

ORIGINAL

**IN THE SUPREME COURT OF OHIO**

In re: Z.R.

CASE NO.: 2014-0277

ON APPEAL FROM THE SUMMIT  
COUNTY COURT OF APPEALS,  
NINTH APPELLATE DISTRICT

COURT OF APPEALS CASE NO. CA-26860

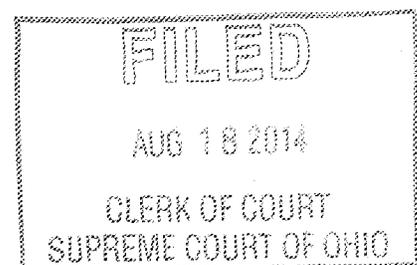
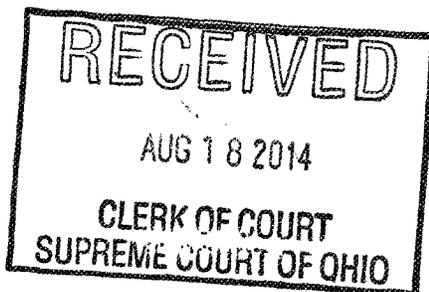
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## STATEMENT OF THE FACTS AND CASE

On many of the facts, Mother and the State of Ohio agree. Latoiya R. ("Mother") is the natural mother of six minor children. Summit County Juvenile court had adjudicated five of those children as dependent and neglected in separate cases prior to the birth of Z.R., Mother's youngest child, who was born on August 23, 2012, in a hospital in Cuyahoga County. [R.1]. Mother was living in Cuyahoga County at the time of Z.R.'s birth – her only address was on Judson Street in Cleveland.

On August 24, 2012, the day following the birth of Z.R., Summit County Children's Services (hereinafter "CSB") filed a complaint in Summit County Court of Common Pleas, Juvenile Division, alleging that Z.R. was a dependent child, based on the prior dependency and neglect cases involving Mother's five older children.

On September 5, 2012, Mother moved to dismiss the complaint, arguing that Summit County was not the proper venue because she and Z.R. resided in Cuyahoga County. She further argued that Summit County was not the location where any dependency involving Z.R. occurred. CSB opposed Mother's motion to dismiss the complaint, arguing that the complaint was properly filed in Summit County because Mother had open cases pertaining to Z.R.'s older siblings.

An adjudicatory hearing was thereafter set for September 13, 2012, and continued until September 24, 2012. It was further continued until October 5, 2012, due to the fact that counsel was not officially appointed to represent Mother until September 17, 2012.

On November 19, 2012, Rashidi Evans was found to be Z.R.'s biological father. On December 6, 2012, the magistrate issued a decision finding Z.R. to be a dependent child and placed her in the temporary custody of CSB. Mother filed objections on December 14, 2012. The Trial Court ruled on the objections, dismissing them, on February 25, 2013.

Mother then filed a timely appeal to the Trial Court's decision on April 5, 2013. The Ninth District Court of Appeals held that the trial court erred by failing to dismiss the complaint. *In re Z.R.*, 9th Dist. No., 2013-Ohio-182. The Ninth District Court of Appeals reversed and remanded on January 22, 2014. On February 3, 2014, the State of Ohio filed a Motion for Stay and a Motion to Certify Conflict.

On February 21, 2014, the State of Ohio filed a Notice of Appeal informing the Ninth District Court of Appeals that it was appealing to the Ohio Supreme Court.

On March 31, 2014, the Motion to Certify A Conflict was denied with Judge Jennifer Hensal writing for the court and Judge Eve Belfance concurring. On April 11, 2014, the State of Ohio's Motion for Stay was denied.

On April 21, 2014, the State of Ohio filed with the Supreme Court for a stay of the Ninth District Court of Appeal's decision. The stay was granted by this Honorable Court on May 28, 2014. On that day, this Honorable Court also accepted the discretionary appeal on two propositions of law:

- 1) When a complaint alleges dependency based on prior acts involving the siblings, venue is proper where the child resides or where the siblings reside; and,
- 2) Dismissal of a juvenile complaint because of improper venue is not appropriate.

## ARGUMENT AGAINST PROPOSITION OF LAW

### PROPOSITION OF LAW

**When a complaint alleges dependency based on prior acts involving the siblings, venue is proper where the child resides or where the siblings reside.**

### LAW AND ARGUMENT

The General Assembly legislatively sets forth the public policy of this state. *Estate of Graves v. Circleville*, 124 Ohio St.3d 339, 2010-Ohio-168, 922 N.E.2d 201, ¶23. “A court’s role is to interpret, not legislate.” *Cablevision of the Midwest, Inc. v. Gross*, 70 Ohio St.3d 541, 544, 639 N.E.2d 1154 (1994). Furthermore, the authority of the juvenile court and the county children services agency in abuse, dependency, and neglect cases is strictly governed by a comprehensive statutory scheme set forth in R.C. Chapter 2151. See *In re S.R.* (9<sup>th</sup> Dist. C.A. 27209), 2014-Ohio-2749, ¶35.

Juv. R. 2(D) states that the term “child” has the same definition as encountered in R.C. 2151.011. R.C. 2151.011(B)(6) defines child thusly:

“Child” means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a “child” until the person attains twenty-one years of age.

R.C. 2151.011(B)(34) defines the word, “person”: “Person” means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

R. C. 2151.06 states: “Under sections 2151.01 to 2151.54, inclusive, of the Revised Code, a child has the same residence or legal settlement as his parents, legal guardian of his

person, or his custodian who stands in the relation of loco parentis.” This child was born in Cuyahoga County. (Adj. Tr. 86) Testimony reveals that Mother “stayed” in Cuyahoga County since July 31, 2012, she had no proven residence in Summit County, and the only place that the caseworker could testify to seeing Mother was in Cuyahoga County on Judson Avenue. (Adj. Tr. 86) The caseworker testified under oath that she had never seen Mother at her prior residence at Toby Terrace. (Adj. Tr. 86). Mother’s residence was in Cuyahoga County. Hence, Child’s residence is in Cuyahoga County.

Juv. R. 10(A) provides:

Any person having knowledge of a child who appears to be a juvenile traffic offender, delinquent, unruly, neglected, dependent, or abused may file a complaint with respect to the child in the juvenile court of the county in which the child has a residence or legal settlement, or in which the traffic offense, delinquency, unruliness, neglect, dependency, or abuse occurred.

Child’s residence is not in Summit County. The first requirement of Juv.R.10(A) is not met. Therefore, the complaint could only have legitimately been filed in the county in which the “neglect, dependency, or abuse occurred.”

The Trial Court found that venue is proper due to Juv. R. 11, R.C. 2151.271, and Civ. R. 3(C)(1). Juv. R. 11 does allow for transfer of the case if the child resides in another county:

If the child resides in a county of this state and the proceeding is commenced in a court of another county, that court, on its own motion or a motion of a party, may transfer the proceeding to the county of the child’s residence upon the filing of the complaint or after the adjudicatory or dispositional hearing for such further proceeding as required. The court of the child’s residence shall then proceed as if the original complaint had been filed in that court. Transfer may also be made if the residence of the child changes.

R.C. 2151.271 mimics the wording of Juv. R. 11:

Except in a case in which the child is alleged to be a serious youthful offender under section 2152.13 of the Revised Code, if the child resides in a county of the state and the proceeding is commenced in a juvenile court of another county, that court, on its own motion or a motion of a party, may transfer the proceeding to the

county of the child's residence upon the filing of the complaint or after the adjudicatory, or dispositional hearing, for such further proceeding as required. The court of the child's residence shall then proceed as if the original complaint had been filed in that court. Transfer may also be made if the residence of the child changes. The proceeding shall be so transferred if other proceedings involving the child are pending in the juvenile court of the county of the child's residence.

Whenever a case is transferred to the county of the child's residence and it appears to the court of that county that the interests of justice and the convenience of the parties requires that the adjudicatory hearing be had in the county in which the complaint was filed, the court may return the proceeding to the county in which the complaint was filed for the purpose of the adjudicatory hearing. The court may thereafter proceed as to the transfer to the county of the child's legal residence as provided in this section.

Certified copies of all legal and social records pertaining to the case shall accompany the transfer.

The rule and statute however do not supersede the requirement in Juv. R. 10 that the complaint can be filed in the county in which the traffic offense, delinquency, unruliness, neglect, dependency, or abuse occurred.

[A]ll statutes which relate to the same general subject matter must be read *in pari materia*. And, in reading such statutes *in pari materia*, and construing them together, this court must give such a reasonable construction as to give the proper force and effect to each and all such statutes. The interpretation and application of statutes must be viewed in a manner to carry out the legislative intent of the sections. All provisions of the Revised Code bearing upon the same subject matter should be construed harmoniously. This court in the interpretation of related and co-existing statutes must harmonize and give full application to all such statutes unless they are irreconcilable and in hopeless conflict.

*State v. Cook*, 128 Ohio St.3d 120, 2010-Ohio-6305, 942 N.E.2d 357, ¶45.

Reading the statutes and the rules *in pari materia*, Juv. R. 10's requirement that the complaint can be filed in either the county where the child resides or the county where the neglect, dependency or abuse occurred must be met before the court can proceed. Juv. R. 10's requirement is one of jurisdiction -- what court has the right to hear the case. The statutes and rules read logically and together paint a full picture of being able to file in the county where the

alleged act took place and then transferring to the county where the child resides. It does not allow for a complaint to be filed in any juvenile court in the state and then transferring to the "appropriate" county that meets the qualifications outlined in Juv. R. 10.

The statutes and rules read logically and together paint a full picture of being able to file in the county where the alleged act took place and then transferring to the county where the child resides.

In this situation, the child neither resided in Summit County nor did any abuse, neglect or dependency of the child occur in Summit County. There was no contact by Z.R. to Summit County until CSB filed a complaint, received an emergency order for temporary custody and removed the child from Cuyahoga County. Hence, the jurisdictional requirements outlined in Juv. R. 10 of where a complaint can be filed were not met. As such, the complaint was defective with where it was filed.

CSB argued that the dependency occurred in Summit County as based upon dependency as outlined in R.C. 2151.04 (C) and (D):

As used in this chapter, "dependent child" means any child:

(C) Whose condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship;

(D) To whom both of the following apply:

(1) The child is residing in a household in which a parent, guardian, custodian, or other member of the household committed an act that was the basis for an adjudication that a sibling of the child or any other child who resides in the household is an abused, neglected, or dependent child.

(2) Because of the circumstances surrounding the abuse, neglect, or dependency of the sibling or other child and the other conditions in the household of the child, the child is in danger of being abused or neglected by that parent, guardian, custodian, or member of the household.

CSB's allegations under R.C. 2151.04(C) were based on the idea of prospective dependency.

As testimony revealed, and the Ninth District Court of Appeals found, Mother's plans were to remain in Cuyahoga County. See, *In re Z.R.* (9<sup>th</sup> Dist. C.A. 26860), 2014-Ohio-182. The

child was born in Cuyahoga County where Mother lived at the time of Child's birth. The Ninth District Court of Appeals found that any prospective (future) dependency would take place in Cuyahoga County based upon the testimony the CSB caseworker. Furthermore, CSB requested that Cleveland Metropolitan Schools absorb the costs of educating this child. *Id.* @ ¶17.

Any alleged dependency under R.C. 2151.04(D) would have also taken place in Cuyahoga County. The household in which the child would have been residing with Mother was in Cuyahoga County. *Id.* While the household of the siblings at time was located in Summit County, such has not been the case for several months. *Id.* In addition, the child was placed in Cuyahoga County with her father who resided in Cuyahoga County. *Id.*

In addition to the rules and statutes, Ohio Administrative Code has specific procedures in place to prevent, as is the fear of the dissent at the Ninth District Court of Appeals, a child from slipping through the cracks. O.A.C 5101:2-36-13 (A)(1) requires that a Public Children Service Agency (hereinafter PCSA), Summit County CSB, for instance, "shall make" an intrastate referral to another PCSA, Cuyahoga County, for example, if "[t]he PCSA initiates an abuse or neglect report and determines the alleged child victim and his or her parent, guardian, or custodian reside in another county or state and assistance to complete the assessment/investigation is needed to assess the safety of the alleged child victim."

Further, O.A.C. 5101:2-36-13(B) mandates how CSB should have made the complaint to Cuyahoga County for their agency to investigate:

The PCSA shall comply with the following procedures when making a referral to another PCSA:

- (1) If an emergency exists, the PCSA shall immediately telephone the appropriate PCSA and provide the referral information.
- (2) If no emergency exists, the PCSA shall provide the referral information by telephone or in writing.
- (3) The referral information provided to the PCSA shall include, but is not limited to, the following:

- (a) The case identification number established within the statewide automated child welfare information system (SACWIS).
- (b) The case reference person established within SACWIS.
- (c) The intake identification number established within SACWIS, as applicable.
- (d) Location, including the address, of the child and his or her parent, guardian, or custodian.
- (e) Summary of the referring PCSA's involvement with the child, his or her parent, guardian, or custodian.
- (f) The nature of the request for provision of protective services.
- (g) The referring PCSA contact person.
- (h) The information the referring PCSA needs in response to the referral.

CSB in Summit County had every opportunity to report this case to Cuyahoga County -- including with all the history known of the child, Mother, and siblings, in order to have Cuyahoga County do an investigation. Cuyahoga County then had the opportunity to file a case there.

R.C. 2151.421 also requires mandated reporting of such instances and where such reports are to be made:

(A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, *the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred.* In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

*Id.* (Emphasis added.) The statute requires a report to be made where Juv. R. 10 states the complaint should be filed: the county in which the child resides or in which the abuse of neglect is occurring or has occurred.

The child in this instance case resided in Cuyahoga County. Dependency was prospective (forward looking) and thus would have occurred in Cuyahoga County. If the caseworkers in Summit County were fearful that Z.R. would face “a threat of suffering any physical or mental wound, injury, disability, or condition of nature reasonably indicates abuse or neglect of the child,” they could have, and should have, reported the issue to Cuyahoga County. Cuyahoga County would then be able to initiate and complete an investigation.

Furthermore, CSB employees are all mandated reporters per R.C. 2151.421 (A)(1)(b):

Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; *administrator or employee of a certified child care agency or other public or private children services agency*; school teacher; school employee; school authority; *person engaged in social work* or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; *employee of a county department of job and family services who is a professional and who works with children and families*; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

*Id.* (Emphasis added.) Therefore, the caseworkers who brought this case should have reported, and under the law were mandated to report, this information to Cuyahoga County's PCSA. Those protections prevent the fear of the Ninth District Court of Appeal's dissent from having a child "fall through the cracks". Cuyahoga County could have then filed a case regarding Z.R. However, CSB filed the case prior to Z.R. being released from the hospital.

### PROPOSITION OF LAW

#### **Dismissal of a juvenile complaint because of improper venue is not appropriate.**

While most of this proposition of law has already been argued under the first proposition of law, in *arguendo*, if dismissal is not appropriate, CSB could actually file on a child anywhere in the country if their parents had ever lived in Summit County, had any connection to Summit County (i.e. married there, vacationed in Summit County five years ago, had a dependency case 10 years ago though in another state currently) or had ever passed through Summit County if CSB wanted to pursue temporary custody of a child.

Improper venue is a basis for dismissal of the complaint, because the "jurisdiction" of the juvenile court "rests on either the residence of the child in the county where the complaint was filed or a showing that the acts constituting neglect or dependency of the minor child occurred in that county. ¶11, *State ex rel Burchett v. Juvenile Court for Scioto Cty.*, 92 Ohio Law Abs. 357 (4th Dist.1962), citing *In re Belk*, 97 Ohio App. 114 (3d.Dist.1954) (relying on R.C. 2151.27 because the cases predated the Juvenile Rules); *see also In re Zobel*, 5th Dist. Tuscarawas No. 2007AP020012, 2007-Ohio-3355 (concluding that dismissal was not warranted because venue was proper in that county).

If the State of Ohio is correct upon their argument, a child anywhere could actually be removed from their parents, including in a different state. All that would have to happen is that a complaint would have to be filed and an *ex parte* order of emergency temporary custody, as in this case, granted by the trial court. CSB would be free to then go anywhere in the country to remove a child from his or her parents or his or her caregivers. Allowing Summit County caseworkers to investigate children outside of their county borders would be an excessive and an unnecessary burden on limited government resources, *i.e.*, *excessivum in jure reprobatur*, (excess in the law is reprehended). *Black's Law Dictionary* (5<sup>th</sup> Ed, 1979).

The current statutory and procedural framework that has been outlined in the Ohio Revised Code, the Ohio Administrative Code and the rules allows for counties to work together in order to protect children without straining one counties' limited resources or creating a system where one county can police others.

The only remedy the parent would have would be to appeal if they could not move to dismiss the complaint. The legislature did not put a statute of limitations for dependency under (D) which means that a family who had children adjudicated dependent, neglected and abused, could possibly face a filing on another child 20 years later. If the Ohio Supreme Court were to allow filings on that ground in a county which had the case of the other siblings, a ridiculous amount of children could be removed from parents in other geographical regions and have those parents be expected to travel to Summit County (or elsewhere in Ohio) to defend against adjudication when that is not rational, reasonable, or effective. The parents would then have to rely upon the court allowing a transfer and the receiving county or state or even country accepting said transfer.

**CONCLUSION**

Based on the above argument, Appellee Mother requests that the Ninth District Court of Appeals decision be upheld.

Respectfully Submitted,

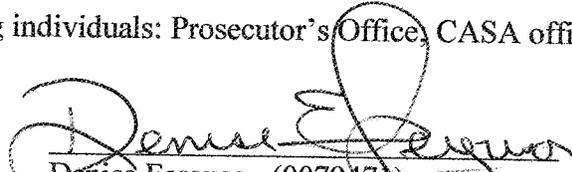


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**CERTIFICATE OF SERVICE**

Now comes Attorney Denise Ferguson and swears and affirms that a true and correct copy of the foregoing was sent by interoffice mail, regular U.S. Mail or hand delivered on August 18, 2014, to the following individuals: Prosecutor's Office, CASA office; and, Attorney Tony Paxton, Father's counsel.



Denise Ferguson (0079471)

## APPENDIX

**Ohio Statutes**

**Title 21. COURTS - PROBATE - JUVENILE**

**Chapter 2151. JUVENILE COURT**

*Current through June 20, 2014*

**§ 2151.04. Dependent child defined**

As used in this chapter, "dependent child" means any child:

(A)

Who is homeless or destitute or without adequate parental care, through no fault of the child's parents, guardian, or custodian;

(B)

Who lacks adequate parental care by reason of the mental or physical condition of the child's parents, guardian, or custodian;

(C)

Whose condition or environment is such as to warrant the state, in the interests of the child, in assuming the child's guardianship;

(D)

To whom both of the following apply:

(1)

The child is residing in a household in which a parent, guardian, custodian, or other member of the household committed an act that was the basis for an adjudication that a sibling of the child or any other child who resides in the household is an abused, neglected, or dependent child.

(2)

Because of the circumstances surrounding the abuse, neglect, or dependency of the sibling or other child and the other conditions in the household of the child, the child is in danger of being abused or neglected by that parent, guardian, custodian, or member of the household.

**Cite as R.C. § 2151.04**

**History.** Effective Date: 08-08-1996

**Ohio Statutes**

**Title 21. COURTS - PROBATE - JUVENILE**

**Chapter 2151. JUVENILE COURT**

*Current through June 20, 2014*

**§ 2151.06. Residence or legal settlement**

Under sections 2151.01 to 2151.54 , inclusive, of the Revised Code, a child has the same residence or legal settlement as his parents, legal guardian of his person, or his custodian who stands in the relation of loco parentis.

**Cite as R.C. § 2151.06**

**History.** Effective Date: 10-01-1953

**Ohio Statutes**

**Title 21. COURTS - PROBATE - JUVENILE**

**Chapter 2151. JUVENILE COURT**

*Current through June 20, 2014*

**§ 2151.011. [Effective Until 9/17/2014] Juvenile court definitions**

(A)

As used in the Revised Code:

(1)

"Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a)

The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b)

The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c)

If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2)

"Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3)

"Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4)

"Private noncustodial agency" means any person, organization, association, or society certified by the

department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a)

Receives and cares for children for two or more consecutive weeks;

(b)

Participates in the placement of children in certified foster homes;

(c)

Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B)

As used in this chapter:

(1)

"Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

(2)

"Adult" means an individual who is eighteen years of age or older.

(3)

"Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4)

"Alternative response" means the public children services agency's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of subsequent harm, and family strengths and needs and that does not include a determination as to whether child abuse or neglect occurred.

(5)

"Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under

section 5103.03 of the Revised Code.

(6)

"Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(7)

"Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "licensed type B family day-care home," "type B family day-care home," "administrator of a child day-care center," "administrator of a type A family day-care home," and "in-home aide" have the same meanings as in section 5104.01 of the Revised Code.

(8)

"Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of developmental disabilities, or the early childhood programs of the department of education.

(9)

"Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(10)

"Commit" means to vest custody as ordered by the court.

(11)

"Counseling" includes both of the following:

(a)

General counseling services performed by a public children services agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b)

Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed

psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(12)

"Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(13)

"Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(14)

"Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(15)

"Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(16)

"Differential response approach" means an approach that a public children services agency may use to respond to accepted reports of child abuse or neglect with either an alternative response or a traditional response.

(17)

"Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(18)

"Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(19)

"Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

(20)

"Juvenile traffic offender" has the same meaning as in

section 2152.02 of the Revised Code.

(21)

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

(22)

A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a)

The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b)

The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c)

The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(23)

"Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code.

(24)

"Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

(25)

"Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.

(26)

"Nonsecure care, supervision, or training" means care,

supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

(27)

"Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(28)

"Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

(29)

"Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, type B family day-care homes, child care provided by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.

(30)

"Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a)

Engaging in sexual activity with a child in the person's care;

(b)

Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;

(c)

Use of restraint procedures on a child that cause injury or pain;

(d)

Administration of prescription drugs or psychotropic medication to the child without the written approval and

ongoing supervision of a licensed physician;

(e)

Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(31)

"Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a)

Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;

(b)

Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c)

Failure to develop a process for all of the following:

(i)

Administration of prescription drugs or psychotropic drugs for the child;

(ii)

Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii)

Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d)

Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e)

Confinement of the child to a locked room without monitoring by staff;

(f)

Failure to provide ongoing security for all prescription and nonprescription medication;

(g)

Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(32)

"Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(33)

"Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(34)

"Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(35)

"Person responsible for a child's care in out-of-home care" means any of the following:

(a)

Any foster caregiver, in-home aide, or provider;

(b)

Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; licensed type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential day care school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c)

Any person who supervises or coaches children as part

of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d)

Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(36)

"Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a)

A substantial impairment of vision, speech, or hearing;

(b)

A congenital orthopedic impairment;

(c)

An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

(37)

"Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

(38)

"Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

(39)

"Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

(a)

The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b)

The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another

person or agency with whom the child is placed.

(40)

"Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

(41)

"Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(42)

"Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(43)

"Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(44)

"Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(45)

"Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

(46)

"Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code and that provides care for a child.

(47)

"Residential facility" means a home or facility that is licensed by the department of developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

(48)

"Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

(49)

"School day" means the school day established by the board of education of the applicable school district pursuant to section 3313.481 of the Revised Code.

(50)

"School year" has the same meaning as in section 3313.62 of the Revised Code.

(51)

"Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(52)

"Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(53)

"Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(54)

"Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(55)

"Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(56)

"Traditional response" means a public children services agency's response to a report of child abuse or neglect that encourages engagement of the family in a comprehensive evaluation of the child's current and future safety needs and a fact-finding process to determine whether child abuse or neglect occurred and the circumstances surrounding the alleged harm or risk of

harm.

(C)

For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days.

**Cite as R.C. § 2151.011**

**History.** Amended by 130th General Assembly File No. 25, HB 59, §110.20, eff. 1/1/2014 and 7/1/2014.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 128, SB 316, §120.01, eff. 1/1/2014.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Amended by 128th General Assembly ch. 28, SB 79, §1, eff. 10/6/2009.

Effective Date: 04-03-2003; 09-16-2004; 05-18-2005; 09-21-2006

**Note:** This section is set out twice. See also § 2151.011, as amended by 130th General Assembly File No. TBD, SB 43, §1, eff. 9/17/2014.

**Ohio Statutes**

**Title 21. COURTS - PROBATE - JUVENILE**

**Chapter 2151. JUVENILE COURT**

*Current through June 20, 2014*

**§ 2151.271. Transfer to juvenile court of child's residence**

Except in a case in which the child is alleged to be a serious youthful offender under section 2152.13 of the Revised Code, if the child resides in a county of the state and the proceeding is commenced in a juvenile court of another county, that court, on its own motion or a motion of a party, may transfer the proceeding to the county of the child's residence upon the filing of the complaint or after the adjudicatory, or dispositional hearing, for such further proceeding as required. The court of the child's residence shall then proceed as if the original complaint had been filed in that court. Transfer may also be made if the residence of the child changes. The proceeding shall be so transferred if other proceedings involving the child are pending in the juvenile court of the county of the child's residence.

Whenever a case is transferred to the county of the child's residence and it appears to the court of that county that the interests of justice and the convenience of the parties requires that the adjudicatory hearing be had in the county in which the complaint was filed, the court may return the proceeding to the county in which the complaint was filed for the purpose of the adjudicatory hearing. The court may thereafter proceed as to the transfer to the county of the child's legal residence as provided in this section.

Certified copies of all legal and social records pertaining to the case shall accompany the transfer.

**Cite as R.C. § 2151.271**

**History.** Effective Date: 01-01-2002

**Ohio Statutes**

**Title 21. COURTS - PROBATE - JUVENILE**

**Chapter 2151. JUVENILE COURT**

*Current through June 20, 2014*

**§ 2151.421. [Effective Until 9/15/2014] Reporting child abuse or neglect**

(A)

(1)

(a)

No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b)

Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of

a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

(2)

Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3)

The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a)

The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b)

The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical or

mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c)

The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(4)

(a)

No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith caused, or poses the threat of causing, the wound, injury, disability, or condition that reasonably indicates abuse or neglect shall fail to immediately report that knowledge or reasonable cause to believe to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b)

Except as provided in division (A)(4)(c) of this section, a cleric is not required to make a report pursuant to division (A)(4)(a) of this section concerning any communication the cleric receives from a penitent in a cleric-penitent relationship, if, in accordance with division (C) of section 2317.02 of the Revised Code, the cleric could not testify with respect to that communication in a civil or criminal proceeding.

(c)

The penitent in a cleric-penitent relationship described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section 2317.02 of the Revised Code with respect to any communication the cleric receives from the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section with respect to that communication, if all of the following apply:

(i)

The penitent, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(ii)

The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.

(iii)

The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(d)

Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.

(e)

As used in divisions (A)(1) and (4) of this section, "cleric" and "sacred trust" have the same meanings as in section 2317.02 of the Revised Code.

(B)

Anyone who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably

indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a municipal or county peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C)

Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1)

The names and addresses of the child and the child's parents or the person or persons having custody of the child, if known;

(2)

The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;

(3)

Any other information that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D)

As used in this division, "children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.

(1)

When a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2)

When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a)

Comply with section 2151.422 of the Revised Code;

(b)

If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center.

(E)

No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(F)

(1)

Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under

this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (J) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (H)(1) of this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2)

The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(G)

(1)

(a)

Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding.

(b)

Notwithstanding section 4731.22 of the Revised Code,

the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2)

In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(H)

(1)

Except as provided in divisions (H)(4) and (N) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. Nothing in this division shall preclude the use of reports of other incidents of known or suspected abuse or neglect in a civil action or proceeding brought pursuant to division (M) of this section against a person who is alleged to have violated division (A)(1) of this section, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker of the report is not the defendant or an agent or employee of the defendant, has been redacted. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2)

No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(3)

A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4)

If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death. On the request of the review board, the agency or peace officer may, at its discretion, make the report available to the review board. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center.

(5)

A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section, including a report alleging sexual abuse of a child or another type of abuse of a child referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I)

Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(J)

(1)

Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

(a)

If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;

(b)

If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;

(c)

The county peace officer;

(d)

All chief municipal peace officers within the county;

(e)

Other law enforcement officers handling child abuse and neglect cases in the county;

(f)

The prosecuting attorney of the county;

(g)

If the public children services agency is not the county department of job and family services, the county department of job and family services;

(h)

The county humane society;

(i)

If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established by the memorandum.

(2)

A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible,

providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3)

A memorandum of understanding shall include all of the following:

(a)

The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;

(b)

Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(4)

If a public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

(5)

The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (J)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(K)

(1)

Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an

interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

(a)

Whether the agency or center has initiated an investigation of the report;

(b)

Whether the agency or center is continuing to investigate the report;

(c)

Whether the agency or center is otherwise involved with the child who is the subject of the report;

(d)

The general status of the health and safety of the child who is the subject of the report;

(e)

Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2)

A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3)

A request made pursuant to division (K)(1) of this

section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4)

If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (K) of this section.

(L)

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(M)

Whoever violates division (A) of this section is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. A person who brings a civil action or proceeding pursuant to this division against a person who is alleged to have violated division (A)(1) of this section may use in the action or proceeding reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted.

(N)

(1)

As used in this division:

(a)

"Out-of-home care" includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.

(b)

"Administrator, director, or other chief administrative officer" means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the

district.

(2)

No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3)

No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

(O)

As used in this section, "investigation" means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative response or a traditional response.

**Cite as R.C. § 2151.421**

**History.** Amended by 129th General Assembly File No.28, HB 153, §101.01, eff. 9/29/2011.

Amended by 128th General Assembly ch.28, SB 79, §1, eff. 10/6/2009.

Effective Date: 01-30-2004; 09-16-2004; 04-11-2005;

05-06-2005; 08-03-2006; 09-21-2006; 2008 HB314  
06-20-2008; 2008 SB163 08-14-2008; 2008 HB280  
04-07-2009

**Note:** *This section is set out twice. See also § 2151.421 ,  
as amended by 130th General Assembly File No. TBD,  
HB 483, §101.01, eff. 9/15/2014, and 130th General  
Assembly File No. TBD, HB 213, §1, eff. 9/17/2014.*

**Ohio Rules**

**RULES OF CIVIL PROCEDURE**

**Title II. COMMENCEMENT OF ACTION AND VENUE; SERVICE OF PROCESS; SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS SUBSEQUENT TO THE ORIGINAL COMPLAINT; TIME**

*As amended through July 1, 2014*

**Rule 3. Commencement of Action; Venue**

**(A) Commencement.** A civil action is commenced by filing a complaint with the court, if service is obtained within one year from such filing upon a named defendant, or upon an incorrectly named defendant whose name is later corrected pursuant to Civ.R. 15(C), or upon a defendant identified by a fictitious name whose name is later corrected pursuant to Civ.R. 15(D).

**(B) Venue: where proper.** Any action may be venued, commenced, and decided in any court in any county. When applied to county and municipal courts, "county," as used in this rule, shall be construed, where appropriate, as the territorial limits of those courts. Proper venue lies in any one or more of the following counties:

- (1) The county in which the defendant resides;
- (2) The county in which the defendant has his or her principal place of business;
- (3) A county in which the defendant conducted activity that gave rise to the claim for relief;
- (4) A county in which a public officer maintains his or her principal office if suit is brought against the officer in the officer's official capacity;
- (5) A county in which the property, or any part of the property, is situated if the subject of the action is real property or tangible personal property;
- (6) The county in which all or part of the claim for relief arose; or, if the claim for relief arose upon a river, other watercourse, or a road, that is the boundary of the state, or of two or more counties, in any county bordering on the river, watercourse, or road, and opposite to the place where the claim for relief arose;
- (7) In actions described in Civ.R. 4.3, in the county where plaintiff resides;
- (8) In an action against an executor, administrator, guardian, or trustee, in the county in which the executor, administrator, guardian, or trustee was appointed;

(9) In actions for divorce, annulment, or legal separation, in the county in which the plaintiff is and has been a resident for at least ninety days immediately preceding the filing of the complaint;

(10) In actions for a civil protection order, in the county in which the petitioner currently or temporarily resides;

(11) In tort actions involving asbestos claims, silicosis claims, or mixed dust disease claims, only in the county in which all of the exposed plaintiffs reside, a county where all of the exposed plaintiffs were exposed to asbestos, silica, or mixed dust, or the county in which the defendant has his or her principal place of business.

(12) If there is no available forum in divisions (B)(1) to (B)(10) of this rule, in the county in which plaintiff resides, has his or her principal place of business, or regularly and systematically conducts business activity;

(13) If there is no available forum in divisions (B)(1) to (B)(11) of this rule:

(a) In a county in which defendant has property or debts owing to the defendant subject to attachment or garnishment;

(b) In a county in which defendant has appointed an agent to receive service of process or in which an agent has been appointed by operation of law.

**(C) Change of venue.**

(1) When an action has been commenced in a county other than stated to be proper in division (B) of this rule, upon timely assertion of the defense of improper venue as provided in Civ.R. 12, the court shall transfer the action to a county stated to be proper in division (B) of this rule.

(2) When an action is transferred to a county which is proper, the court may assess costs, including reasonable attorney fees, to the time of transfer against the party who commenced the action in a county other than stated to be proper in division (B) of this rule.

(3) Before entering a default judgment in an action in which the defendant has not appeared, the court, if it finds that the action has been commenced in a county other than stated to be proper in division (B) of this rule, may transfer the action to a county that is proper. The clerk of the court to which the action is transferred shall notify the defendant of the transfer, stating in the notice that the defendant shall have twenty-eight days from the receipt of the notice to answer in the transferred action.

(4) Upon motion of any party or upon its own motion the court may transfer any action to an adjoining county within this state when it appears that a fair and impartial trial cannot be had in the county in which the suit is

pending.

**(D) Venue: no proper forum in Ohio.** When a court, upon motion of any party or upon its own motion, determines: (1) that the county in which the action is brought is not a proper forum; (2) that there is no other proper forum for trial within this state; and (3) that there exists a proper forum for trial in another jurisdiction outside this state, the court shall stay the action upon condition that all defendants consent to the jurisdiction, waive venue, and agree that the date of commencement of the action in Ohio shall be the date of commencement for the application of the statute of limitations to the action in that forum in another jurisdiction which the court deems to be the proper forum. If all defendants agree to the conditions, the court shall not dismiss the action, but the action shall be stayed until the court receives notice by affidavit that plaintiff has recommenced the action in the out-of-state forum within sixty days after the effective date of the order staying the original action. If the plaintiff fails to recommence the action in the out-of-state forum within the sixty day period, the court shall dismiss the action without prejudice. If all defendants do not agree to or comply with the conditions, the court shall hear the action.

If the court determines that a proper forum does not exist in another jurisdiction, it shall hear the action.

**(E) Venue: multiple defendants and multiple claims for relief.** In any action, brought by one or more plaintiffs against one or more defendants involving one or more claims for relief, the forum shall be deemed a proper forum, and venue in the forum shall be proper, if the venue is proper as to any one party other than a nominal party, or as to any one claim for relief.

Neither the dismissal of any claim nor of any party except an indispensable party shall affect the jurisdiction of the court over the remaining parties.

**(F) Venue: notice of pending litigation; transfer of judgments.**

(1) When an action affecting the title to or possession of real property or tangible personal property is commenced in a county other than the county in which all of the real property or tangible personal property is situated, the plaintiff shall cause a certified copy of the complaint to be filed with the clerk of the court of common pleas in each county or additional county in which the real property or tangible personal property affected by the action is situated. If the plaintiff fails to file a certified copy of the complaint, third persons will not be charged with notice of the pendency of the action.

To the extent authorized by the laws of the United States, division (F)(1) of this rule also applies to actions, other than proceedings in bankruptcy, affecting title to or possession of real property in this state commenced in a United States District Court whenever the real property is

situated wholly or partly in a county other than the county in which the permanent records of the court are kept.

(2) After final judgment, or upon dismissal of the action, the clerk of the court that issued the judgment shall transmit a certified copy of the judgment or dismissal to the clerk of the court of common pleas in each county or additional county in which real or tangible personal property affected by the action is situated.

(3) When the clerk has transmitted a certified copy of the judgment to another county in accordance with division (F)(2) of this rule, and the judgment is later appealed, vacated, or modified, the appellant or the party at whose instance the judgment was vacated or modified must cause a certified copy of the notice of appeal or order of vacation or modification to be filed with the clerk of the court of common pleas of each county or additional county in which the real property or tangible personal property is situated. Unless a certified copy of the notice of appeal or order of vacation or modification is so filed, third persons will not be charged with notice of the appeal, vacation, or modification.

(4) The clerk of the court receiving a certified copy filed or transmitted in accordance with the provisions of division (F) of this rule shall number, index, docket, and file it in the records of the receiving court. The clerk shall index the first certified copy received in connection with a particular action in the indices to the records of actions commenced in the clerk's own court, but may number, docket, and file it in either the regular records of the court or in a separate set of records. When the clerk subsequently receives a certified copy in connection with that same action, the clerk need not index it, but shall docket and file it in the same set of records under the same case number previously assigned to the action.

(5) When an action affecting title to registered land is commenced in a county other than the county in which all of such land is situated, any certified copy required or permitted by this division (F) of this rule shall be filed with or transmitted to the county recorder, rather than the clerk of the court of common pleas, of each county or additional county in which the land is situated.

**(G) Venue: collateral attack; appeal.** The provisions of this rule relate to venue and are not jurisdictional. No order, judgment, or decree shall be void or subject to collateral attack solely on the ground that there was improper venue; however, nothing here shall affect the right to appeal an error of court concerning venue.

**(H) Definitions.** As used in division (B)(11) of this rule:

(1) "Asbestos claim" has the same meaning as in section 2307.91 of the Revised Code;

(2) "Silicosis claim" and "mixed dust disease claim" have the same meaning as in section 2307.84 of the Revised

Code;

(3) In reference to an asbestos claim, "tort action" has the same meaning as in section 2307.91 of the Revised Code;

(4) In reference to a silicosis claim or a mixed dust disease claim, "tort action" has the same meaning as in section 2307.84 of the Revised Code.

**History.** Effective: July 1, 1970; amended effective July 1, 1971; July 1, 1986; July 1, 1991; July 1, 1998; July 1, 2005.

**Note:**

**Staff Note (July 1, 2005 Amendment)**

Civ. R. 3 is amended in response to requests from the General Assembly contained in Section 3 of Am. Sub. H.B. 342 of the 125th General Assembly, effective September 1, 2004, and Section 4 of Am. Sub. H.B. 292 of the 125th General Assembly, effective September 2, 2004. These acts contain provisions governing tort claims that allege exposure and injury by persons exposed to asbestos, silica, or mixed dust. Each act includes a request that the Supreme Court amend the Rules of Civil Procedure "to specify procedures for venue and consolidation" of asbestosis, silicosis, and mixed dust disease claims.

**Rule 3(B) Venue: where proper**

Civ. R. 3(B) is amended to include an exclusive venue provision that applies to the filing of actions involving asbestos, silicosis, or mixed dust disease claims. Division (B)(11) states that a civil action alleging one or more of these claims may be filed only in either the county in which all exposed plaintiffs reside, a county where all exposed plaintiffs were exposed to asbestos, silica, or mixed dust occurred, or the county in which the defendant has his or her principal place of business.

Existing divisions (B)(11) and (12) have been renumbered to reflect the addition of new division (B)(11).

**Rule 3(H) Definitions**

Division (H) is added to reference the statutory definitions of "asbestos claim," "silicosis claim," "mixed dust disease claim," and "tort action" for purposes of Civ. R. 3(B)(11).

**Staff Note (July 1, 1998 Amendment)**

**Rule 3(A) Commencement.**

The style used for rule references was changed. There was no substantive amendment to this division.

**Rule 3(B) Venue: where proper.**

The 1998 amendment added a new division (10), and renumbered existing divisions (10) and (11) to (11) and (12), respectively. New division (10) clarifies the appropriate venue for an action seeking the entry of a civil protection order in domestic or family violence cases. The Supreme Court's Domestic Violence Task Force recommended this change in order to clarify Ohio law on this matter. Report of the Supreme Court of Ohio Domestic Violence Task Force: Increasing Safety for Victims, Increasing Accountability of Offenders 16 (October 18, 1996). The amendment uses criteria similar to other venue provisions. For example, the concept of residence is used in other divisions of Civ.R. 3(B), and the concept of a current or temporary residence is similar to the reference to plaintiff's residence in Civ.R. 3(B)(11) (renumbered from Civ. R. 3(B)(10)). See, e.g., . (1987), 34 Ohio St. 3d 15, 17, 516 N.E. 2d 232 ("the term, 'resides,' as used in [prior] Civ.R. 3(B)(10) ought to be 'liberally construed and not confused with [the] requirements for domicile.'" (quoting McCormac, Ohio Civil Rules Practice)). The respondent remains free to challenge venue under Civ.R. 3(D).

Nonsubstantive grammatical revisions were also made to this division.

**Rule 3(C) Change of venue.**

The style used for rule references was changed. There was no substantive amendment to this division.

**Rule 3(F) Venue: notice of pending litigation; transfer of judgments**

The style used for rule references was changed and the division was made gender-neutral. There was no substantive amendment to this division.

**Ohio Rules**

**RULES OF JUVENILE PROCEDURE**

*As amended through July 1, 2014*

**Rule 2. Definitions**

As used in these rules:

- (A) "Abused child" has the same meaning as in section 2151.031 of the Revised Code.
- (B) "Adjudicatory hearing" means a hearing to determine whether a child is a juvenile traffic offender, delinquent, unruly, abused, neglected, or dependent or otherwise within the jurisdiction of the court.
- (C) "Agreement for temporary custody" means a voluntary agreement that is authorized by section 5103.15 of the Revised Code and transfers the temporary custody of a child to a public children services agency or a private child placing agency.
- (D) "Child" has the same meaning as in sections 2151.011 and 2152.02 of the Revised Code.
- (E) "Chronic truant" has the same meaning as in section 2151.011 of the Revised Code.
- (F) "Complaint" means the legal document that sets forth the allegations that form the basis for juvenile court jurisdiction.
- (G) "Court proceeding" means all action taken by a court from the earlier of (1) the time a complaint is filed and (2) the time a person first appears before an officer of a juvenile court until the court relinquishes jurisdiction over such child.
- (H) "Custodian" means a person who has legal custody of a child or a public children's services agency or private child-placing agency that has permanent, temporary, or legal custody of a child.
- (I) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.
- (J) "Dependent child" has the same meaning as in section 2151.04 of the Revised Code.
- (K) "Detention" means the temporary care of children in restricted facilities pending court adjudication or disposition.
- (L) "Detention hearing" means a hearing to determine whether a child shall be held in detention or shelter care prior to or pending execution of a final dispositional order.
- (M) "Dispositional hearing" means a hearing to determine what action shall be taken concerning a child who is within the jurisdiction of the court.
- (N) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111 of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.
- (O) "Guardian ad litem" means a person appointed to protect the interests of a party in a juvenile court proceeding.
- (P) "Habitual truant" has the same meaning as in section 2151.011 of the Revised Code.
- (Q) "Hearing" means any portion of a juvenile court proceeding before the court, whether summary in nature or by examination of witnesses.
- (R) "Indigent person" means a person who, at the time need is determined, is unable by reason of lack of property or income to provide for full payment of legal counsel and all other necessary expenses of representation.
- (S) "Juvenile court" means a division of the court of common pleas, or a juvenile court separately and independently created, that has jurisdiction under Chapters 2151 and 2152 of the Revised Code.
- (T) "Juvenile judge" means a judge of a court having jurisdiction under Chapters 2151 and 2152 of the Revised Code.
- (U) "Juvenile traffic offender" has the same meaning as in section 2151.021 of the Revised Code.
- (V) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.
- (W) "Mental examination" means an examination by a psychiatrist or psychologist.
- (X) "Neglected child" has the same meaning as in section 2151.03 of the Revised Code.
- (Y) "Party" means a child who is the subject of a juvenile

court proceeding, the child's spouse, if any, the child's parent or parents, or if the parent of a child is a child, the parent of that parent, in appropriate cases, the child's custodian, guardian, or guardian ad litem, the state, and any other person specifically designated by the court.

(Z) "Permanent custody" means a legal status that vests in a public children's services agency or a private child-placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of any and all parental rights, privileges, and obligations, including all residual rights and obligations.

(AA) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children's services agency or a private child-placing agency.

(BB) "Person" includes an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(CC) "Physical examination" means an examination by a physician.

(DD) "Planned permanent living arrangement" means an order of a juvenile court pursuant to which both of the following apply:

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

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

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

(FF) "Public children's services agency" means a children's services board or a county department of human services that has assumed the administration of the children's services function prescribed by Chapter 5153 of the Revised Code.

(GG) "Removal action" means a statutory action filed by the superintendent of a school district for the removal of a child in an out-of-county foster home placement.

(HH) "Residence or legal settlement" means a location as

defined by section 2151.06 of the Revised Code.

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

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

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

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

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

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

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

(PP) "Unruly child" has the same meaning as in section 2151.022 of the Revised Code.

(QQ) "Ward of court" means a child over whom the court assumes continuing jurisdiction.

**History.** Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1998; July 1, 2001; July 1, 2002.

**Note:**

**Staff Note (July 1, 2001 Amendment)**

### **Juvenile Rule 2 Definitions**

Several definitions in Rule 2 were amended to correct the language: Rules 2(F), (H), (W), (AA), (BB), (EE), and (FF).

Rule 2(D) was amended to reflect that the definition of "child" in the Revised Code had been placed into two new sections, i.e., R. C. 2151.011 and 2152.02.

Rules 2(E) and (P) were added to reflect the new categories of chronic truant [defined in Revised Code section 2151.011(b)(9)] and habitual truant [defined in Revised Code section 2151.011(B)(18)], added by Sub. Sen. Bill 181, which became effective September 4, 2000. Other rules that were amended to reflect changes necessitated by the chronic and habitual truancy bill are Rule 10(A), Rule 15(B), Rule 27(A), Rule 29(F), and Rule 37.

Rules 2(I), (S) and (T) were amended to reflect the reorganization of the Revised Code made by Sub. Sen. Bill 179, effective January 1, 2002. The reorganization moved delinquency into a new chapter, Chapter 2152 of the Revised Code, thus necessitating that "juvenile court" and "juvenile judge" be redefined to include those having jurisdiction under Chapter 2152 as well as under Chapter 2151, and that "delinquent child" be amended to reflect it is now defined in section 2152.02.

Rule 2(KK) was added to reflect the new category of "serious youthful offender" created by Sub. Sen. Bill 179. Although the Revised Code does not define serious youthful offender specifically, sections 2152.11 and 2152.13 describe in detail the predicate offenses and other predicates to treatment as a serious youthful offender, as well as the types of dispositional sentencing available for each. Other rules that were amended to reflect changes necessitated by the serious youthful offender bill are Rule 7(A), Rule 22(D) and (E), Rule 27(A), and Rule 29(A), (C) and (F).

Rule 2(LL) defines "serious youthful offender proceedings." The new category of serious youthful offender created by Sub. Sen. Bill 179 contemplates imposition of an adult sentence in addition to a juvenile disposition upon conviction. Therefore, serious youthful offenders have statutory and constitutional rights commensurate with those of adults. Some proceedings in juvenile court needed to be altered to ensure adult substantive and procedural protections where appropriate. The amendment makes clear that juvenile protections and confidentiality apply both before a probable cause determination that a child may be subject to serious youthful offender disposition, and after a determination that the child shall not be given a serious youthful offender disposition.

**Staff Note (July 1, 2002 Amendment)**

### **Juvenile Rule 2 Definitions**

The July 1, 2002, amendments substituted the language of "planned permanent living arrangement" for the former language of "long term foster care," to conform to the new legislative designation for these child-placing arrangements. Former division (W), "Long term foster care," was deleted, a new division (DD), "Planned permanent living arrangement," was added, and other divisions were relettered accordingly.

The amendments to Juv. R. 2 conform to section 2151.011 of the Revised Code. Juvenile Rules 10, 15, and 34 also were amended effective July 1, 2002 to reflect this change in terminology.

**Ohio Rules**

**RULES OF JUVENILE PROCEDURE**

*As amended through July 1, 2014*

**Rule 10. Complaint**

**(A) Filing.** Any person having knowledge of a child who appears to be a juvenile traffic offender, delinquent, unruly, neglected, dependent, or abused may file a complaint with respect to the child in the juvenile court of the county in which the child has a residence or legal settlement, or in which the traffic offense, delinquency, unruliness, neglect, dependency, or abuse occurred.

Persons filing complaints that a child appears to be an unruly or delinquent child for being an habitual or chronic truant and the parent, guardian, or other person having care of the child has failed to cause the child to attend school may also file the complaint in the county in which the child is supposed to attend public school.

Any person may file a complaint to have determined the custody of a child not a ward of another court of this state, and any person entitled to the custody of a child and unlawfully deprived of such custody may file a complaint requesting a writ of habeas corpus. Complaints concerning custody shall be filed in the county where the child is found or was last known to be.

Any person with standing may file a complaint for the determination of any other matter over which the juvenile court is given jurisdiction by the Revised Code. The complaint shall be filed in the county in which the child who is the subject of the complaint is found or was last known to be. In a removal action, the complaint shall be filed in the county where the foster home is located.

When a case concerning a child is transferred or certified from another court, the certification from the transferring court shall be considered the complaint. The juvenile court may order the certification supplemented upon its own motion or that of a party.

**(B) Complaint: general form.** The complaint, which may be upon information and belief, shall satisfy all of the following requirements:

(1) State in ordinary and concise language the essential facts that bring the proceeding within the jurisdiction of the court, and in juvenile traffic offense and delinquency proceedings, shall contain the numerical designation of the statute or ordinance alleged to have been violated;

(2) Contain the name and address of the parent, guardian, or custodian of the child or state that the name or address is unknown;

(3) Be made under oath.

**(C) Complaint: juvenile traffic offense.** A Uniform Traffic Ticket shall be used as a complaint in juvenile traffic offense proceedings.

**(D) Complaint: permanent custody.** A complaint seeking permanent custody of a child shall state that permanent custody is sought.

**(E) Complaint: temporary custody.** A complaint seeking temporary custody of a child shall state that temporary custody is sought.

**(F) Complaint: planned permanent living arrangement.** A complaint seeking the placement of a child into a planned permanent living arrangement shall state that placement into a planned permanent living arrangement is sought.

**(G) Complaint: habeas corpus.** Where a complaint for a writ of habeas corpus involving the custody of a child is based on the existence of a lawful court order, a certified copy of the order shall be attached to the complaint.

**History.** Effective: July 1, 1972; amended effective July 1, 1975; July 1, 1976; July 1, 1994; July 1, 1998; July 1, 2001; July 1, 2002.

**Note:**

**Staff Note (July 1, 2001 Amendment)**

**Juvenile Rule 10 Complaint**

**Juvenile Rule 10(A) Filing**

Rule 10(A) was amended to conform to the Sub. Sen. Bill 181 (effective September 4, 2000) changes that provide in R. C. section 2151.27(A)(2) that chronic and habitual truancy complaints against both children and adults responsible for them may also be properly venued in the county in which the child is supposed to be attending public school.

**Staff Note (July 1, 2002 Amendment)**

**Juvenile Rule 10(F) Complaint: planned permanent living arrangement**

The July 1, 2002, amendment to Juv. R. 10(F) substituted the language of "planned permanent living arrangement" for the former language of "long term foster care," to conform to the new legislative designation for these child-placing arrangements.

The amendment to Juv. R. 10(F) conforms to sections 2151.27(C) and 2151.353(B) of the Revised Code. Juvenile Rules 2, 15, and 34 also were amended effective

July 1, 2002 to reflect this change in terminology.

**Ohio Rules**

**RULES OF JUVENILE PROCEDURE**

*As amended through July 1, 2014*

**Rule 11. Transfer to Another County**

**(A) Residence in another county; transfer optional.** If the child resides in a county of this state and the proceeding is commenced in a court of another county, that court, on its own motion or a motion of a party, may transfer the proceeding to the county of the child's residence upon the filing of the complaint or after the adjudicatory or dispositional hearing for such further proceeding as required. The court of the child's residence shall then proceed as if the original complaint had been filed in that court. Transfer may also be made if the residence of the child changes.

**(B) Proceedings in another county; transfer required.**

The proceedings, other than a removal action, shall be so transferred if other proceedings involving the child are pending in the juvenile court of the county of the child's residence.

**(C) Adjudicatory hearing in county where complaint filed.** Where either the transferring or receiving court finds that the interests of justice and the convenience of the parties so require, the adjudicatory hearing shall be held in the county wherein the complaint was filed. Thereafter the proceeding may be transferred to the county of the child's residence for disposition.

**(D) Transfer of records.** Certified copies of all legal and social records pertaining to the proceeding shall accompany the transfer.

**History.** Effective: July 1, 1972; amended effective July 1, 1994; July 1, 1998.

**Ohio Administrative Code**

**5101:2. Division of Social Services**

**Chapter 5101:2-36. Screening and Investigation**

*All regulations passed and filed through June 20, 2014*

**5101:2-36-13. Intrastate and interstate referral procedures for children's protective services**

(A)

A public children services agency (PCSA) shall complete an intrastate referral to another PCSA if the PCSA receives a report of alleged child abuse or neglect, and determines the child and his or her custodial parent, legal guardian, or legal custodian reside or have moved to another county before an assessment/investigation has been initiated.

(1)

If an emergency exists, the PCSA shall immediately telephone the appropriate PCSA and provide the referral information.

(2)

If no emergency exists, the PCSA shall provide the referral information by telephone within twenty-four hours.

(3)

The referral information provided to the PCSA shall include, but is not limited to, the following:

(a)

The case identification number established within the statewide automated child welfare information system (SACWIS).

(b)

The case reference person established within SACWIS.

(c)

The intake identification number established within SACWIS, as applicable.

(d)

Location, including the address, of the child and his or her custodial parent, legal guardian, or legal custodian.

(B)

A PCSA shall complete an intrastate referral to another

PCSA if the PCSA initiates an abuse or neglect report and determines the alleged child victim and his or her custodial parent, legal guardian, or legal custodian reside in another county.

(1)

The PCSA shall immediately telephone the appropriate PCSA if an emergency exists to inform of the report and the information obtained as a result of the initiation or other contacts. If no emergency exists, the PCSA shall telephone the appropriate PCSA within twenty-four hours.

(2)

The PCSA receiving the intrastate referral shall determine one of the following:

(a)

A case transfer shall be accepted regarding the current report. The receiving PCSA becomes the lead agency and is responsible for the completion of the assessment/investigation activities including arriving at a report disposition and case decision.

(b)

A case transfer shall not be accepted. The PCSA that initiated the report shall remain the lead agency and retain responsibility for the completion of the assessment/investigation, including completing requests for required non-lead interviews.

(C)

A PCSA shall make an intrastate referral to another PCSA if the PCSA determines that protective services are needed but the child and his or her custodial parent, legal guardian, or legal custodian moves to another county before or during the provision of protective services and the child remains at risk of abuse or neglect.

(D)

A PCSA shall make an interstate referral to a children's services agency (CSA) if the PCSA receives a report of alleged child abuse or neglect, and determines the child and his or her custodial parent, legal guardian, or legal custodian reside in or have moved to another state. The PCSA shall comply with the following procedures if making a referral to a CSA:

(1)

If an emergency exists, the PCSA shall immediately telephone the appropriate CSA with the referral information. Within three working days of the date of the

telephone referral, the PCSA shall follow-up with a written referral to the CSA.

(2)

If no emergency exists, the PCSA shall provide the referral information by telephone within twenty-four hours. Within three working days of the date of the telephone referral, the PCSA shall follow-up the telephone referral with a written referral to the CSA.

(3)

The referral shall include, but is not limited to, the following:

(a)

All available identifying information on the child, his or her parent, guardian, or custodian and other involved people, including names, dates of birth, ages, and social security numbers.

(b)

The child, his or her parent, guardian, or custodian and other involved persons' relationships to each other.

(c)

Location, including address of the child and his or her parent, guardian or custodian.

(d)

Summary of the referring PCSA's involvement with the child, his or her parent, guardian, or custodian and the current case status.

(e)

A copy of the completed JFS 01401 "Comprehensive Assessment Planning Model - I.S., Safety Assessment" (rev. 2/2006) and the JFS 01400 "Comprehensive Assessment Planning Model - I.S., Family Assessment" (rev. 7/2006), or JFS 01419 "Alternative Response Family Assessment" (rev. 7/2008) if applicable.

(f)

The nature of the request for the provision of protective services.

(g)

The referring PCSA contact person.

(h)

The information the referring PCSA needs in response to the referral.

(4)

Confidential information regarding the child, his or her parent, guardian, or custodian may be released to CSA pursuant to rule 5101:2-33-21 of the Administrative Code.

(5)

The PCSA shall cooperate with the CSA, and if necessary, lead the assessment/investigative efforts if the child is located within Ohio and the abuse or neglect is alleged to have occurred within Ohio.

**History.** Effective: 03/01/2014

R.C. 119.032 review dates: 11/01/2016

Promulgated Under: 119.03

Statutory Authority: 2151.421

Rule Amplifies: 2151.421

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