04, adopted by the Supreme Court of Ohio on October 23, 2012, shall take effect on December 1, 2012.

(BBB) The amendments to standard probate forms 17.0, 21.0, and 21.1, adopted by the Supreme Court of Ohio on August 21, 2012 shall take effect on January 1, 2013.

(CCC) New Sup.R. 49 through 49.12 and the repeal of Temp.Sup.R. 1.01 through 1.11, adopted by the Supreme Court of Ohio on February 26, 2013, shall take effect on July 1, 2013.

(DDD) The amendments to Sup.R. 37 and 42 and new Sup.R. 37.01 through 37.07, adopted by the Supreme Court of Ohio on April 11, 2013, shall take effect on July 1, 2013.

(EEE) The amendments to Sup.R. 49, 49.02, 49.03, and 49.09, adopted by the Supreme Court of Ohio on May 21, 2013, shall take effect on July 1, 2013.

(FFF) New Sup.R. 95 and new Form 95, adopted by the Supreme Court of Ohio on December 12, 2013, shall take effect on January 1, 2014.

(GGG) The amendments to Sup.R. 10.03 and Protection Order Forms 10-A - 10.05(F), adopted by the Supreme Court of Ohio on December 12, 2013, shall take effect on March 1, 2014. Form 10.03-A was repealed.

(HHH) The amendments to standard probate forms 12.0 and 12.1 and new forms 19.2 and 19.3 and 25.0-25.6, adopted by the Supreme Court of Ohio on January 9, 2014, shall take effect on March 1, 2014.

(III) The amendments to Sup.R. 90 – 90.12, adopted by the Supreme Court of Ohio on January 9, 2014, shall take effect on April 1, 2014.

(JJJ) The amendments to Sup.R. 80 through 88 and Appendix J adopted by the Supreme Court of Ohio on February 25, 2014, shall take effect on July 1, 2014.

(KKK) The amendments to Sup.R. 16.03 and 16.04 adopted by the Supreme Court of Ohio on April 30, 2014, shall take effect on July 1, 2014.

(LLL) The amendments to Sup.R. 14 and new Sup.R. 14.01 and 14.02, adopted by the Supreme Court of Ohio on September 9, 2014, shall take effect on January 1, 2015.

(MMM) The amendments to Sup.R. 49 and 49.02 adopted by the Supreme Court of Ohio on October 7, 2014, shall take effect on October 7, 2014.

(NNN) The amendments to Sup. R. 23 through 25 and Forms 23.-A through 25-A, adopted by the Supreme Court on November 18, 2014, shall take effect on January 1, 2015.

(OOO) The repeal of Sup.R. 20 through 20.05 and 22, adopted by the Supreme Court of Ohio on January 13, 2015, shall take effect on February 1, 2015.

(PPP) New Sup.R. 66.01 through 66.09 and the amendments to Sup.R. 73, adopted by the Supreme Court of Ohio on March 10, 2015, shall take effect on June 1, 2015.

(QQQ) New Sup.R. 34, adopted by the Supreme Court of Ohio on May 5, 2015, shall take effect on July 1, 2015.

(RRR) The amendment to Sup.R. 41, adopted by the Supreme Court on August 11, 2015, shall take effect on August 11, 2015.

(SSS) The amendments to Sup.R. 44, adopted by the Supreme Court of Ohio on October 27, 2015, shall take effect on January 1, 2016.

(TTT) The amendments to Sup.R. 26.04 and 66 and Protection Order Forms 10.05-C through 10.05-E, adopted by the Supreme Court of Ohio on February 23, 2016, shall take effect on March 15, 2016.

(UUU) New Sup.R. 5.01, adopted by the Supreme Court of Ohio on March 8, 2016, shall take effect on July 1, 2016.

(VVV) The amendments to Sup.R. 80 and 87 and new Sup.R. 89, adopted by the Supreme Court of Ohio on April 19, 2016, shall take effect on July 1, 2016.

(WWW) New standard probate forms 21.6 and 26.0 through 26.14, adopted by the Supreme Court of Ohio on May 3, 2016, shall take effect on July 1, 2016.

(XXX) The amendments to Sup.R. 38, adopted by the Supreme Court of Ohio on August 16, 2016, shall take effect on January 1, 2017.

(YYY) The amendments to Sup.R. 8, adopted by the Supreme Court of Ohio on December 13, 2016, shall take effect on January 1, 2017.

STATISTICAL REPORTING FORMS*

*See Appendix C for reporting forms related to court security.

APPENDIX A

OHIO TRIAL COURT JURY USE AND MANAGEMENT STANDARDS

The Ohio Trial Court Jury Use and Management Standards
were adopted by the Supreme Court of Ohio on August 16, 1993.

APPENDIX B

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STANDARD 1 OPPORTUNITY FOR SERVICE

A. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.

B. Jury service is an obligation of all qualified citizens.

Commentary

Standard 1 is essentially identical to the ABA Standard.

It is the obligation of every court to reasonably accommodate the special needs of physically handicapped jurors. While physically handicapped jurors may pose special issues for courts and their personnel, these issues are manageable.

Support agencies and advancing technologies exist to aid courts in accommodating the special needs of hearing impaired and visually impaired jurors, for example.

The obligation of jury service falls on all citizens; it is vitally important that the legal system open its doors to each person who desires to serve on a jury.

Reference is made to the ADA.

Ohio Statutes

O.R.C. 2313.47 Race or color shall not disqualify a juror.

STANDARD 2 JURY SOURCE LIST

A. The names of potential jurors should be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the court jurisdiction.

B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.

C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.

D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

Commentary

Standard 2 is identical to the ABA Standard.

There should be a periodic review of the representativeness and inclusiveness of the jury source list.

Ohio Statutes

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2311.42	Authorizes the drawing of a jury from an adjoining county if a party to the case is the board of county commissioners.
O.R.C. 2313.06	Provisions relative to the summoning of jurors using lists of voters and licensed drivers.
O.R.C. 2313.07	Construction of a jury wheel and the use of data processing equipment in drawing jurors.
O.R.C. 2313.08	Contains provisions relative to the annual jury list.
O.R.C. 2313.09	Supplemental jury lists.
O.R.C. 2313.15	Report of names of jurors excused.
O.R.C. 2313.20	Notice of drawing.
O.R.C. 2313.21	Conduct of drawing.
O.R.C. 2313.26	Order for additional number of jurors.

STANDARD 3 RANDOM SELECTION PROCEDURES

A. Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods should be documented.

B. Random selection procedures should be employed in:

1. Selecting persons to be summoned for jury service;
2. Assigning prospective jurors to panels; and
3. Calling prospective jurors for voir dire.

C. Departures from the principle of random selection are appropriate:

1. To exclude persons ineligible for service in accordance with Standard 4;
2. To excuse or defer prospective jurors in accordance with Standard 6;
3. To remove prospective jurors for cause or if challenged peremptorily in accordance with Standards 8 and 9; and
4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

Commentary

Standard 3 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2101.30	Drawing of a jury in probate cases.
O.R.C. 2313.07	Construction of a jury wheel and the use of data processing equipment in drawing jurors.
O.R.C. 2313.08	Contains provisions relative to the annual jury list.
O.R.C. 2313.09	Supplemental jury lists.
O.R.C. 2313.15	Report of names of jurors excused.
O.R.C. 2313.21	Conduct of drawing.

STANDARD 4 ELIGIBILITY FOR JURY SERVICE

All persons should be eligible for jury service except those who:

A. Are less than eighteen years of age;
B. Are not citizens of the United States;
C. Are not residents of the jurisdiction in which they have been summoned to serve;
D. Are not able to communicate in the English language; or
E. Have been convicted of a felony and have not had their civil rights restored.

Commentary

Standard 4 is identical to the ABA Standard.

Legislative changes recommended in order for Standard 4 to be consistent with Standard 6.

Ohio Statutes

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2961.01	Precludes convicted felons from serving as jurors.

STANDARD 5 TERM OF AND AVAILABILITY FOR JURY SERVICE

A. The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.

B. A term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is longer, is acceptable.

C. Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

Commentary

Standard 5 is essentially identical to the ABA Standard.

Courts should reduce, to the extent possible, the number of days a person serves and the period of availability.

STANDARD 6 EXEMPTION, EXCUSE, AND DEFERRAL

A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.

B. Eligible persons who are summoned may be excused from jury service only if:

1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or

2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a judge or a specifically authorized court official.

C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.

D. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

Commentary

Standard 6 has been changed from the ABA Standard to be consistent with the O.R.C.

Deferrals are encouraged rather than the granting of excuses.

With a shorter term of service (see Standard 5), reasons for being excused should be reduced.

The Jury Management Project Team recommends that all statutory exceptions be eliminated.

Ohio Statutes

O.R.C. 737.26	Exempts fireman from jury duty.
O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2313.12	Jury exemptions; proof of exemptions.
O.R.C. 2313.13	Postponement of jury service; temporary excuse or discharge.
O.R.C. 2313.14	Failure to attend after postponed service.
O.R.C. 2313.15	Report of names of jurors excused.
O.R.C. 2313.16	Reasons for which jurors may be excused.
O.R.C. 2313.27	Evasion of jury service.
O.R.C. 2313.36	Exemptions from jury service in court of record.
O.R.C. 5919.20	Exempts certain officers and personnel of the Ohio National Guard from jury service.
O.R.C. 5920.10	Exempts members of the Ohio Military Reserve from jury duty.
O.R.C. 5921.09	Exempts members of the Ohio Naval Militia from jury service.

STANDARD 7 VOIR DIRE

A. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror's fairness and impartiality.

B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.

C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.

D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.

E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

Commentary

Standard 7 is essentially identical to the ABA Standard.

The questionnaire shall be handled in a manner to ensure privacy.

When prospective jurors are initially sworn, the oath should also indicate that the answers to the jury questionnaire are true.

Ohio Statutes

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.

Court Rules

Civ. R. 47	Jurors.
Crim. R. 24	Trial jurors.

STANDARD 8 REMOVAL FROM THE JURY PANEL FOR CAUSE

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

Commentary

Standard 8 is essentially identical to the ABA Standard.

Jurors should be reminded that jury service is an obligation of each qualified citizen (see Standard 1).

Ohio Statutes

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2313.42	Challenge for cause of persons called as jurors.
O.R.C. 2313.43	Challenge of petit jurors.
O.R.C. 2945.25	Causes for challenging jurors.
O.R.C. 2945.26	Challenge of juror for cause.

Court Rules

Civ. R. 47	Jurors.
Crim. R. 24	Trial jurors.

STANDARD 9 PEREMPTORY CHALLENGES

A. Rules determining procedure for exercising peremptory challenges should be uniform throughout the state.

B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.

C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.

D. In criminal cases, the number of peremptory challenges should not exceed:

1. Six for each side when a death sentence may be imposed upon conviction;
2. Four for each side when a sentence of imprisonment (state institution) may be imposed upon conviction; or
3. Three for each side in all other prosecutions. One additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.

E. In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

Commentary

Standard 9 has been changed from the ABA Standard to be consistent with the O.R.C. and Ohio Rules of Court.

Ohio Statutes

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2938.06	Number of jurors and challenges.
O.R.C. 2945.21	Peremptory challenges.
O.R.C. 2945.23	Use of peremptory challenges.

Court Rules

Civ. R. 47	Jurors.
Crim. R. 24	Trial jurors.

STANDARD 10 ADMINISTRATION OF THE JURY SYSTEM

A. The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.

B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.

C. Responsibility for administering the jury system should be vested in a single administrator acting under the supervision of the administrative judge of the court.

Commentary

Standard 10 is essentially identical to the ABA Standard.

Standard 10 suggests that current legislation be repealed.

Ohio Constitution

Article IV, Section 5(B)	Allows the Supreme Court to adopt Rules of Practice and Procedure and permits courts to adopt rules concerning local practice that do not conflict with Supreme Court Rules.

Ohio Statutes

O.R.C. 1901.14	Authorizes the adoption of local rules regarding the summoning of jurors.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2313.01	Authorizes the appointment of jury commissioners.
O.R.C. 2313.02	Compensation and appointment of deputies and clerks in the office of jury commissioners.
O.R.C. 2313.03	Oath of office for jury commissioners.
O.R.C. 2313.04	Lists cases in which the deputy jury commissioner may act.

STANDARD 11 NOTIFICATION AND SUMMONING PROCEDURES

A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:

1. Combined in a single document;
2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
3. Delivered by ordinary mail.

B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.

C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:

1. Determining whether a person meets the criteria for eligibility;
2. Providing basic background information ordinarily sought during voir dire examination; and
3. Efficiently managing the jury system.

D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

Commentary

Standard 11 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 1905.28	Gives the mayor of a municipal corporation the authority to compel the attendance of jurors.
O.R.C. 1907.29	Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.
O.R.C. 2101.30	Drawing of a jury in probate cases.
O.R.C. 2313.10	Notice to jurors to appear and testify before jury commissioners.
O.R.C. 2313.11	Failure of summoned juror to attend or testify.
O.R.C. 2313.14	Failure to attend after postponed service.
O.R.C. 2313.25	Service and return of venire.
O.R.C. 2313.26	Order for additional number of jurors.
O.R.C. 2313.29	Failure of juror to attend.
O.R.C. 2313.30	Arrest for failure to attend.

STANDARD 12 MONITORING THE JURY SYSTEM

Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

A. The representativeness and inclusiveness of the jury source list;

B. The effectiveness of qualification and summoning procedures;

C. The responsiveness of individual citizens to jury duty summonses;

D. The efficient use of jurors; and

E. The cost-effectiveness of the jury management system.

Commentary

Standard 12 is essentially identical to the ABA Standard, and the Jury Standard Project Team recognizes that the information gathered must be analyzed to ensure efficient jury management.

STANDARD 13 JUROR USE

A. Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.

B. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.

1. Courts using jury pools should ensure that each prospective juror who has reported to the court is assigned for voir dire; and
2. Courts using panels should ensure that each prospective juror who has reported to the court is assigned for voir dire.

C. Courts should coordinate jury management and calendar management to make effective use of jurors.

Commentary

Standard 13 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 2313.19 Number of jurors drawn.
O.R.C. 2313.24 Number of jurors; exception for smaller counties.

STANDARD 14 JURY FACILITIES

A. Courts should provide an adequate and suitable environment for jurors.

B. The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.

C. Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.

D. Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.

E. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

Commentary

Standard 14 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 1907.29	Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.
O.R.C. 2313.05	Office and supplies for the jury commissioners.
O.R.C. 2315.03	Deliberations of jury.
O.R.C. 2945.33	Keeping and conduct of the jury after case is submitted to the jury.

Rules of Superintendence

Appendix D	Court facility standards.

STANDARD 15 JUROR COMPENSATION

A. Persons called for jury service should receive a reasonable fee for their service and expenses.

B. Such fees should be paid promptly.

C. Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

Commentary

Standard 15 is essentially identical to the ABA Standard.

Ohio Statutes

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2101.16	Cross-references to other sections regarding jury fees.
O.R.C. 2313.34	Discharge of juror; compensation.

STANDARD 16 JUROR ORIENTATION AND INSTRUCTION

A. Orientation programs should be:

1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
2. Presented in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.

B. Courts should provide some form of orientation or instructions to persons called for jury service:

1. Upon initial contact prior to service;
2. Upon first appearance at the court; and
3. Upon reporting to a courtroom for voir dire.

C. The trial judge should:

1. Give preliminary instructions to all prospective jurors.
2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
5. Recognize utilization of written instructions is preferable.
6. Before dismissing a jury at the conclusion of a case:
   a. Release the jurors from their duty of confidentiality;
   b. Explain their rights regarding inquiries from counsel or the press;
   c. Either advise them that they are discharged from service or specify where they must report; and
   d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.

D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

Commentary

Standard 16 is essentially identical to the ABA Standard with addition of C., 4.

Reference may be made to Ohio Jury Instructions.

Ohio Statutes

O.R.C. 2945.10	Order of trial proceedings, including the charge to the jury.
O.R.C. 2945.11	Charge to the jury on questions of law and fact.
O.R.C. 2945.34	Admonition to be administered to jurors if they are separate during trial.

Court Rules

Civ. R. 51	Instructions to the jury; objections.
Crim. R. 30	Instructions to the jury.

STANDARD 17 JURY SIZE AND UNANIMITY OF VERDICT

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

Commentary

Standard 17 has been changed from the ABA Standard to be consistent with the O.R.C.

Ohio Constitution

Article I, Section 5	Trial by jury; reform in civil jury system

Ohio Statutes

O.R.C. 1901.24	Cross-references to civil and criminal rules relating to juries.
O.R.C. 1907.29	Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.
O.R.C. 2938.06	Number of jurors and challenges.

Court Rules

Civ. R. 38	Jury trial of right.
Civ. R. 48	Juries; majority verdict; stipulation of number of jurors.
Civ. R. Form 18	Judgment on jury verdicts.
Crim. R. 23	Trial by jury or by the court.

STANDARD 18 JURY DELIBERATIONS

A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.

B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16C.

C. The deliberation room should conform to the recommendations set forth in Standard 14C.

D. The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.

E. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.

F. Training should be provided to personnel who escort and assist jurors during deliberation.

Commentary

Standard 16 is essentially identical to the ABA Standard.

Counsel and appropriate court personnel should remain readily available during jury deliberations.

Juries should be provided with a pleasant, comfortable, secure, and safe place in which to work.

Ohio Statutes

O.R.C. 2315.03	Deliberations of jury.
O.R.C. 2315.04	Duty of officer in charge of jury.
O.R.C. 2945.32	Contains the oath to be administered to an officer if the jury is sequestered.
O.R.C. 2945.33	Keeping and conduct of the jury after case is submitted to the jury.

Court Rules

Civ. R. Form 18	Judgment on jury verdict.
Crim. R. 30	Instructions to the jury.

STANDARD 19 SEQUESTRATION OF JURORS

A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.

B. During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.

C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge's initiative and shall have the responsibility to oversee the conditions of sequestration.

D. Standard procedures should be promulgated to:

1. Achieve the purpose of sequestration; and
2. Minimize the inconvenience and discomfort of the sequestered jurors.

E. Training shall be provided to personnel who escort and assist jurors during sequestration.

Commentary

Standard 19 differs from the ABA Standard.

1. "Should" was changed to "shall" in C and E.
2. Jury escorts may be law enforcement personnel.

Standard 19 has been changed to be consistent with the O.R.C.

Ohio Statutes

O.R.C. 2315.04	Duty of officer in charge of jury.
O.R.C. 2945.31	Allows, but does not require, sequestering of jurors after a trial has commenced.
O.R.C. 2945.33	Requires sequestration of jurors in capital cases once a case is submitted to the jury.

Court Rules

Crim. R. 24	Trial jurors.

OHIO COURT SECURITY STANDARDS

APPENDIX C

PREAMBLE

The following Ohio Court Security Standards represent the efforts of the Supreme Court Advisory Committee on Court Security & Emergency Preparedness. The Standards were first adopted by the Supreme Court in 1994 and are now revised to reflect changes in our society affecting them.

Ohio citizens should expect all court facilities to be safe and secure for all who enter so that justice for all may be sought and not unjustly interrupted. Court facilities and each courtroom therein should have appropriate levels of security to address any foreseeable concern or emergency that may arise during the course of business. Elected officials charged with court facility authority must be proactive and sensitive to court security and emergency preparedness concerns. While the Advisory Committee understands providing a safe court facility to all carries a financial price, it is imperative that the topics discussed in the Ohio Court Security Standards be addressed.

Court security and emergency strategies and actions must be consistent with individual rights, civil liberties, and freedoms protected by the United States Constitution, the Ohio Constitution, and the rule of law. Because Ohio has a diverse population, special thought should be given to overcoming language and cultural barriers and physical disabilities when addressing security and emergency issues. However, Ohio citizens must be assured that any security practice or policy is employed in a neutral manner.

The Ohio Court Security Standards attempt to balance the diverse needs of each community. However, each locale is encouraged to promulgate policies and procedures to meet its specific needs. Special consideration should be given to defining the roles and responsibilities of the court and law enforcement officials within each local jurisdiction.

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STANDARD 1. COURT SECURITY COMMITTEE

Each court shall appoint a court security committee to meet on a periodic basis for the purpose of implementing these standards. If more than one court occupies a court facility, the courts shall collectively appoint a single committee.

Commentary

Court security issues affect many sectors of the community and include differing local needs and serious funding concerns. Therefore, a Court Security Committee should review these issues in a cooperative and constructive manner.

The Court Security Committee should include representatives of first responders, emergency management agencies, and funding authorities, and may include representatives from each entity within the court facility and the community.

STANDARD 2. SECURITY POLICY AND PROCEDURES MANUAL

(A) Adoption of manual

As part of its court security plan, each court shall adopt a written security policy and procedures manual governing security of the court and the court facility to ensure consistent, appropriate, and adequate security procedures. The manual shall include each of the following:

(1) A physical security plan;

(2) Routine security operations;

(3) An emergency action plan that addresses events such as a hostage situation, an escaped prisoner, violence in the courtroom, a bomb threat, and fire;

(4) A high risk trial plan.

(B) Review of manual

A court shall periodically test and update its security policy and procedures manual for operational effectiveness.

(C) Multiple courts

If more than one court occupies a court facility, the courts shall collectively adopt and review a single security policy and procedures manual.

Commentary

Although traditional forms of security, such as security searches of entrants to the court facility, are an excellent primary safeguard, it is important that courts have a written Security Policy and Procedures Manual addressing the items listed above.

To ensure a thorough knowledge of the court's Security Policy and Procedures Manual, all court security officers should review the manual as a part of their orientation and as a component of regular, continuing education for retained court security officers.

A copy of the Security Policy and Procedures Manual should be available to all court security officers to ensure they understand the appropriate security procedures.

All court security officers should be immediately informed of any changes or amendments to the Security Policy and Procedures Manual.

Security Policy and Procedures Manual is a protected document which should not be shared with non-security court personnel other than court leadership. However, it is recommended that a shorter guidebook be prepared for all other court personnel, which should include emergency evacuation procedures, routes, and building safety guidelines.

STANDARD 3. EMERGENCY PREPAREDNESS MANUAL

(A) Adoption of manual

As part of its court security plan, each court shall adopt a written emergency preparedness manual. The manual shall include a plan providing for the safety of all persons present within the court facility during an emergency.

(B) Review of manual

A court shall periodically test and update its emergency preparedness manual for operational effectiveness.

(C) Multiple courts

If more than one court occupies a court facility, the courts shall collectively adopt and review a single emergency preparedness manual.

STANDARD 4. CONTINUITY OF OPERATIONS MANUAL

(A) Adoption of manual

As part of its court security plan, each court shall adopt a written continuity of operations manual. The manual shall include a plan that addresses each of the following:

(1) The continued operation of the court at an alternative site should its present site be rendered inoperable due to a natural disaster, act of terrorism, security breach within the building, or other unforeseen event;

(2) The provisions of the "Court Continuity of Operations (COOP) Plan Template" available on the website of the Supreme Court.

(B) Review of manual

A court shall periodically test and update its continuity of operations manual for operational effectiveness.

(C) Multiple courts

If more than one court occupies a court facility, the courts shall collectively adopt and review a single continuity of operations manual.

STANDARD 5. PERSONS SUBJECT TO A SECURITY SEARCH

All persons entering a court facility shall be subject to a security search. A security search should occur for each visit to the court facility, regardless of the purpose or the hour.

Commentary

The credibility of court security requires the public be subject to a security search when entering a court facility. Any exemption of personnel from the security search process, including elected officials, court personnel, attorneys, law enforcement officers, or court security officers, should be decided and documented by the Court Security Committee.

At a minimum, each court facility should have at least one portable walk-through magnetometer and a hand-held magnetometer, with court security officers trained in the proper use of that equipment. Walk-through magnetometers at a single point of entry, with accompanying x-ray viewing of packages and handbags, is the optimal method of searching entrants to a court facility and should be utilized to provide the type of security needed to ensure a safe environment. A single point of entry for the public is strongly recommended.

STANDARD 6. COURT SECURITY OFFICERS

(A) Assignment

Uniformed court security officers should be assigned in sufficient numbers to ensure the security of each courtroom and the court facility.

(B) Certification and training

All court security should be certified through the Ohio Peace Officers Training Council. These officers should receive specific training on court security and weapons instruction specific to the court setting.

Commentary

For the purpose of these standards, "court security officer" means an individual employed or contracted to perform security duties or functions at a court facility and includes a law enforcement officer assigned to court security and a bailiff who performs court security duties or functions. "Court security officer" does not include an administrative bailiff who does not perform court security duties or functions.

Law enforcement officers who are present within the court facility for purposes other than court security, such as testifying at a trial, should not be considered a component of the court security system. These law enforcement officers' full attention should be directed to the duties to which they are assigned. The security of the court should not be reliant upon these law enforcement officers, who may have no specific training in court security.

STANDARD 7. WEAPONS IN COURT FACILITIES

(A) Prohibition

No weapons should be permitted in a court facility except those carried by court security officers or as permitted under division (B)(1) of this standard. The court should establish and install adequate security measures to ensure no one will be armed with any weapon in the court facility.

(B) Law enforcement

(1) Each court should promulgate a local court rule governing the carrying of weapons into the court facility by law enforcement officers who are not a component of court security and are acting within the scope of their employment. If more than one court occupies a court facility, the courts shall collectively promulgate a single rule.

(2) In all cases, law enforcement officers who are parties to a judicial proceeding as a plaintiff, defendant, witness, or interested party outside of the scope of their employment should not be permitted to bring weapons into the court facility.

Commentary

There is no issue more controversial relating to court security than whether law enforcement officers should be required to surrender their weapons at the court facility door. As a result, each individual court should review its needs and formulate policy based upon local needs and realities.

STANDARD 8. PRISONER TRANSPORT WITHIN COURT FACILITIES

(A) Transport

Prisoners should be transported into and within a court facility through areas that are not accessible to the public. When a separate entrance is not available and public hallways must be utilized, prisoners should be handcuffed behind the back or handcuffed with use of "belly chains" to limit hand movement and always secured by leg restraints.

(B) Carrying of firearms

During the transport of prisoners, personnel in direct contact with the prisoners should not carry firearms. However, an armed court security officer should be present.

(C) Holding area

Once within a court facility, prisoners should be held in a secure holding area equipped with video monitoring, where practicable, while awaiting court hearings and during any recess.

Commentary

If prisoners cannot be transported through private court facility entrances, public movement in the area should be restricted during the time of prisoner transport since transport through a public area exposes the public to danger, enhances the possibility of prisoner escape, and increases the ability to transfer weapons or other contraband to prisoners.

Law enforcement officers should accompany prisoners to the courtroom, remain during the hearing, and return prisoners to the secured holding area. Court security officers should not assume this responsibility.

STANDARD 9. DURESS ALARMS FOR JUDGES AND COURT PERSONNEL

All courtrooms, hearing rooms, judges' chambers, clerks of courts' offices, and reception areas should be equipped with a duress alarm system connected to a central security station. The duress alarm system should include enunciation capability.

Commentary

There are times when individuals may be able to circumvent standard court security measures. Judges and court personnel should have a readily accessible signal system upon which to rely in emergency situations.

It is important that the duress alarm system be a type which includes an audible alarm at the central security station. However, the system should not include an audible alarm at the activation site. The duress alarm system should quickly summon additional help from the county sheriff's department or the nearest police jurisdiction when needed.

To ensure confidence in the duress alarm system is maintained, duress alarms should be tested periodically and all efforts should be made to minimize false alarms.

STANDARD 10. CLOSED-CIRCUIT VIDEO SURVEILLANCE

If a court utilizes closed-circuit video surveillance, the system should include the court facility parking area, entrance to the court facility, court lobby, courtroom, and all other public areas of the court facility.

Commentary

Posted notices that every judicial proceeding is under surveillance may dissuade those who have intentions of disrupting a hearing. Some court facilities may lack the architectural and structural elements necessary for court security and, therefore, require greater reliance on security devices. Closed-circuit video surveillance is secondary to security searches of entrants to a court facility.

STANDARD 11. RESTRICTED ACCESS TO OFFICES

To ensure safe and secure work areas and to protect against inappropriate interaction between judges and participants in the judicial process, an effective secondary security perimeter should be utilized at the entrance to the office space housing judges and court personnel.

Commentary

The security of the office space housing judges and court personnel must be maintained. Unlimited access to these areas is dangerous and unnecessary. The general public should not be permitted to wander through these areas for any reason. However, attorneys should have controlled access to the areas. Persons having business with a judge or court personnel should be encouraged to make appointments.

Steps which may be taken to facilitate this standard include a main receptionist checkpoint, passive or active electromagnetic hall locks, and cardreader door locks.

Also, the judges' chambers, as differentiated from the staff offices, and judges' parking spaces should not be designated by "Judge" signage.

Finally, parking spaces should be located as close as possible to an entrance.

STANDARD 12. OFF-SITE PERSONAL SECURITY

As part of its court security plan, each court, in conjunction with law enforcement officers, should adopt procedures for the personal security of judges and court personnel at locations outside the court facility. If more than one court occupies a court facility, the courts shall collectively adopt procedures applicable to all judges and court personnel in the court facility.

Commentary

The protection of judges and court personnel from work-related threats and acts of violence outside the court facility is important. It is essential that procedures be in place, when necessary, to respond to such incidents.

The particular procedures may include personal security profiles, residential alarm systems, cellular telephones, weapons training, self-defense training, and personal/family bodyguard security. While all of these steps include some financial commitment, the procedures may be graduated to respond to the needs of any given situation.

STANDARD 13. STRUCTURAL DESIGN OF COURT FACILITIES AND COURTROOMS

When designing new or remodeling old court facilities, consideration should be given to circulation patterns that govern the movement of people to, from, and in the courtroom. Judges, juries, court personnel, and prisoners should have routes to and from the courtroom separate from public routes. Waiting areas should be available to allow separation of parties, victims, and witnesses.

Commentary

The circulation patterns should separate the prisoners from all other persons. The public should also be separated from the judges, juries, and court personnel.

STANDARD 14. SECURITY INCIDENT REPORTING

(A) Reporting of security incidents

(1) Every violation of law that occurs within a court facility should be reported to the law enforcement agency having jurisdiction. To facilitate reporting, all court personnel should familiarize themselves with the law enforcement agency that has jurisdiction within and around their court facility.

(2) Each court should adopt a policy for reporting court security incidents and should include the policy in the court's security policy and procedures manual. If more than one court occupies a court facility, the courts shall collectively adopt a single policy.

(3) A summary of court security incidents should be compiled annually for the court's benefit in evaluating security measures.

(B) Periodic review of security incidents

All courts within the court facility should periodically review all court security incidents so the judges and court personnel are aware of recent events.

Commentary

Although the facility may be a county court facility, in some areas, if the facility is located within the limits of a municipal corporation, the local police may be the law enforcement agency having jurisdiction.

A “court security incident” is any infraction outlined within the court's Security Policy and Procedures Manual and includes any and all disruptions made in the confines of the court facility.

To measure the effectiveness of court security procedures and to aid in securing necessary funding for court security measures, it is useful to recognize and record court security incidents. A standard incident reporting form should be utilized by court personnel to record each event which compromised the security of the court and/or the safety of the participants in the judicial process. Additionally, each court should do an annual summary of court security incidents for its own benefit in evaluating court security measures using the model incident reporting form.

STANDARD 15. NEWS MEDIA IN THE COURT FACILITY

The court security committee, along with other court officials, should consider and formulate a plan governing news media in a court facility. The plan should comply with the requirements of Rule 12 of the Rules of Superintendence for the Courts of Ohio and address both of the following:

(A) The process for news media entering and departing from the court facility in a minimally intrusive manner so other court offices are not disturbed;

(B) The safety of news media representatives in the courtroom as well as the location of their equipment so as to protect all persons in the courtroom and not create an impediment to court operations.

STANDARD 16. INFORMATION TECHNOLOGY OPERATIONS SECURITY

Each court should periodically evaluate and update its security for its information technology operations and implement appropriate security controls to ensure protection of those operations.

COURT FACILITY STANDARDS

APPENDIX D

Court Facility Standards

These standards apply to all courts of record in Ohio except as otherwise indicated. The standards represent the minimum requirements to ensure the efficient and effective administration of justice and are intended to complement federal, state, and local laws, regulations, and standards pertaining to building construction, safety, security, and access.

(A) General considerations. In order to maintain suitable judicial atmosphere and properly serve the public, clean, well-lighted, adequately heated and air-conditioned court facilities shall be provided and maintained.

(B) Location. The facilities should be located in a courthouse or county or municipal building. The location within the building should be separate from the location of non-judicial governmental agencies. Court facilities should be located in a building that is dignified and properly maintained.

(C) Courtroom. Every trial judge should have a separate courtroom.

The courtroom should have adequate seating capacity so that litigants and others are not required to stand or wait in hallways and areas adjacent to the courtroom.

All participants must be able to hear and to be heard. If the room acoustics are not satisfactory, an efficient public address system shall be provided.

Every courtroom should have an elevated bench. Adequate shelving should be provided adjacent to the bench for legal reference materials. United States and Ohio flags should flank the bench.

The witness chair should be near the bench, slightly elevated, and situated in an appropriate enclosure.

Desks, tables, and chairs should be provided for all court personnel regularly present in the courtroom.

Tables and chairs should be provided for parties and counsel. Tables shall be situated to enable all participants to hear and to allow private interchanges between litigants and counsel.

Each trial courtroom should be equipped with a jury box, suitable for seating jurors and alternates sufficient to meet the demands of the court. The jury box should be situated so that jurors may observe the demeanor of witnesses and hear all proceedings.

A blackboard and other necessary demonstrative aids should be readily available. Unnecessary material or equipment should not be kept in the courtroom.

Each judge should have private chambers convenient to the courtroom. Access from chambers to the courtroom should be private. Chambers should be decorated and equipped in appropriate fashion.

(D) Library. Each court shall be provided an adequate law library comprised of those materials, including electronic media, considered necessary by the court.

(E) Magistrate. Magistrates should have courtroom and office facilities similar to those of a judge.

(F) Juror and witness facilities. Each trial courtroom shall have a soundproof jury deliberation room located in a quiet area as near the courtroom as possible. Access from the jury deliberation room to the courtroom should be private. Private personal convenience facilities should be available for the jurors.

An adequate waiting room must be provided for jurors. Reading material of general interest, television, and telephones should be provided.

A waiting room comparable to the jurors' waiting room should be provided for witnesses.

(G) Consultation room. A room should be provided for use of attorneys.

(H) Violations Bureaus and pay-in windows. Facilities for violations bureaus and pay-in windows should be located near public parking areas.

(I) Court staff and court-related personnel facilities. Adequate space and equipment shall be provided for court personnel to prepare, maintain, and store necessary court records. Space and equipment should be utilized to ensure efficiency, security, and confidentiality.

Adequate restroom facilities separate from public restroom facilities should be provided for all court personnel.

(J) Public convenience facilities. Clean, modern restroom facilities should be available in the vicinity of the public areas of the court. Public telephones should be available and afford privacy.

FACSIMILE FILING STANDARDS

These Facsimile Filing Standards are adopted November 3, 2003 pursuant to Superintendence Rule 27, effective May 1, 2004.

APPENDIX E

FACSIMILE FILING STANDARDS FOR OHIO COURTS

These Facsimile Filing Standards are adopted November 3, 2003 pursuant to Superintendence Rule 27, effective May 1, 2004.

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1.00 Definitions

1.01 "**Facsimile transmission**" means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits, and reconstructs the signals to print a duplicate of the source document at the receiving end.

1.02 "**Facsimile machine**" means a machine that can send and receive a facsimile transmission either as a stand alone device or as part of a computer system.

[Commentary: E-MAILING OF FILING IS NOT CONSIDERED PART OF FAX FILING. IT WILL BE ADDRESSED IN ELECTRONIC FILING STANDARDS.]

1.03 "**Fax**" is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

1.04 "**Source document**" means the document transmitted to the court by facsimile machine/system.

1.05 "**Effective original document**" means the facsimile copy of the source document received by the Clerk of Court and maintained as the original document in the court's file.

1.06 "**Effective date and time of filing**" means the date and time that a facsimile filing is accepted by the Clerk of court for filing.

2.00 Applicability of local rules.

2.01 All local rules of court adopted to permit filing of facsimile documents will be deemed to permit filing of all pleadings, motions, exhibits and other documents that may be filed with the Clerk of Courts. The local rules must specify any exceptions to this permission.

[Commentary: There is not a mandate that requires a court to accept filings by FAX. Only those Courts, that choose to accept faxes, need to create local rules that meet the minimum standards set. We also created a "model rule" for those courts that are looking for more guidance. Clerks who serve in more than one location should specify all exceptions to fax filing.]

2.02 All local rules of court for facsimile filing SHALL place a requirement that the filer provide a cover page containing the following:

(I) the caption of the case;
(II) the case number;
(III) the assigned judge;
(IV) a description of the document being filed;
(V) the date of transmission;
(VI) the transmitting fax number; and
(VII) an indication of the number of pages included in the transmission, including the cover page.

If a document is sent by fax to the Clerk of Court without the cover page information listed above, it may be deposited in the case jacket but need not be entered into the Case Docket and may be considered to be a nullity and thereby stricken from the record.

3.00 Place of filing

3.01 All local rules of court must specify the telephone number of the facsimile machine receiving transmission. The facsimile machine must have a dedicated telephone line and must be available to receive facsimile transmissions on the basis of 24 hours per day 7 days per week.

4.00 Time of filing

4.01 All local rules of court must specify that the date and time of ~~filing~~ receipt of any document is the date and time imprinted on the document by the facsimile machine receiving the transmission.

4.02 All local rules of court must permit receipt of facsimile transmissions on the basis of 24 hours per day 7 days per week.

4.03 All local rules of court may specify the effective date and time of filing for all documents received outside of the normal business hours of the office of the Clerk of Court and queue them in order of their receipt as documented by the date and time imprinted by the receiving facsimile machine.

4.04 The Clerk of Court may but need not acknowledge receipt of a facsimile transmission.

[Commentary: It was the intention of the committee that if for any reason the fax is not received, the burden of validating or confirming the receipt of the complete fax transmission is on the sending party. Most Fax machines are equipped with the capacity to report back to the sending party, a validation of transmission or a "failed transmission" report.]

5.00 Filing of originals

5.01 All local rules of court must provide that documents filed by facsimile are accepted as the effective original document in the court file. The source document need not be filed. However, the sending party must maintain possession of the source document and make them available for inspection by the court upon request.

[Commentary: The Standards Subcommittee recommends that local rules address the issue of retention of the source document until opportunities for the post judgment relief are exhausted.]

5.02 Documents shall be filed with a signature or notation "/s/" followed by the name of the person signing the source document. The person transmitting the document represents that the signed source document is in his/her possession.

5.03 A local rule of court may limit the number of pages that it will accept by facsimile transmission. If the document to be transmitted exceeds the page limit established by local rule, the original must be filed. All local rules of court may permit exhibits that cannot be transmitted accurately or are lengthy to be replaced by an insert page describing the exhibit. The local rules may provide that the original of such an exhibit may be filed within a specified time subsequent to the facsimile filing.

5.04 A local rule may be adopted that is not inconsistent with any standard regarding the filing of an original source document.

*[Commentary**:** The local rule should address and define what it felt was reasonable page limit. A filing that exceeds the page limit detailed in the local rule would either require filing through other allowable channels. or as is the case with Exhibits in section 6.01 of the Model rule; if the filing has exhibit(s) that cause it to exceed the page limit, then, in the fax filing the exhibit (or other lengthy document), would be "replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit." This allows the local court to facilitate filing by allowing faxes without placing an unusual burden on the clerk's office.]*

6.00 Filing Fees

6.01 All local rules of court must specify the effective methods of paying fees and costs for any pleading or other document requiring such a fees or costs. The local rules may provide that the Clerk of Court does not have to accept a facsimile transmission filing unless the acceptable method of payment has been paid or arranged to be paid. Local rules of court may not require premium fee schedules for facsimile filings.

*[Commentary**:** In terms of costs associated with acceptance of fax filings, some clerks have expressed concern over related costs. In the case of FAX filing, the only substantive difference between a single original coming in over the counter and one coming in via FAX is the presentation. Section 6 specifically prohibits the charging of fees above and beyond the $3.00/$10.00 fee allowed for court technology, for accepting a FAX filing. However, if it's customary for a clerk's office to charge for copies (including service copies) or additional charges for administrative costs, mailing /postage costs, etc. ... then those fees would still apply regardless of how the original filing came in. Those additional fees would most likely fall under a separate local rule regarding fees that your court would already have in place.]*

7.00 Effective Date of Local Rules

7.01 All local rules of court will become effective upon approval by the Supreme Court Committee on Technology and the Courts.

8.00 Time to Compliance

8.01 Courts which choose to offer facsimile filing shall submit local rules for approval by the Supreme Court of Ohio. Courts offering facsimile filing at the time this standard is adopted shall submit their local rule for approval within six months of the adoption of this standard.

APPENDIX

Model Facsimile Filing Rule for Ohio Courts

The Model Facsimile Rule for Ohio Courts is included for illustration. This form is expressly declared as sufficient to meet the requirements of the Facsimile Filing Standards for Ohio Courts. Departures from this form shall not void a local rule that is otherwise sufficient to meet the requirements of the aforesaid Facsimile Filing Standards for Ohio Courts.

STANDARDS SUBCOMMITTEE OF THE SUPREME COURT ADVISORY COMMITTEE ON TECHNOLOGY AND THE COURTS

MODEL FACSIMILE FILING RULE FOR OHIO COURTS

The provisions of this local rule are adopted under [Civ.R. 5(E)] [Civ.R. 73(J)] [Crim.R.12(B)] [Juv.R. 8] [App.R. 13(A)].

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to [area code and number of receiving machine] subject to the following conditions:

APPLICABILITY

1.01 These rules apply to [civil], [criminal], [small claims], [probate], [juvenile], [appellate] and [domestic relations], proceedings in the [name of court].

1.02 These rules do not apply to [civil], [criminal], [small claims], [probate], [juvenile], [appellate] and [domestic relations], proceedings. In these proceedings no facsimile transmission of documents will be accepted.

1.03 The following documents will not be accepted for fax filing: [original wills and codicils] [cognovit promissory notes], [insert other examples]

ORIGINAL FILING

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

2.02 The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

DEFINITIONS

As used in these rules, unless the context requires otherwise:

3.01 A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to **print** a duplicate of the source document at the receiving end.

3.02 A “facsimile machine" means a machine that can send and receive a facsimile transmission.

3.03 “Fax” is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

COVER PAGE

4.01 The person filing a document by fax shall also provide therewith a cover page containing the following information: [See appendix for sample cover page form.]

(I) the name of the court;

(II) the title of the case;

(III) the case number;

(IV) the assigned judge;

(V) the title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint; Plaintiff Smith’s Response to Defendants’ Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss) ;

(VI) the date of transmission;

(VII) the transmitting fax number;

(VIII) an indication of the number of pages included in the transmission, including the cover page;

(IX) if a judge or case number has not been assigned, state that fact on the cover page;

(X) 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; and

(XI) if applicable, a statement explaining how costs are being submitted.

4.02 If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion:

(I) enter the document in the Case Docket and file the document; or

(II) deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.

4.03 The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

SIGNATURE

5.01 A party who wishes to file a signed source document by fax shall either:

(I) fax a copy of the signed source document; or

(II) fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.

5.02 A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

[*Commentary: 5.01 (II) addresses those instances where the fax transmission is generated by the sending party's computer and therefore the document is not printed and capable of being signed prior to transmission.]*

EXHIBITS

6.01 Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit.

6.02 Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for sample exhibit cover sheet.]

TIME OF FILING

(OPTION I)

7.01 Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the fax transmission was received by the Clerk of Court. The office of the Clerk of Court will be deemed open to receive facsimile

transmission of documents on the basis of 24 hours per day seven days per week including holidays. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time of filing, provided the document is deemed accepted by the Clerk.

(OPTION II)

7.01 Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.

7.02 Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.

7.03 The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

7.04 The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

FEES AND COSTS

8.01 No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Court cost and fees may be paid by credit or debit cards or through an escrow account established with the Clerk. The forms necessary for the authorization of payment by credit card or escrow account shall be available at the Clerk's office during normal business hours [and are accessible on-line at _____]. Documents tendered to the Clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed. [See appendix for sample credit card payment form.]

[*Commentary: Information furnished for authorization of payment by credit/debit card shall not be part of the case file.]*

8.02 No additional fee shall be assessed for facsimile filings.

LENGTH OF DOCUMENT

9.01 Facsimile filings shall not exceed _____ pages in length. . The filer shall not transmit service copies by facsimile.

[Commentary: The local rule should address and define what it felt to be a reasonable page limit. The subcommittee also recommends that service copies not be sent by fax. However, this is optional, and at the discretion of the local court.]

EFFECTIVE DATE

10.01 These local rules shall be effective [insert date], and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

[Commentary: Facsimile filing standards in the model rule contemplate the facsimile transmission of documents to a court by electronic means. The court receiving the facsimile transmission will maintain its equipment to reconstruct a paper copy version of the source document to serve as the original document. These standards should be differentiated from other types of electronic filing, for which other standards will apply.]

APPENDIX

1. Sample Facsimile Filing Cover Page

2. Sample Exhibit Cover Page

3. Sample Credit Card Payment Form

FACSIMILE FILING COVER PAGE

RECIPIENT INFORMATION:

NAME OF COURT: _____

FAX NUMBER: _____

SENDING PARTY INFORMATION:

NAME: _____
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*: _____

TITLE OF THE DOCUMENT: _____
_____

JUDGE*: _____

FILING INFORMATION:

DATE OF FAX TRANSMISSION: _____

NUMBER OF PAGES (including this page): _____

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF APPLICABLE:_____
_____

*If a judge or case number has not been assigned, please state that fact in the space provided.

IN THE COURT OF COMMON PLEAS
_____ COUNTY, OHIO

JOHN SMITH, Plaintiff,	
v.	Case No.: 1234567
BILL JONES, Defendant.	Judge _____ *(in the alternative a notation here that the case is not yet assigned)*

PLAINTIFF SMITH'S NOTICE OF FILING EXHIBIT "G"
TO
PLAINTIFF SMITH'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

Plaintiff Smith, through counsel, hereby files Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [date]. Exhibit "G" could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Local Rule XX.X.

Respectfully Submitted,

_____
Attorney Name (Sup. Crt. Reg. No.)
Office/Firm
Address
Telephone
Facsimile
E-mail

Counsel for Plaintiff John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit "G" was sent by ordinary U.S. mail on [date] to counsel for defendant Bill Jones, [name and address of recipient].

_____
Attorney Name
Counsel for Plaintiff John Smith

CREDIT / DEBIT CARD AUTHORIZATION FORM

To: Clerk, _____ County Common Pleas Court _____ Division

Fax No:_____

Regarding (if applicable):

Case Name:_____

Case Number:_____

Dear Clerk's Office Representative:

Please charge my credit / debit card in the amount of $_____ in payment of fees for the following court costs/service(s): [Identify document to be filed or other service to be performed by the Clerk's Office for which a fee is assessed.] _____

_____

Circle One: MasterCard Visa

Credit / Debit Card Number: _____
Expiration Date: _____

Name of Cardholder: _____

Billing Address: _____

_____

Telephone No.: _____

Fax No.: _____

Cardholder Signature: _____

Date: _____

Name & Telephone No. of Person Submitting This form: _____

APPENDIX F

[**Model Standards of Practice for Family and Divorce Mediation**
(adopted by the American Bar Association, Association of Family and Conciliation Courts and the Association for Conflict Resolution) modified to reference express provisions of Ohio law.]

Overview and Definitions

Family and divorce mediation ("family mediation" or "mediation") is a process in which a mediator, an impartial third party, facilitates the resolution of family disputes by promoting the participants' voluntary agreement. The family mediator assists communication, encourages understanding and focuses the participants on their individual and common interests. The family mediator helps the participants to explore options, make decisions and reach their own agreements.

Family mediation is neither a substitute for the need for family members to obtain independent legal advice or counseling or therapy, nor is it appropriate for all families. However, experience has established that family mediation is a valuable option for many families because it can:

(A) Increase the self-determination of participants and improve their ability to communicate;

(B) Promote the best interests of children; and

(C) Reduce the economic and emotional costs associated with the resolution of family disputes.

Effective mediation requires that the family mediator be qualified by training, experience and temperament; that the mediator be impartial; that the participants reach their decisions voluntarily; that their decisions be based on sufficient factual data; that the mediator be aware of the impact of culture and diversity issues that impact the mediation process; and that the best interests of children be taken into account. Further, the mediator should also be prepared to identify families whose history includes domestic abuse or child abuse.

These Model Standards of Practice for Family and Divorce Mediation ("Model Standards") aim to perform three major functions:

(A) To serve as a guide for the conduct of family mediators;

(B) To inform the mediating participants of what they can expect; and

(C) To promote public confidence in mediation as a process for resolving family disputes.

The Model Standards are aspirational in character. They describe good practices for family mediators. They are not intended to create legal rules or standards of liability.

The Model Standards include different levels of guidance:

Use of the term "may" in a Standard is the lowest strength of guidance and indicates a practice that the family mediator should consider adopting but which can be deviated from in the exercise of good professional judgment.

Most of the Standards employ the term "should" which indicates that the practice described in the Standard is highly desirable and should be departed from only with very strong reason.

The term "shall" in a Standard is a higher level of guidance to the family mediator, indicating that the mediator should not have discretion to depart from the practice described.

Standard I

A family mediator shall recognize that mediation is based on the principle of self-determination by the participants.

(A) Self-determination is the fundamental principle of family mediation. The mediation process relies upon the ability of participants to make their own voluntary and informed decisions.

(B) The primary role of a family mediator is to assist the participants to gain a better understanding of their own needs and interests and the needs and interests of others and to facilitate agreement among the participants.

(C) A family mediator shall inform the participants that they may seek information and advice from a variety of sources during the mediation process.

(D) A family mediator shall inform the participants that they may withdraw from family mediation at any time and are not required to reach an agreement in mediation.

(E) The family mediator's commitment shall be to the participants and the process. Pressure from outside of the mediation process shall never influence the mediator to coerce participants to settle.

Standard II

A family mediator shall be qualified by education and training to undertake the mediation.

(A) To perform the family mediator's role, a mediator should:

(1) have knowledge of family law;

(2) have knowledge of and training in the impact of family conflict on parents, children and other participants, including knowledge of child development, domestic abuse and child abuse and neglect;

(3) have education and training specific to the process of mediation; and

(4) Be able to recognize the impact of culture and diversity.

(B) Family mediators shall provide information to the participants about the mediator's relevant training, education and expertise.

Standard III

A family mediator shall facilitate the participants' understanding of what mediation is and assess their capacity to mediate before the participants reach an agreement to mediate.

(A) Before family mediation begins, a mediator shall provide the participants with an overview of the process and its purposes, including:

(1) informing the participants that reaching an agreement in family mediation is consensual in nature, that a mediator is an impartial facilitator, and that a mediator may not impose or force any settlement on the parties;

(2) distinguishing family mediation from other processes designed to address family issues and disputes;

(3) informing the participants that any agreements reached will be reviewed by the court when court approval is required;

(4) informing the participants that they may obtain independent advice from attorneys, counsel, advocates, accountants, therapists or other professionals during the mediation process;

(5) advising the participants, in appropriate cases, that they can seek the advice of religious figures, elders or other significant persons in their community whose opinions they value;

(6) discussing, if applicable, the issue of separate sessions with the participants, a description of the circumstances in which the mediator may meet alone with any of the participants, or with any third party and the conditions of confidentiality concerning these separate sessions;

(7) Informing the participants that the presence or absence of other persons at mediation, including attorneys, counselors or advocates, depends on the wishes of the participants. The mediator shall take controlling statutes or rules into consideration. The mediator may encourage the presence of another person when there is a history or threat of violence or other serious coercive activity by a participant;

(8) describing the obligations of the mediator to maintain the confidentiality of the mediation process and its results as well as any exceptions to confidentiality;

(9) Advising the participants of the circumstances under which the mediator may suspend or terminate the mediation process and that a participant has a right to suspend or terminate mediation at any time.

(B) The family mediator should have participants sign a written agreement to mediate their dispute and the terms and conditions thereof within a reasonable time after first consulting the family mediator, if they desire to mediate.

(C) The family mediator should be alert to the capacity and willingness of the participants to mediate before proceeding with the mediation and throughout the process. A mediator shall not agree to conduct the mediation if the mediator reasonably believes one or more of the participants are unable or unwilling to participate.

(D) Family mediators should not accept a dispute for mediation if they cannot satisfy the expectations of the participants concerning the timing of the process.

Standard IV

A family mediator shall conduct the mediation process in an impartial manner. A family mediator shall disclose all actual and potential grounds of bias and conflicts of interest reasonably known to the mediator. The participants shall be free to retain the mediator by an informed, written waiver of the conflict of interest. However, if a bias or conflict of interest clearly impairs a mediator's impartiality, the mediator shall withdraw regardless of the express agreement of the participants.

(A) Impartiality means freedom from favoritism or bias in word, action or appearance, and includes a commitment to assist all participants as opposed to any one individual.

(B) Conflict of interest means any relationship between the mediator, any participant or the subject matter of the dispute that compromises or appears to compromise the mediator's impartiality.

(C) A family mediator should not accept a dispute for mediation if the family mediator cannot be impartial.

(D) A family mediator shall identify and disclose potential grounds of bias or conflict of interest upon which a mediator's impartiality might reasonably be questioned. Such disclosure should be made prior to the start of mediation and in time to allow the participants to select an alternate mediator.

(E) A family mediator shall resolve all doubts in favor of disclosure. All disclosures shall be made as soon as practical after the mediator becomes aware of the bias or potential conflict of interest. The duty to disclose is a continuing duty.

(F) A family mediator shall guard against bias or partiality based on the participants' personal characteristics, background or performance at the mediation.

(G) A family mediator shall avoid conflicts of interest in recommending the services of other professionals.

(H) A family mediator shall not use information about participants obtained in mediation for personal gain or advantage.

(I) A family mediator shall withdraw pursuant to Standard XI if the mediator believes the mediator's impartiality has been compromised or a conflict of interest has been identified and has not been waived by the participants.

Standard V

A family mediator shall fully disclose and explain the basis of any compensation, fees and charges to the participants.

(A) The participants shall be provided with sufficient information about fees at the outset of mediation to determine if they wish to retain the services of the mediator.

(B) The participants' written agreement to mediate their dispute shall include a description of their fee arrangement with the mediator.

(C) A mediator shall not enter into a fee agreement that is contingent upon the results of the mediation or the amount of the settlement.

(D) A mediator shall not accept a fee for referral of a matter to another mediator or to any other person.

(E) Upon termination of mediation a mediator shall return any unearned fee to the participants.

Standard VI

A family mediator shall structure the mediation process so that the participants can make decisions based on sufficient information and knowledge.

(A) The mediator should facilitate full and accurate disclosure and the acquisition and development of information during mediation so that the participants can make informed decisions. This may be accomplished by encouraging participants to consult appropriate experts.

(B) Consistent with standards of impartiality and preserving participant self-determination, a mediator may provide the participants with information that the mediator is qualified by training or experience to provide. The mediator shall not provide therapy or legal advice.

(C) If the participants so desire, the mediator shall allow attorneys, counsel or advocates for the participants, or other individual designated by the participants, to be present at the mediation sessions.

(D) With the agreement of the participants, the mediator may document the participants' resolution of their dispute. The mediator should inform the participants that any agreement should be reviewed by an independent attorney before it is signed.

Standard VII

A family mediator shall maintain the confidentiality of all information acquired in the mediation process, unless the mediator is permitted or required to reveal the information by law or agreement of the participants.

(A) The mediator should discuss the participants' expectations of confidentiality with them prior to undertaking the mediation. The written agreement to mediate should include provisions concerning confidentiality.

(B) Prior to undertaking the mediation the mediator shall inform the participants of the limitations of confidentiality such as statutory, judicially or ethically mandated reporting.

(C) As permitted by law, the mediator shall disclose a participant's threat of suicide or violence against any person to the threatened person and the appropriate authorities if the mediator believes such threat is likely to be acted upon.

(D) If the mediator holds private sessions with a participant, the obligations of confidentiality concerning those sessions should be discussed and agreed upon prior to the sessions.

(E) If subpoenaed or otherwise noticed to testify or to produce documents the mediator should inform the participants immediately. The mediator shall not testify or provide documents in response to a subpoena without an order of the court that is pursuant to O.R.C. 3109.52, if the mediator reasonably believes doing so would violate an obligation of confidentiality to the participants.

Standard VIII

A family mediator shall assist participants in determining how to promote the best interests of children.

(A) The mediator should encourage the participants to explore the range of options available for separation or post divorce parenting arrangements and their respective costs and benefits. Referral to a specialist in child development may be appropriate for these purposes. The topics for discussion may include, among others:

(1) Information about community resources and programs that can help the participants and their children cope with the consequences of family reorganization and family violence;

(2) Problems that continuing conflict creates for children's development and what steps might be taken to ameliorate the effects of conflict on the children;

(3) Development of a parenting plan that covers the children's physical residence and decision-making responsibilities for the children, with appropriate levels of detail as agreed to by

the participants;

(4) The possible need to revise parenting plans as the developmental needs of the children evolve over time; and

(5) Encouragement to the participants to develop appropriate dispute resolution mechanisms to facilitate future revisions of the parenting plan.

(B) The mediator shall be sensitive to the impact of culture and religion on parenting philosophy and other decisions.

(C) The mediator shall inform any court-appointed representative for the children of the mediation. If a representative for the children participates in mediation, the mediator should, at the outset, discuss the effect of that participation on the mediation process and the confidentiality of the mediation with the participants. Whether the representative of the children participates or not, the mediator shall provide the representative with the resulting agreements insofar as they relate to the children.

(D) Except in extraordinary circumstances, the children shall not participate in the mediation process without the consent of both parents and, if applicable, the children's court-appointed representative.

(E) Prior to including the children in the mediation process, the mediator shall consult with the parents and the children's court-appointed representative, if applicable, about whether the children should participate in the mediation process and the form of that participation.

(F) The mediator shall inform all concerned about the available options for the children's participation (which may include personal participation, an interview with a mental health professional, the mediator interviewing the child, or a videotaped statement by the child) and discuss the costs and benefits of each with the participants.

Standard IX

A family mediator shall take reasonable steps to ascertain a family situation involving child abuse or neglect and take appropriate steps to shape the mediation process accordingly

(A) As used in these Standards, child abuse or neglect is defined by applicable state law.

(B) A mediator shall not undertake a mediation in which the family situation has been assessed to involve child abuse or neglect without having completed appropriate and adequate training.

(C) If the mediator has reasonable grounds to believe that a child of the participants is abused or neglected within the meaning of the jurisdiction's child abuse and neglect laws, the mediator shall comply with applicable child protection laws.

(1) The mediator should encourage the participants to explore appropriate services for the family.

(2) The mediator shall consider the appropriateness of suspending or terminating the mediation process in light of the allegations.

Standard X

A family mediator shall take reasonable steps to ascertain a family situation involving domestic abuse and take appropriate steps to shape the mediation process accordingly.

(A) As used in these Standards, domestic abuse includes domestic violence as defined by applicable state law and issues of control and intimidation.

(B) A mediator shall not undertake a mediation in which the family situation has been assessed to involve domestic abuse without having completed appropriate and adequate training.

(C) Some cases are not suitable for mediation because of safety, control or intimidation issues. A mediator shall make a reasonable effort to screen for the existence of domestic abuse prior to entering into an agreement to mediate. The mediator shall continue to assess for domestic abuse throughout the mediation process.

(D) If domestic abuse appears to be present the mediator shall consider taking measures to insure the safety of participants and the mediator including, among others:

(1) establishing appropriate security arrangements;

(2) holding separate sessions with the participants even without the agreement of all participants;

(3) allowing a friend, representative, advocate, counsel or attorney to attend the mediation sessions;

(4) encouraging the participants to be represented and or accompanied by an attorney, counsel or an advocate throughout the mediation process;

(5) referring the participants to appropriate community resources;

(6) Suspending or terminating the mediation sessions, with appropriate steps to protect the safety of the participants.

The mediator should facilitate the participants' formulation of parenting plans that protect the physical safety and psychological well being of the participants and their children.

Standard XI

A family mediator shall suspend or terminate the mediation process when the mediator reasonably believes that a participant is unable to effectively participate or for other compelling reason.

(A) Circumstances under which a mediator should consider suspending or terminating the mediation, may include, among others:

(1) the safety of a participant or well-being of a child is threatened;

(2) a participant has or is threatening to abduct a child;

(3) a participant is unable to participate due to the influence of drugs, alcohol, or physical or mental condition;

(4) the participants are about to enter into an agreement that the mediator reasonably believes to be unconscionable;

(5) a participant is using the mediation to further illegal conduct;

(6) a participant is using the mediation process to gain an unfair advantage;

(7) If the mediator believes the mediator's impartiality has been compromised in accordance with Standard IV.

(B) If the mediator does suspend or terminate the mediation, the mediator shall take all reasonable steps to minimize prejudice or inconvenience to the participants, which may result.

Standard XII

A family mediator shall be truthful in the advertisement and solicitation for mediation.

(A) Mediators should refrain from promises and guarantees of results. A mediator should not advertise statistical settlement data or settlement rates.

(B) Mediators shall accurately represent their qualifications. In an advertisement or other communication, a mediator may make reference to meeting state, national, or private organizational qualifications only if the entity referred to has a procedure for qualifying mediators and the mediator has been duly granted the requisite status.

Standard XIII

A family mediator shall acquire and maintain professional competence in mediation.

(A) Mediators should continuously improve their professional skills and abilities by, among other activities, participating in relevant continuing education programs and should regularly engage in self-assessment.

(B) Mediators should participate in programs of peer consultation and should help train and mentor the work of less experienced mediators.

(C) Mediators should continuously strive to understand the impact of culture and diversity on the mediator's practice.

APPENDIX G

[Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs]

The Model Standards recognize the National Standards for Court Connected Dispute Resolution Programs (1992). There are also state and local regulations governing such programs and family mediators. The following principles of organization and practice, however, are especially important for regulation of mediators and court-connected family mediation programs. They are worthy of separate mention.

(A) Individual states or local courts should set standards and qualifications for family mediators including procedures for evaluations and guidelines for handling grievances against mediators. In developing these standards and qualifications, regulators should consult with appropriate professional groups, including professional associations of family mediators.

(B) When family mediators are appointed by a court or other institution, the appointing agency should make reasonable efforts to insure that each mediator is qualified for the appointment. If a list of family mediators qualified for court appointment exists, the requirements for being included on the list should be made public and available to all interested persons.

(C) Confidentiality should not be construed to limit or prohibit the effective monitoring, research or evaluation of mediation programs by responsible individuals or academic institutions provided that no identifying information about any person involved in the mediation is disclosed without their prior written consent. Under appropriate circumstances, researchers may be permitted to obtain access to statistical data and, with the permission of the participants, to individual case files, observations of live mediations and interviews with participants.

APPENDIX H

CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS AND TRANSLATORS

Preamble.

Foreign language interpreters, sign language interpreters, and translators help ensure that individuals enjoy equal access to justice, including case and court functions and court support services. Foreign language interpreters, sign language interpreters, and translators are highly skilled professionals who fulfill an essential role by assisting in the pursuit of justice. They act strictly in the interest of the courts they serve and are impartial officers of those courts, with a duty to enhance the judicial process.

Definitions.

As used in this code, "provisionally qualified foreign language interpreter," "Supreme Court certified foreign language interpreter," "Supreme Court certified sign language interpreter," and "translator" have the same meanings as in Rule 80 of the Rules of Superintendence for the Courts of Ohio.

Applicability.

This code applies to Supreme Court certified foreign language interpreters, provisionally qualified foreign language interpreters, Supreme Court certified sign language interpreters, and translators. This code shall bind all agencies and organizations that administer, supervise, use, or deliver interpreting or translating services in connection with any case or court function.

A court may use this code to assist it in determining the qualifications of any individual providing services as an interpreter under Rule 702 of the Rules of Evidence.

Canon 1. High Standards of Conduct.

Interpreters and translators shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible, consistent with the ends of justice.

Commentary

Interpreters and translators should maintain high standards of conduct at all times to promote public confidence in the administration of justice.

Canon 2. Accuracy and Completeness.

Interpreters and translators shall render a complete and accurate interpretation or translation without altering, omitting, or adding anything to what is spoken or written, and shall do so without explaining the statements of the original speaker or writer.

Commentary

In order to preserve the record of the court and assist in the administration of justice, interpreters should completely and accurately interpret the exact meaning of what is said or written without embellishing, explaining, omitting, adding, altering, or summarizing anything. This includes maintaining accuracy of style or register of speech, as well as not distorting the meaning of the source language, even if it appears obscene, incoherent, non-responsive, or a misstatement. Interpreters and translators have a duty to inform the court of any error, misinterpretation, or mistranslation so that the record may be promptly corrected. The terms “accurately,” “completely,” and “exact” do not signify a word-for-word or literal interpretation, but rather mean to convey the exact meaning of the discourse of the speaker or writer.

Canon 3. Impartiality and Avoidance of Conflicts of Interest.

Interpreters and translators shall be impartial and unbiased. Interpreters and translators shall refrain from conduct that may give the appearance of bias and shall disclose any real or perceived conflict of interest.

Commentary

Interpreters and translators must disclose to the court any prior involvement with a case or court function, parties, or witnesses that creates or could be viewed as creating a conflict of interest, provided such disclosure must not include anything that is privileged or confidential. The court must then determine whether the interpreter or translator may continue on the case or court function. Counsel for either party may petition the court for appointment of a different interpreter or translator on the basis of a conflict of interest and the court must determine on the record whether to release the interpreter or translator from the case or court function.

Canon 4. Confidentiality.

Interpreters and translators shall protect from unauthorized disclosure all privileged or other confidential communications, documents, or information they hear or obtain while acting in a professional capacity.

Commentary

Interpreters and translators must maintain confidentiality with respect to any communication, document, information, or other type of confidential matter, including police and medical records and attorney-client privileged communications protected under section 2317.02 of the Revised Code. Interpreters and translators must not derive, either directly or indirectly, any profit or advantage from any confidential communication, document, or information acquired while acting in a professional capacity.

Canon 5. Representation of Qualifications.

Interpreters and translators shall accurately and completely represent their credentials, certifications, training, references, and pertinent experience.

Commentary

Interpreters and translators have a duty to present accurately and completely any applicable credentials, certifications, training, references, and pertinent experience, consistent with Canon 6 of this code. It is essential that interpreters and translators present a complete and truthful account of their qualifications before appointment to allow the court to fairly evaluate their qualifications for delivering interpreting or translating services.

Canon 6. Proficiency.

Interpreters and translators shall provide professional services only in matters in which they can proficiently perform.

Commentary

By accepting an assignment, interpreters and translators warrant they have the skills, training, and understanding of terminology to interpret or translate accurately and effectively in the given setting, are fluent in the required languages, and have the ability to understand regional differences and dialects. Interpreters have a duty to request from the court and the parties all pertinent information and materials necessary to prepare for the case or court function.

Interpreters and translators should strive continually to improve language skills and knowledge of specialized vocabulary and familiarize themselves with the judicial system and any applicable court rules. Interpreters and translators are responsible for having the proper dictionaries and other reference materials available when needed.

Canon 7. Assessing and Reporting Impediments to Performance.

Interpreters and translators shall at all times assess their ability to perform effectively and accurately. If an interpreter or translator discovers anything impeding full compliance with the oath or affirmation of the interpreter or translator and this code, the interpreter or translator shall immediately report this information to the court.

Commentary

Interpreters and translators must immediately inform the court of any condition interfering with their ability to provide accurate and complete interpretation or translation. This may include excessively rapid, quiet, or indistinct speech, physical interference such as inability to see exhibits, noise in their surroundings, or any other interfering factor.

Interpreters and translators must inform the court if they are having difficulties obtaining pertinent information or materials required to prepare for a case or court function that may impede their ability to perform adequately. If at the time of a hearing or trial the interpreter or translator has not been provided with necessary information or materials, the interpreter or translator must inform the court on the record and request a recess to review such information or materials.

Interpreters and translators should withdraw from an assignment if they are unable to understand or satisfactorily communicate with the non-English speaking, limited English proficient, deaf or hard-of-hearing party, witness, or juror, or if they lack required skills, preparation, or terminology to perform effectively in the case or court function for which they have been summoned.

Canon 8. Duty to Report Ethical Violations.

Interpreters and translators shall report to the court any efforts to impede their compliance with any law, this code, or other official policy governing interpreting or translating. Interpreters and translators shall promptly report to the appropriate legal or disciplinary authority if they observe another interpreter or translator improperly performing an assignment; accepting remuneration apart from authorized fees; disclosing privileged or confidential communications, documents, or information; or otherwise committing a breach of this code.

Commentary

Interpreters and translators must report to the court any ethical violation, action, or information that refers to the persistence of a party demanding that an interpreter or translator violate this code, subject to any applicable privilege.

Canon 9. Scope of Practice.

Interpreters and translators shall not give legal advice, communicate their conclusions with respect to any answer, express personal opinions to individuals for whom they are interpreting or translating, or engage in any other activity that may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

Commentary

Since interpreters and translators are only responsible for enabling others to communicate, they should exclusively limit themselves to the activity of interpreting and translating. Interpreters and translators should refrain from initiating communications while interpreting or translating or at all times except as set out below.

Interpreters may be required to initiate communications during a case or court function when they find it necessary to seek assistance in performing their duties. Examples of such circumstances include seeking direction when unable to understand or express a word or thought, requesting speakers to moderate their rate of communication or repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. In

such instances the interpreter should refer to him or herself in the third person, making it clear and on the record that the interpreter is speaking for him or herself.

At no time may an interpreter give advice. An interpreter should not explain the purpose of forms, services, or otherwise act as counselor or advisor. The interpreter may sight translate language on a form, but may not provide independent legal advice as to the purpose of the form or instruct the litigant as to the proper manner of completing the form.

Interpreters and translators should not personally serve to perform acts that are the official responsibility of other court officials including, but not limited to, court clerks, pretrial release investigators or interviewers, or probation officers, except as required by and in the presence of such officials.

Canon 10. Restrictions from Public Comment.

Consistent with Canon 4 of this code, interpreters and translators shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Commentary

Interpreters and translators must refrain from making public comments or giving opinions or reports concerning any particulars of a case or court function in which they are or have provided professional services, regardless whether the information is privileged or confidential. This restriction does not apply to general public comments or reports concerning the interpreting or translating professions.

APPENDIX I

SPECIALIZED DOCKET STANDARDS

Overview.

The following standards are established to guide courts of common pleas, municipal courts, and county courts and divisions of these courts in the planning and implementation of all specialized dockets. The standards set forth minimum requirements for the certification and operation of all specialized dockets. Accompanying the standards are recommended practices that each specialized docket is encouraged to follow. While the standards seek to create a minimum level of uniform practices for specialized dockets, they still allow local specialized dockets to innovate and tailor their specialized docket to respond to local needs and resources.

Standard 1. Planning Process.

A specialized docket shall utilize a comprehensive and collaborative planning process that results in all of the following:

(A) An agreement among relevant parties setting forth the terms of the specialized docket operations. Relevant parties may include, but are not limited to, the specialized docket judge; the court; the prosecutor; defense counsel; licensed treatment providers; children services for family dependency treatment dockets; and, for criminal and juvenile specialized dockets, the probation department, the parole authority, and law enforcement agencies.

(B) An advisory committee and a treatment team. The specialized docket judge shall attend and chair advisory committee and treatment team meetings.

(C) A program description that contains written policies and procedures defining the goals and objectives for the specialized docket, identifying the target population, detailing program entry and case flow, and providing written roles and responsibilities of each treatment team member;

(D) A written participation agreement and participant handbook detailing the rights and responsibilities of participants in the specialized docket.

Recommended Practices

(A) Advisory committee

(1) An advisory committee should be comprised of key officials and policymakers to provide input on specialized docket policies and operations and to communicate regularly with local officials.

(2) An advisory committee should typically take three to six months to plan and prepare for implementation of a specialized docket. This amount of time allows for a cohesive team to effectively and collaboratively reach consensus on the variety of issues inherent in the implementation of a specialized docket.

(3) An advisory committee should develop a written agreement or memorandum of understanding setting forth the terms of a specialized docket and the responsibilities of relevant parties to specialized docket operations.

(B) Treatment team members

A treatment team is responsible for implementing daily operations of a specialized docket. In addition to the specialized docket judge, the treatment team may include, but is not limited to, the following members:

(1) Probation officers;

(2) Parole officers;

(3) Licensed treatment providers;

(4) A prosecutor;

(5) Defense counsel;

(6) A specialized docket program coordinator;

(7) Case managers;

(8) Law enforcement personnel;

(9) Jail, prison, or juvenile detention personnel;

(10) Children services personnel;

(11) Representatives of other community-based stakeholders.

(C) Membership term

For consistency and stability in specialized docket operations, treatment team members should serve on the treatment team for a minimum of one year.

(D) Community outreach

A treatment team should work with local community members to ensure the best interests of the community are considered. Treatment team members should engage in community outreach activities to build partnerships that will improve outcomes and support specialized docket sustainability. The advisory committee should develop and regularly review a community outreach and education plan.

(E) Sustainability plan

An advisory committee should develop and annually review a written sustainability plan.

Standard 2. Non-Adversarial Approach.

A specialized docket shall incorporate a non-adversarial approach while recognizing all of the following:

(A) A prosecutor's distinct role in pursuing justice and protecting public safety and victim's rights;

(B) A defense counsel's distinct role in preserving the constitutional rights of the specialized docket participant;

(C) The participant's right to request the attendance of defense counsel during the portion of a specialized docket treatment team meeting concerning the participant;

(D) A participant's right to a detailed, written participation agreement and participant handbook outlining the requirements and process of the specialized docket.

Recommended Practices

For consistency in the non-adversarial approach, prosecutors and defense counsel should be trained in specialized docket processes.

Standard 3. Legal and Clinical Eligibility and Termination.

(A) Criteria

A specialized docket shall have written legal and clinical eligibility, completion, termination, and neutral discharge criteria that have been collaboratively developed, reviewed, and agreed upon by the relevant parties identified in Standard 1(A) of these standards.

(B) Decision on admission or termination

A specialized docket judge shall have discretion to decide the admission into and termination from a specialized docket in accordance with the written criteria for the specialized docket.

(C) No right to participate

The written legal and clinical eligibility and termination criteria do not create a right to participation in a specialized docket.

Recommended Practices

(A) Legal eligibility screening

A specialized docket should have legal eligibility screening based on established written criteria.

(B) Eligibility criteria factors

In developing eligibility criteria, an advisory committee should take into consideration all of the following factors:

(1) A process to consider the inclusion of eligible repeat and high-risk participants;

(2) A provision to evaluate mitigating and aggravating circumstances of current or prior court involvement;

(3) Careful examination of the circumstances of prior juvenile adjudications and the age of the participant at the time of the offense;

(4) The age of prior disqualifying offenses;

(5) A forensic assessment to determine if the individual is legally competent to participate in the specialized docket program, should the mental health competence of the individual be in question.

(C) Unsuccessful termination and neutral discharge

As part of the written termination criteria, a specialized docket should have clear policies regarding unsuccessful termination and neutral discharge.

Standard 4. Assessment and Referral.

A specialized docket shall promptly assess individuals and refer them to the appropriate services. The assessment and referral shall meet all of the following requirements:

(A) All chemical dependency, mental health, and other programming assessments shall include available collateral information to ensure the accuracy of the assessment;

(B) The participant or the participant's guardian shall complete a release of information form to provide for communication about confidential information, participation/progress in treatment, and compliance with the provisions of relevant law, including the "Health Insurance Portability and Accountability Act of 1996," 42 U.S.C. 300gg-42, as amended, and R.C. 2151.421 and 2152.99;

(C) Participants shall be placed as soon as possible in appropriate treatment services and programs and under reporting supervision to monitor compliance with court requirements;

(D) All screenings and assessments for treatment determinations shall be provided by programs or persons who are appropriately licensed and trained to deliver such services according to the standards of the profession.

Recommended Practices

A treatment team should consider, but is not obligated to follow, clinical assessments or treatment recommendations.

Standard 5. Individualized Needs and Evidence-Based Practices.

A specialized docket shall have a plan to provide services that meet the individualized needs of each participant and incorporate evidence-based strategies for the participant population. Such plans shall take into consideration services that are gender-responsive and culturally appropriate and that effectively address co-occurring disorders.

Recommended Practices

(A) Appropriateness and clinical necessity of case plans and services

Case plans and services should be appropriate and clinically necessary to the degree that available resources allow.

(B) Ancillary services

Ancillary services should include all of the following:

(1) Education;

(2) Vocational training;

(3) Employment;

(4) Transportation;

(5) Housing;

(6) Domestic violence programming;

(7) Physical, mental, and dental health.

Standard 6. Participant Monitoring.

A specialized docket shall monitor each participant's performance and progress and incorporate all of the following:

(A) Regular treatment team meetings prior to the status review hearings;

(B) Status review hearings, as established by Standard 7 of these standards;

(C) Ongoing communication among the treatment team members, including frequent exchanges of timely and accurate information about the participant's overall performance;

(D) Progression through the specialized docket based upon the participant's performance in the treatment plan and compliance with requirements of the specialized docket phases. A participant's progress through the specialized docket phases is not to be based solely upon preset timelines.

(E) Explanation to the participant of responses to compliance and noncompliance, including criteria for termination.

Recommended Practices

(A) Appearance at single court session

Having a significant number of specialized docket participants appear at a single court session gives the opportunity to educate the participant as to the benefits of court compliance and consequences for noncompliance.

(B) Sharing of decision making and conflict resolution

Mechanisms for sharing decision making and resolving conflicts among treatment team members should be established, emphasizing professional integrity, confidentiality, and accountability.

Standard 7. Status Review Hearings.

(A) Ongoing judicial interaction

A specialized docket shall incorporate ongoing judicial interaction with each participant as an essential component of the docket.

(B) Appearance before specialized docket judge

(1) At a minimum, a specialized docket participant shall appear before the specialized docket judge at least twice monthly during the initial phase of the specialized docket.

(2) Thereafter, a specialized docket participant shall regularly appear before the specialized docket judge to review the participant's progress through the specialized docket.

Recommended Practices

(A) Appearances before specialized docket judge during initial phase

A specialized docket participant should appear weekly before the specialized docket judge during the initial phase of the specialized docket and, thereafter, at least monthly. Frequent status review hearings establish and reinforce the specialized docket's policies and ensure effective supervision of the participant.

(B) Judicial knowledge of treatment and programming methods

The specialized docket judge should be knowledgeable about treatment and programming methods and their limitations.

(C) Hearings before the same specialized docket judge

Hearings should be before the same specialized docket judge for the length of each participant's time in the specialized docket.

Standard 8. Substance Monitoring.

A specialized docket shall monitor a specialized docket participant's substance use by random, frequent, and observed alcohol and other drug testing protocols which include all of the following:

(A) Written policies and procedures for sample collection, sample analysis, and result reporting. The testing policies and procedures shall address elements that contribute to the reliability and validity of the testing process.

(B) Individualized drug and alcohol testing plans. All testing shall be random, frequent, and observed.

(C) Clearly established plans for addressing a participant who tests positive at intake or who relapses. The plans shall include treatment guidelines and sanctions, when appropriate, that are enforced and reinforced by the specialized docket judge.

(D) Immediate notification of the court when the participant tests positive, fails to submit to testing, submits an adulterated sample or the sample of another individual, or dilutes the sample. Failure to submit to testing, submitting an adulterated sample or the sample of another individual, or diluting the sample shall be treated as positive tests and immediately sanctioned.

(E) Testing sufficient to include the participant's primary substance of dependence, as well as a sufficient range of other common substances.

Recommended Practice

When testing for alcohol, specialized dockets should strongly consider devices worn by the specialized docket participant, portable breath tests, saliva tests, and the use of scientifically validated technology used to detect ethyl alcohol.

Standard 9. Treatment and other Rehabilitation Services.

(A) Prompt access

A specialized docket shall provide prompt access to a continuum of approved treatment and other rehabilitation services.

(B) Treatment plan and activities record

A specialized docket shall maintain a current treatment plan and record of activities.

(C) Licensing and training

All required treatment and programming shall be provided by programs or persons who are appropriately licensed and trained to deliver such services according to the standards of their profession.

Recommended Practices

(A) Treatment team knowledge

Treatment team members should make reasonable efforts to observe all required specialized docket service provider programs to gain confidence in the services provided and to better understand the treatment and programming process.

(B) Separate tracks for specialized docket participants

Whenever possible, service providers should have separate tracks for specialized docket participants.

Standard 10. Incentives and Sanctions.

Immediate, graduated, and individualized incentives and sanctions shall govern the responses of a specialized docket to a specialized docket participant's compliance or noncompliance.

Recommended Practices

(A) Adjustment in treatment services

Adjustment in treatment services, as well as participation in community-based mutual support meetings, should be based upon the clinically informed interests of the participant.

(B) Revision of time between status review hearings

Time between status review hearings should be increased or decreased based upon compliance with treatment protocols and progress observed.

(C) Incentives for compliance

Incentives for a specialized docket participant's compliance vary in intensity and may include, but are not limited to, the following:

(1) Encouragement and praise from the specialized docket judge;

(2) Ceremonies and tokens of progress, including advancement in specialized docket phases;

(3) Reduced supervision contacts;

(4) Decreased frequency of court appearances;

(5) Reduced fines or fees;

(6) Increased or expanded privileges;

(7) Encouragement to increase participation in positive activities the participant finds pleasurable, such as writing, art work, or other positive hobbies;

(8) Gifts of inspirational items, including books, pictures, and framed quotes;

(9) Assistance with purchasing clothing for job interviews;

(10) Gift cards for restaurants, movie theaters, recreational activities, or personal care services;

(11) Gifts of small personal care items, hobby or pet supplies, plants, or small household items;

(12) Dismissal of criminal charges or a reduction in the term of probation;

(13) Reduced or suspended jail, prison, or juvenile detention days;

(14) Graduation from the specialized docket.

(D) Sanctions for noncompliance

Sanctions for a specialized docket participant's noncompliance vary in intensity and may include, but are not limited to, the following:

(1) Warnings and admonishment from the specialized docket judge;

(2) Demotion to an earlier specialized docket phase;

(3) Increased frequency of drug or alcohol testing and court appearances;

(4) Refusal of specific requests, such as permission to travel;

(5) Denial of additional or expanded privileges or rescinding privileges previously granted;

(6) Increased supervision contacts and monitoring;

(7) Individualized sanctions, such as writing essays, reading books, or performing other activities to reflect upon unacceptable behavior;

(8) Imposition of suspended fines and costs;

(9) Community service or work programs;

(10) Jail or out-of-home placement, including detention for juveniles;

(11) Community control or probation violation;

(12) Termination from the specialized docket.

Standard 11. Professional Education.

A specialized docket shall assure continuing interdisciplinary education of treatment team members to promote effective specialized docket planning, implementation, and operations.

Recommended Practices

(A) Continuing education plan

A specialized docket should establish and maintain a viable continuing education plan for specialized docket personnel.

(B) Assessments and reviews

At a minimum of once every two years, a specialized docket should assess specialized docket team functionality, review all policies and procedures, and assess the overall functionality of the specialized docket.

(C) Treatment team member transition

A specialized docket should plan for the transition of a treatment team member and provide sufficient training and program documentation for new treatment team members.

(D) Mentor courts

A specialized docket should identify and build a relationship with a mentor court of its specific model.

(E) Observation of other specialized dockets

A specialized docket should regularly observe other specialized dockets.

(F) Ohio Specialized Dockets Practitioner Network

Specialized docket personnel should participate in the Ohio Specialized Dockets Practitioner Network by attending sub-network meetings, trainings, and the annual conference.

Standard 12. Effectiveness Evaluation.

A specialized docket judge shall evaluate the effectiveness of the specialized docket by doing each of the following:

(A) Reporting data as required by the Supreme Court, including information to assess compliance with these standards;

(B) Engaging in on-going data collection in order to evaluate whether the specialized docket is meeting its goals and objectives.

Recommended Practices

To evaluate effectiveness, a specialized docket judge should establish a formal data collection plan. The plan should identify who is collecting the data, how the data is collected, and the time frames for conducting program reviews based on the data. Treatment team members should provide data. The specialized docket should develop policies concerning protection of confidential information and identities when collecting data.

APPENDIX J

STANDARDS FOR THE USE OF TELEPHONIC INTERPRETATION

Preamble.

These standards apply to courts appointing a foreign language interpreter who, pursuant to Sup.R. 88(D)(4), is participating in the case or court function through telephonic interpretation.

Due process requires courts to ensure limited English proficient individuals are able to fully participate in the proceedings of and are afforded meaningful access in case and court functions. The fundamental role of a foreign language interpreter is to provide complete and accurate interpretation services in the case or court function in order to meet these due process requirements. The best way to accomplish this, especially in complex or prolonged proceedings, is to have the foreign interpreter present on-site where the case or court function is taking place.

However, in some instances, this may prove difficult due to factors such as the interpreter's lack of proximity. In these instances telephonic interpretation may be an appropriate alternative. However, telephonic interpretation should not be used when a Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is reasonably available to facilitate communication in person.

Furthermore, the quality and success of telephonic interpretation depend on a variety of factors. Examples include the interpreter's quality of training, the quality of the equipment used, the length of the case or court proceeding, the number of speakers, and whether reference will be made to evidence or documents to which the interpreter does not have access. These and other factors can all have a bearing on the effectiveness of the telephonic interpretation.

Ultimately, telephonic interpretation services should aim to provide the same quality of services as in-person interpretation. To this end, these standards represent recommended practices and minimum requirements to ensure the efficient and effective administration of justice and are intended to complement court rules and federal and state laws, regulations, and standards pertaining to use of court interpretation services.

Definitions.

As used in these standards, "case or court function," "consecutive interpretation," "foreign language interpreter," "limited English proficient," "provisionally qualified foreign language interpreter," "sight translation," "simultaneous interpretation," "Supreme Court certified foreign language interpreter," and "telephonic interpretation" have the same meanings as in Sup.R. 80 and "language-skilled foreign language interpreter" means a foreign language interpreter appointed by a court pursuant to Sup.R. 88(D)(3).

Standard 1. When Telephonic Interpretation May be Used.

A court may use telephonic interpretation in a case or court function if all of the following apply:

(A) A Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is not reasonably available to serve on-site;

(B) The matter cannot be postponed or delayed;

(C) The quality of interpretation will not be compromised.

Commentary

While it is impossible to list all situations where telephonic interpretation might be appropriate, the court may consider the following: initial appearances, arraignments, simple traffic hearings, uncontested name changes, uncontested guardianships, ex parte civil protection orders, and marriages. The court may identify any other instances where telephonic interpretation may be suitable.

Standard 2. When Telephonic Interpretation Should Not be Used.

A court should not use telephonic interpretation in a case or court function if any of the following apply:

(A) A Supreme Court certified foreign language interpreter, provisionally qualified foreign language interpreter, or language-skilled foreign language interpreter is reasonably available to serve on-site;

(B) The interpretation is necessary for a proceeding that is expected to last longer than forty-five minutes, provided the interpretation may exceed forty-five minutes if the communication is clear, the proceeding is simple and routine, and the rights of the party are not compromised;

(C) The interpretation is necessary for a proceeding that involves witness testimony or introduces complex evidence;

(D) The limited English proficient party or witness is a child, is elderly, is an unsophisticated user of interpreter services, has profound speech or language problems, or is or is alleged to be mentally disabled or mentally ill;

(E) It is determined that using telephonic interpretation would negatively impact access for any reason.

Standard 3. Compliance with Applicable Laws, Rules, and Standards.

A court using telephonic interpretation shall comply with all court rules and federal and state laws, regulations, and standards pertaining to use of court interpretation services.

Standard 4. Accommodating Modes of Interpretation.

(A) General

Subject to division (B) of this standard, court using telephonic interpretation should accommodate sight translation, consecutive interpretation, or simultaneous interpretation, as is necessary for proper and effective communication between the court, the parties, and the limited English proficient speaker.

(B) Sight translation

A court should not use sight translation with telephonic interpretation unless the foreign language interpreter has access to the documents beforehand and ample time to render the document from one language into the other. If sight translation is used with telephonic interpretation, the document should be short and routine.

Standard 5. Oath.

A foreign language interpreter participating through telephonic interpretation shall take an oath or affirmation that the interpreter knows, understands, and will act according to the "Code of Professional Conduct for Court Interpreters and Translators," as set forth in Appendix H to these rules and that the interpreter will make a true translation or interpretation as required by Evid.R. 604.

Standard 6. Telephonic Interpretation Equipment.

(A) Adequacy of equipment

A court using telephonic interpretation should have adequate equipment in the courtroom and other locations where case and court functions involving the presence and participation of limited English proficient individuals take place.

(B) Quality of transmission

A court using telephonic interpretation should **ensure the telephonic interpretation equipment has the capacity to deliver clear and audible transmission of voice and minimizes background noise and disruptions that might affect the quality of the interpretation.**

(C) Integration into existing audio speaker system

A court using telephonic interpretation may integrate the telephonic interpretation into a courtroom's existing audio speaker system using a digital audio platform device or a simple stand-alone device with amplification.

Standard 7. Coordination of Telephonic Interpretation Services.

A court using telephonic interpretation should designate one individual to arrange and monitor the provision of the service in order to ensure continuous and efficient operation.

Commentary

Having a coordinator to arrange and monitor telephonic interpretation helps to ensure an efficient operation and eliminate minor issues that can arise with the use of telephonic interpretation. Additionally, the accumulated experience of one individual produces efficiency.

Standard 8. Training on the Use of Telephonic Interpretation Services.

A court using telephonic interpretation should provide training to users of the technology, relevant support staff, and other involved individuals in order to ensure an efficient operation and the integrity in the use of the service.

Standard 9. Monitoring Telephonic Interpretation Services.

A court using telephonic interpretation should collect and analyze information regarding the performance of the service on a regular basis in order to evaluate the quality of the service, its benefits and limitations, and its cost-effectiveness.