

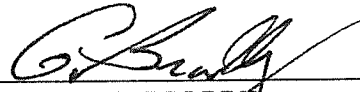
**COUNTY OF PITT  
3A JUDICIAL DISTRICT**

**DISTRICT COURT DIVISION  
JUVENILE A/N/D COURT**

**ORDER ADOPTING FAMILY COURT  
JUVENILE ABUSE/NEGLECT/DEPENDENCY  
RULES**

Pursuant to Rule 2 of the General Rules of Practice for Superior and District Courts, and N.C.G.S. §7B the attached Local Rules for adopting 3A Judicial District Family Court Juvenile Abuse/Neglect/Dependency Rules (Effective July 1, 2023) and shall apply to all cases filed on or after that date and, insofar as practical, to all pending cases.

It is so ordered this 20<sup>th</sup> day of May, 2024.

  
\_\_\_\_\_  
G. GALRN BRADDY  
CHIEF DISTRICT COURT JUDGE

**FILED**  
2024 MAY 20 P 2:48  
PITT CO., O.S.C.  
BY \_\_\_\_\_

**3A JUDICIAL DISTRICT  
FAMILY COURT  
JUVENILE ABUSE/NEGLECT/DEPENDENCY RULES  
(Effective 1 July 2023)**

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**Rule 1: SCOPE**

These rules apply to all cases in which a petition is filed alleging that a juvenile is abused, neglected or dependent or a petition or motion is filed for termination of parental rights.

**Rule 2: PURPOSE**

These local rules establish procedures for Juvenile Court, which are designed to fulfill the purposes of Family Court and the North Carolina Juvenile Code.

To that end, these rules serve the following purposes:

1. To efficiently utilize time to ensure the best interest of the children and the reunification of the family;
2. To help the Court oversee case planning;
3. To help eliminate unnecessary delays in Court proceedings in order to reach permanence in a timely manner;
4. To help the parties present issues and evidence to the Court in an efficient and simple manner; and
5. To otherwise ensure compliance with Chapter 7B of the North Carolina General Statutes.

### **Rule 3: CONSTRUCTION AND ENFORCEMENT**

These rules shall be construed to accomplish the purposes set forth in Rule 2. These rules shall not be construed in any manner which is in conflict with the Constitution of the United States nor the Constitution of the State of North Carolina nor any of federal or state statutes and laws nor any rules promulgated by the North Carolina Supreme Court. Matters not covered by these rules shall be governed by existing laws and rules. No rule shall be construed, applied or enforced in a manner that will endanger or harm a child or prejudice the rights of a party. Sanctions may be addressed in specific provisions of these Rules as applicable.

### **Rule 4: APPOINTMENT OF COUNSEL**

**4.1. General.** The Clerk shall maintain a current list provided by the Public Defender's office of attorneys eligible to be appointed 1) to represent parents of children alleged to be abused, neglected or dependent; 2) to represent parents in a termination of parental rights proceedings; and 3) to act as the Guardian ad Litem for parents pursuant to Rule 17 of the Rules for Civil Procedure. The Guardian ad Litem program shall maintain a list of attorneys who will act as the Guardian ad Litem for minor children when the Guardian ad Litem program has a conflict. To be included on any list an attorney must comply with the conditions specified in the Regulations for Appointment of Counsel in the Three-A Defender District (Pitt County) In Cases Under the Indigent Defense Services Act. The attorney must have a local working telephone number at which he or she can be contacted and maintain a mailbox in the Clerk's Office of the Pitt County Courthouse. The Court retains the inherent authority to appoint an attorney who is not on the list in cases where such an appointment is appropriate.

**4.2. Abuse/Neglect/Dependency.** When a petition is filed alleging abuse, neglect, or dependency, the Clerk shall assign separate provisional counsel to represent each parent named in

the petition. The summons shall include the attorney's name and telephone number and shall direct the parent to contact the attorney. The summons shall also inform the parent:

1. That the parent may retain counsel;
2. That the court, at the first hearing, if the parent appears, will determine whether the parent qualifies for appointed counsel and, if the parent does, whether the parent waives the right to such counsel;
3. That the court will dismiss counsel if the parent does not qualify for appointed counsel, or the parent waives the right to counsel; and
4. Of the date and time of the non-secure hearing, if applicable, and the adjudication hearing.

As required by N.C.G.S. Sec. 7B-602(a), at the first hearing in a case, the court shall dismiss the provisional counsel if the respondent parent does not appear at the hearing, does not qualify for court-appointed counsel, has retained counsel, or waives the right to counsel. The court shall confirm the appointment of counsel if the parent appears at the hearing and qualifies for court-appointed counsel. The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding. An attorney who is dismissed by the Court will not be responsible for further appearances unless and until the attorney is reappointed.

Nothing in this section shall be construed to limit any obligation of an attorney to represent the procedural interests of a respondent parent, as those obligations may be defined by caselaw or by regulations set forth by the Public Defender or by North Carolina Indigent Defense Services.

At the adjudication hearing, if the parent has been served and the attorney appointed to represent a parent has been unable to maintain contact with the parent, the appointed attorney shall make a motion to withdraw from the case. Prior to allowing an attorney's motion to withdraw, the Court shall inquire as to the efforts made by the attorney to contact the respondent parent, including letters, telephone calls, requests for information to the assigned social workers(s), searches of the local and state jail inmate lists, and other efforts reasonable under the circumstances. The Court shall also inquire as to efforts made by the attorney to give notice of the motion to withdraw to the respondent parent.

If an attorney appointed to represent a parent has been unable to maintain contact with the parent subsequent to the adjudication hearing, the attorney shall make a motion to withdraw. Prior to allowing an attorney's motion to withdraw, the Court shall inquire as to the efforts made by the attorney to contact the respondent parent, including letters, telephone calls, requests for information to the assigned social worker(s), searches of the local and state jail inmate lists, and other efforts reasonable under the circumstances. The Court shall also inquire as to efforts made by the attorney to give notice of the motion to withdraw to the respondent parent.

Any order to withdraw as counsel shall include the last known address of the parent for the purpose of service of future pleadings in the case.

Should a parent be located by the Department of Social Services (hereinafter referred to as DSS) after the filing of the petition, the DSS shall provide the name and last known address of the parent to the Clerk, and the Clerk shall send notice of the next court date to the last known address of the parent. A provisional attorney shall be appointed by the Court for that parent. If the parent does not appear in court or contact his or her attorney, the Court may relieve counsel for the parent either at the next hearing of the matter or upon a motion to withdraw filed by counsel. The Court shall inquire as to the efforts made by the attorney to contact the respondent parent, including letters, telephone calls, requests for information to the assigned social workers(s), searches of the local and state jail inmate lists, and other efforts reasonable under the circumstances. The Court shall also inquire as to efforts made by the attorney to give notice of the motion to withdraw to the respondent parent.

**4. 3. Termination of Parental Rights.** In any case in which a petition for termination of parental rights is filed by DSS, the attorney appointed for the respondent parent in the underlying abuse, neglect, or dependency case will continue to represent the parent unless the Court orders otherwise, and the summons issued for the termination of parental rights shall list this attorney as the respondent parent's attorney. As provided by N.C. Gen. Stat. 7B-1106(a2), a copy of all pleadings and other papers required to be served on the respondent shall be served on the respondent's attorney pursuant to Rule 5 of the North Carolina Rules of Civil Procedure. In the event the termination of parental rights proceeding is filed as a Motion in the Cause, pursuant to G.S. 7B-1102 and served as by law provided in G.S. 7B-1106.1, the current appointed counsel, including the guardian ad litem, shall continue representation, unless the attorney has properly moved the court to withdraw.

In any case where the petitioner is DSS, the following rules shall apply:

1. A summons shall be issued and shall include Notice that if the parent is indigent and is not already represented by an appointed counsel, the parent is entitled to counsel. If the parent is not represented by appointed counsel, provisional counsel shall be assigned, and counsel's information shall be listed on the summons. The appointment of provisional counsel shall be reviewed by the Court at the first hearing after service, as is required by N.C. Gen. Stat. Sec. 7B-1106(b)(4).
2. If the parent fails to appear at the hearing, does not qualify for court-appointed counsel, has retained counsel, or waives court-appointed counsel, the provisionally appointed attorney will be released by the Court as is required by Sec. 7B-1101.1(a). Nothing in this section shall be construed to limit any obligation of an attorney to represent the procedural interests of a respondent parent, as those obligations may be defined by caselaw or by regulations set forth by the Public Defender or by North Carolina Indigent Defense Services.
3. As soon as is practicable, the Clerk shall forward a copy of the appointment order, the summons and the petition to the appointed attorney and the attorney for the petitioner.
4. If the Guardian ad Litem program previously represented the juvenile(s), then as soon as is practicable, the Clerk shall forward a copy of the summons and the petition to the

Guardian ad Litem office, which shall then assume the responsibility for having the appointment order completed and filed. If a guardian ad litem has been appointed for the juvenile pursuant to G.S. 7B-601 and has not been relieved of responsibility or if the court appoints a guardian ad litem for the juvenile after the petition is filed, a copy of all pleadings and other papers required to be served shall be served on the juvenile's guardian ad litem or attorney advocate pursuant to procedures established under Rule 5 of the North Carolina Rules of Civil Procedure, per N.C.G.S. Sec. 7B-1106(a1).

5. In cases not involving the Guardian ad Litem program or in cases in which that program has a conflict, if an answer or response filed by a respondent parent denies any material allegations of the petition, the Court shall appoint a Guardian ad Litem for the juvenile from the list of eligible conflict attorneys maintained by the Guardian ad Litem program. As soon as is practicable, the Clerk shall forward a copy of the Guardian ad Litem appointment order, the summons and the petition to the appointed Guardian ad Litem attorney.

In any case where DSS is not otherwise a party petitioner but is served with a petition to terminate parental rights, the department shall file a written answer and shall be deemed a party to the proceeding per N.C.G.S. Sec. 7B-1106(c).

**4. 4. GAL Attorney for Juveniles.** Appointment of a Guardian ad Litem attorney shall occur upon the filing of a petition and in accordance with G.S. 7B-601 and G.S. 7B-1108.

**4. 5. Rule 17 GAL Attorney.** The Judge shall appoint a Rule 17 Guardian at the first non-secure hearing or at any hearing thereafter if the Judge determines that the respondent parent is in need of such a Guardian. The Rule 17 Guardian shall remain in the case until released by the Judge.

## **Rule 5: RESPONSIBILITIES OF ATTORNEYS**

**5. 1. Priority.** An attorney who represents a party in a case scheduled for hearing shall appear at 9:00 am, unless there is a matter that takes precedence over juvenile court pursuant to Rule 3.1 of the General Rules of Practice for the Superior and District Courts. The court, in its discretion, may call the calendar at 9:00 am. If there is a specific time set for a case, the attorney shall appear at the time set for that case unless excused by the Court. An attorney who has a conflict in another Court shall comply with the relevant rules relating to priority, and it shall be the responsibility of the attorney to keep the courtroom Clerk informed of his or her location at all times and to provide a cell number where he or she can be called or sent a text to inform the attorney of the status of their case. In order to resolve conflicts, any attorney or represented party should advise the judge presiding in juvenile court of the conflict, so that the judge may communicate with the presiding judge of other courts which counsel represents to be in conflict with the juvenile court. Contested issues in juvenile court shall have priority among the other courts as set forth in Rule 3.1 of the General Rules of Practice for Superior and District Courts.

**5. 2. Continuation of Representation.** After a parent's attorney enters an appearance or accepts an appointment in a case, he or she shall represent his or her client through all stages of the proceedings as long as the child continues within the jurisdiction of the Court. Leave of Court to withdraw from a case shall only be granted for good cause or as allowed in Rule 4.2 herein.

**5. 3. Fee Applications.** Court appointed attorneys shall submit fee applications on forms created by the North Carolina Administrative Office of the Courts. When respondent parents are completing Affidavits of Indigency as part of the application for court appointed counsel, the Court shall ensure that the respondent parent has provided the parent's Social Security number on the application form. If the Court enters a civil judgment for attorney fees, the attorney shall clearly and legibly write the Social Security number of the respondent parent on the fee application, so that the judgment can be docketed with the parent's Social Security number.

## **Rule 6: HEARING TIMELINES**

**6. 1. Non-Secure Custody.** If a child is placed in non-secure custody, a hearing to determine the need for continued non-secure custody shall be held within seven (7) days, unless an earlier hearing is required by G.S. 7B-506. Subsequent review of non-secure custody shall be held as required by G.S. 7B-506.

**6. 2. Pre-Adjudication.** Pre-adjudication hearings shall transpire in accordance with G.S. 7B-800.1. Prior to the adjudicatory hearing, the court shall consider the following:

1. Retention or release of provisional counsel.
2. Identification of the parties to the proceeding.
3. Whether paternity has been established or efforts made to establish paternity, including the identity and location of any missing parent.
4. Whether relatives, parents, or other persons with legal custody of a sibling of the juvenile have been identified and notified as potential resources for the placement or support.
5. Whether all summons, service of process, and notice requirements have been met.
  - a. Whether the Petition has been properly verified and invokes jurisdiction.
6. Any pre-trial motions, including (i) appointment of a guardian ad litem in accordance with G.S. 7B-602, (ii) discovery motions in accordance with G.S. 7B-700, (iii) amendment of the petition in accordance with G.S. 7B-800, or (iv) any motion for a continuance if the adjudicatory hearing in accordance with G.S. 7B-803.
7. Any other issue that can be properly addressed as a preliminary matter.

The Pre-Adjudication hearing may be combined with a hearing on the need for non-secure custody or any pretrial hearing or conducted in accordance with local rules. The hearing also shall

be allowed to be conducted the same day as the adjudicatory hearing, provided it is heard prior to the adjudication.

The parties may enter stipulations in accordance with G.S. 7B-807 or enter a consent order in accordance with G. S. 7B-801.

**6. 1.      Adjudication.** The adjudication hearing shall be scheduled for the earliest possible date and in no event more than sixty (60) days after the filing of the petition pursuant to G.S. 7B-801(c), unless the Court finds such good cause as may be required by G.S. 7B-803.

**6. 2.      Disposition.** Whenever possible, the disposition shall take place immediately following adjudication and in no event more than thirty (30) days from the adjudication, unless the Court finds extraordinary circumstances.

## **Rule 7: CALENDAR**

The juvenile calendar shall be prepared and made available for the parties by the Juvenile Clerk, to the extent possible, on the Monday prior to a scheduled court session. With the exception of Non-secure Custody hearings, “emergency” situations, motions to publish for an unknown parent, or corrections to the calendar, no cases will be added or removed after the calendar is created. Requests for continuances must take place in open court before the presiding judge as set forth herein.

## **Rule 8: DISCOVERY**

Parties shall comply with the provisions of G.S.7B-700(c) in filing and serving motions for discovery.

## **Rule 9: RE-HEARING CONFERENCE**

Should the Court find it necessary, a pre-hearing conference may be held. The purposes of the conference shall be to explore the possibility of settlement, to narrow the issues as much as possible, to estimate the time the matter will take for hearing and to set the order of cases for the next session of juvenile court. Further, any attorney considering a pre-trial motion shall put all other counsel on notice of same at the pre-hearing conference.

## **Rule 10: STIPULATED ADJUDICATIONS**

If the parties agree to stipulate to certain factual findings and/or provisions of the Court’s decree, the Court shall determine, before accepting the stipulations in open Court, that the parties understand the content and consequences of the stipulation, that they voluntarily consent to the



stipulation and that they had the opportunity to seek legal counsel. This shall be done in writing by the parties pursuant to a Stipulation/Consent Form.

## **Rule 11: EARLY SUBMISSION OF COURT REPORTS AND EVIDENCE**

**11. 1. Submission of Court Reports.** Court reports for review by the presiding judge shall be delivered to all parties and to the Family Court Office at least four business days before the court session to which the reports pertain. Information obtained after the submission of a report may be updated by an addendum on a case-by-case basis as circumstances require or as agreed upon by the parties.

**11. 2. Types of Reports to be Submitted.** The court reports submitted shall include, but are not limited to, court summary reports from DSS, the Guardian ad Litem Program or Conflict Guardian ad Litem Attorney-Advocate, the parent attorney, and mental health, psychological, substance abuse and any other evaluations or records previously ordered by the Court.

**11. 3. Unrepresented Parties.** If a parent is unrepresented by counsel, then a copy shall be mailed by the party submitting the report to the parent's last known address if the parent is believed to still reside at that residence. If the parent's last known address is not currently valid, no report shall be mailed.

**11. 4. Review of Reports.** All individuals receiving a copy of the court reports based on the Early Submission deadlines shall read the reports prior to the day of the hearing to ensure the most efficient use of court time. An attorney for a parent shall also make efforts to review the report with the parent prior to the day of the hearing. It is the intent of these rules that early submission of reports to the Court shall be sought whenever possible.

**11. 5. Submission of Evidence.** Evidence, such as lease agreements, drug tests results, pay stubs, etc., to the extent that such evidence is available to the attorneys, shall be exchanged between the parties at least four business days before the scheduled court hearing or as soon as such evidence is available.

## **Rule 12: REVIEW OF CASES**

**12. 1. Periodic Reviews.** The Court shall conduct a review of each case, as provided by statute. If DSS is not relieved of court-ordered responsibility, the case shall be re-docketed for further review pursuant to statute.

**12. 2. Scheduling of Reviews.** The Court may set a review hearing for any case at any time, on its own motion, or upon motion of any party. A notice of the hearing shall be signed and issued by the Clerk and served by the moving party at least fifteen (15) days prior to the date set for the review hearing to such persons as may be involved in the case and any other person or agency specified by Court Order.

**12. 3. Scheduling of Motions.** If a motion is filed by a party requesting relief, the moving party shall serve the motion and a notice of hearing at least five (5) days prior to the hearing date in accordance with Rule 6 of the North Carolina Rules of Civil Procedure. When service is by electronic means, the sending attorney shall confirm receipt of same by the receiving attorney. Any party filing a motion for emergency relief with less than five (5) days notice to the parties shall show good cause for said failure. A copy of the motion and notice of hearing shall be delivered to the juvenile clerk.

In accordance with G.S. 7B-200(c)(1), when the juvenile court has obtained jurisdiction over a juvenile as the result of a juvenile petition, any other civil action in which the custody of the juvenile is an issue is automatically stayed as to that issue, unless the juvenile proceeding and the civil custody action or claim are consolidated or the court in the juvenile proceeding enters an order dissolving the stay. Motions pertaining to juvenile court matters shall not be heard in courts designated for the hearing of Chapter 50 custody cases.

### **Rule 13: REVIEW AND PERMANENCY PLANNING HEARINGS**

**13. 1. Calendaring.** The court shall conduct review and permanency planning hearings in each case, as provided by G.S. 7B-906.1.

**13. 2. Notice.** A notice of the hearing shall be requested by DSS and issued, signed and served by the Clerk at least fifteen (15) days prior to the date set for the hearing to such persons as required by G.S. 7B-906.1(b) as may be involved in the case and any other person or agency specified by Court Order. Notice of the continuance of permanency planning hearings may be given in open court.

### **Rule 14: WRITS AND INTERPRETERS**

**14. 1. Writs.** Parent attorneys or others wishing to have an inmate in the Pitt County Detention Center brought to the Court should contact a bailiff or other court official with the Pitt County Sheriff's Office in advance of the court date. Parent attorneys or others wishing to have an inmate in the custody of the North Carolina Department of Correction brought to court should coordinate the transport and appearance of the inmate, using the forms provided by the North Carolina Administrative Office of the Courts. NC DOC inmates remain in DOC custody while present for court hearings.

**14. 2. Interpreters.** Attorneys wishing to arrange for Spanish language or other language interpreters should use the online request forms made available by the North Carolina Administrative Office of the Courts at the following address: <https://www.nccourts.gov/request-for-spoken-foreign-language-court-interpreter>

Requests for sign language interpreters are considered ADA accommodations. These requests can be made online at the following address: <https://www.nccourts.gov/form/request-for-disability-accommodation>

## Rule 15: CONTINUANCES

15. 1. **Good Cause.** No extension of time or continuance beyond the time specified by statute, order, or these Rules shall be granted, except for good cause. The consent of the parties alone is not good cause for an extension or continuance. Absence of reports which are dispositional in nature may be good cause to continue the disposition, but not good cause to continue the adjudication. In considering granting a continuance, the Court should consider the availability of the parties and all witnesses, whether such continuance would promote the purposes of these rules, protect the rights of the parties and the best interest of the juvenile, and promote the ends of justice.

15. 2. **Orders.** All orders for extension or continuance shall appear on the record, state supporting reasons for the continuance, and set the next hearing date. Orders for the extension of time may only be signed by District Court judges.

## Rule 16: EFFICIENT USE OF COURT TIME

16. 1. **Court Session.** All attorneys and/or parties are expected to be in Court as scheduled on the calendar. Contested issues in juvenile court shall have priority among the other courts as set forth in Rule 3.1 of the General Rules of Practice for Superior and District Courts.

16. 2. **Consent Orders and Stipulations (Not Adjudications).** The use of consent orders and stipulations is encouraged. Proposed consent orders, stipulations, and/or court reports may be circulated among the parties in advance of the scheduled hearing. Parties are encouraged to contact each other to ascertain the possibility of a consent order or stipulation. Attorneys should urge their clients to maintain contact with the attorney before the scheduled hearing date(s) so that proposed consent orders, stipulations, and/or court reports may be reviewed prior to the scheduled court hearing and issues narrowed whenever possible.

## Rule 17: PREPARATION AND ENTRY OF ORDERS

17. 1. **Preparation of Orders.** In cases involving DSS, the DSS Attorney's Office shall prepare all orders, unless otherwise provided herein or instructed by the presiding judge. On a motion for review, the attorney or party filing the motion shall be responsible for the filing of the order unless otherwise directed by the Judge. If further hearings are calendared in the case, then the order shall designate the date, time, place and purpose of the next hearing, which shall serve as notice of hearing to all parties served with a copy of the order.

17. 2. **Time Standards for Entry of Order.** All orders should be filed within thirty (30) days following the hearing. A draft of each order must be circulated among the attorneys (and any unrepresented parties who appeared at the hearing) involved in the proceeding within seven (7) days prior to the submission of the final order to the Court for signature. If the order was not circulated in compliance with this Rule, this must be brought to the Court's attention when the final order is submitted for signature.

17. 3. **Orders.** Orders must be reduced to writing, signed, and entered within thirty (30) days of the completion of the hearing. If the order is not entered within thirty (30) days following completion of the hearing, the clerk of court for juvenile matters shall schedule a subsequent hearing at the first session of court scheduled for the hearing of juvenile matters following the 30-day period to determine and explain the reason for the delay and to obtain any needed clarification as to the contents of the order. The order shall be entered within ten (10) days of the subsequent hearing required by this subsection.

### **Rule 18: AMENDMENTS AND MODIFICATIONS**

These Rules are subject to amendment or modification as experience dictates and as changes in statutory law and case law may require.