

**Court of Common Pleas
Juvenile Division
Lucas County, Ohio**

**Denise Navarre Cubbon,
Administrative Judge**



**Connie F. Zimmelman,
Judge**

September 3, 2020

RE: Local Rules of Court, Juvenile Division

To Whom It May Concern;

Lucas County Court of Common Pleas, Juvenile Division, is posting for public comment, proposed amendments to the Rules of Court for the Lucas County Court of Common Pleas, Juvenile Division. Proposed rules will be effective October 1, 2020.

These amendments involve the following Juvenile Rule(s):

- **Juvenile Rule #4** regarding Procedures – Juveniles (*addition of section 4.6.1 to provide clarification on filing fee requirements.*);

Included is a copy of revised rule 4. We will receive comments until, Friday, September 25, 2020 at 4:00pm. Comments may be submitted to the attention of Marcie Garlick at Mcousi@co.lucas.oh.us or Lucas County Court of Common Pleas, Juvenile Division, 1801 Spielbusch Ave., Toledo, Ohio 43604.

Sincerely,

Marcie Garlick
General Counsel

Juvenile Rule 4
Procedures - Juveniles

- 4.1 The Court hereby expresses the policy that the deputy clerks of the Juvenile Division shall not prepare juvenile complaints unless instructed to do so by the Judge. The Court shall not be placed in the position of initiating complaints by its staff and thereby promoting the conclusion that cases are being started by the Court, and thereby casting the Court in a non-judicial character. This rule does not apply to the filing of motions by the Probation or Intake departments for violation of terms of probation or court orders.
- 4.2 The Court may require the execution of forms as it shall prescribe to be filed with any pleading or motion filed with the Clerk. No pleading or motion shall be accepted for filing until the information requested in such forms shall be provided, unless waived by presiding Judge or Magistrate.
- A. All pleadings, motions, and judgment entries shall be legibly printed or typewritten, and double spaced on 8-1/2" x 11" paper (not onion skin). The caption in every pleading, motion and judgment entry shall contain the case number, name, address, zip code, date of birth, and the last four digits of the social security number of each party. Every pleading, motion and judgment entry shall include the name of the attorney, the firm name (if any), office address, office telephone number, office facsimile number, attorney's Ohio Supreme Court number, and attorney's e-mail address (if any). The face page of all filings shall provide a top margin of at least three inches to permit the Clerk of Courts to add time stamp imprints.
- B. All Complaints to Establish Parent/Child Relationship and Motion to Establish Allocation of Parental Rights and Responsibilities shall be accompanied by the following:
1. Request for genetic testing, copy of genetic test results, or confirmation that Affidavit Acknowledging Paternity has been filed and not rescinded,
 2. Completed UCCJEA affidavit,
 3. Completed IV-D Application for Child Support Services, and
 4. Appropriate praecipe for service.
- C. All Complaints to Establish the Allocation of Parental Rights and Responsibilities shall be accompanied by the following:
1. Copy of document(s) establishing parentage,
 2. Completed domestic violence questionnaire,
 3. Completed UCCJEA affidavit;
 4. Arrearage statement from the Child Support Enforcement Agency ("CSEA"), or
 5. Completed IV-D Application for Child Support Services, and
 6. Appropriate praecipe for service.
- D. All Motions to Modify the Allocation of Parental Rights and Responsibilities (i.e. change of custody or change in parenting time/visitation) shall be accompanied by the following:
1. Completed domestic violence questionnaire,
 2. Completed UCCJEA affidavit,
 3. Arrearage statement from the Child Support Enforcement Agency ("CSEA"), or
 4. Completed IV-D Application for Child Support Services, and
 5. Appropriate praecipe for service.

- E. All Complaints/Motions to Intervene and/or Custody/Visitation filed by third parties shall be accompanied by the following:
 - 1. Completed Domestic Violence Questionnaire,
 - 2. Completed UCCJEA affidavit,
 - 3. Completed home study packet,
 - 4. Completed IV-D Application for Child Support Services, and
 - 5. Appropriate praecipe for service.

 - F. All Motions to Modify Child Support shall be accompanied by the following:
 - 1. Arrearage statement from the Child Support Enforcement Agency (“CSEA”),
or
 - 2. Completed IV-D Application for Child Support Services, and
 - 3. Appropriate praecipe for service.

 - G. All Motions for Mistake of Fact hearing shall be accompanied by the following:
 - 1. Copy of the administrative order to which the petitioner is objecting, and
 - 2. Appropriate praecipe for service.

 - H. It shall be the duty of the attorney or filing party to file sufficient copies of the pleading, motion or judgment entry and accompanying documents so as to be served on all defendant(s)/respondent(s).

 - I. Failure of a party or attorney to correctly follow the aforementioned provisions may result in dismissal of the pleading, motion, or judgment entry.
- 4.3 Attorneys requesting interim orders shall prepare and submit proposed orders with their motion.
- 4.4 Consent judgment entries shall be prepared by counsel as directed by the Court, other than in delinquency cases, and shall be filed within thirty (30) days after the hearing, or as otherwise ordered/allowed by the presiding Judge or Magistrate.
- 4.5 Pursuant to O. Juv. R. 16(A) service by publication shall be made by posting and mailing. Upon the filing of an affidavit, the clerk shall cause service of notice to be made by posting in Lucas County Court of Common Pleas, Juvenile Division; Lucas County Court of Common Pleas, Domestic Relations Division; Lucas County Court of Common Pleas, General Division; Lucas County Children Services; and the Lucas County Corrections Center.

The notice shall be posted in the required locations in conspicuous place and manner for seven (7) consecutive days prior to the date of the hearing. The clerk shall also cause the summons and pleadings to be mailed by ordinary mail, address correction requested, to the last known address of the party to be served, and obtain a certificate of mailing from the United States Postal Service.

- 4.6 Deposit of Security for Costs and Filing Fees per ORC 2323.31 & 2323.311

No new or reactivated action or proceeding shall be accepted by the Clerk for filing without the appropriate Filing Fee. Upon termination of the matter, if costs remain unpaid, appropriate orders will be imposed to collect said costs. Except as otherwise provided by law, the filing fee shall be in accordance with the Administrative Judgment Entry attached as **Appendix A**, (Also available on our website and in the Clerk’s Office.)

Final judgment entries shall contain a provision for payment of costs as ordered by the

Court. The Clerk of the Court shall apply the deposit for the costs in the case, regardless of the party against whom the costs are assessed.

If the initiating party is unable to pay the filing fee as set forth in this rule, the party may file a **Motion to Waive the Filing Fee and/or Costs with Attached Affidavit** (available on our website, in the Clerk's Office and attached as **Appendix B**.) The Affidavit must be completed to the best of the Affiant's ability and will be filed along with the underlying action or proceeding. The **Motion to Waive the Filing Fee and/or Costs with Attached Affidavit** will be reviewed by the Judge or Duties Magistrate within 24-48 hours of filing and, if approved, the requesting party will be notified and the underlying action or proceeding will be set for hearing. If not approved, the requesting party will be notified and given thirty days (30) to pay the costs/filing fee, before the matter will be set for hearing. If not approved and no costs/filing fee is paid, the action or matter will be dismissed.

4.6.1 Costs and Filing Fees on Pleadings Subsequent to the Initial Pleading and Emergency and/or Ex Parte Hearing Requests – **New effective 10/1/2020**

A. Motions and Pleadings Filed with the Clerk Subsequent to the Initial Pleading.

a. Petitioner

- i. **No fee** shall be assessed on any filings, filed by a Petitioner, that are subsequent to the initial filing, prior to the initial matter having been resolved by the Court.
- ii. Answer – **No fee** shall be assessed to a Petitioner's answer to a counter or cross pleading.

b. Respondent

- i. Answer - **No fee** shall be assessed to a Party's filing of an answer in response to a pleading filed.
- ii. Counter or Cross pleading – **\$100.00 filing fee** shall be assessed on any counter or cross pleadings filed in response to an initial filings, except in delinquency, unruly, abuse, neglect, or dependency actions. If a party is unable to pay the filing fee, they may file a motion to waive the filing fee pursuant to 4.10.

1. Counter or Cross pleading is defined as a party's response to an initial motion or complaint that includes an application to the Court seeking to obtain a ruling, order, or direction that is substantially different than that which was requested in the initial motion or complaint and/or make new allegations against the initiating party.

- c. Filings Subsequent to the Initial and/or Counter or Cross filings – **No fee** shall be assessed, on any filings subsequent to the initial filing and the initial counter or cross filings, prior to the initial matter having been resolved by the Court.

B. Emergency and/or Ex Parte Hearing Requests

- a. For purposes of this rule, requests for Emergency and/or Ex Parte hearings will not be treated as subsequent filings. Any party filing a pleading requesting an Emergency and/or Ex Parte Hearing, regardless of whether it is filed at the time of the initial filing or subsequent to, shall pay the additional filing fee for such request, as outlined in **Appendix A**, unless otherwise waived by the Court.

4.7 Fax Filing and Notice and Service of Court-Generated Documents by Electronic Mail

A. Authorization: Fax Filing

The Juvenile Clerk shall maintain an independent telephone line and facsimile machine to allow members of the bar to file documents no longer than 10 pages in length with the Court, 24 hours a day, seven days a week, by following this rule. The number of the fax machine is 419-213-6933.

B. Fax filing and copies

Filing of documents subsequent to an original complaint and not requiring a filing fee, may be filed by fax copy with the Juvenile Clerk. Filings that have an associated filing fee will not be accepted for fax filing.

In accordance with Civ. R. 5(E), any signature on the fax filing shall be considered to be authentic. If it is established that any transmission was made without authority, the Court shall order the filing stricken.

The date and time of receipt of any faxed document shall be the date and time imprinted on the document by the facsimile machine receiving the transmission. Although faxes will be received 24 hours a day, seven days a week, any fax copy received by the clerk after 4:30 p.m. on a regular business day or on a weekend or holiday shall be considered filed on the next business day by the clerk.

If the Juvenile Clerk receives a document that cannot be accepted for fax filing, the attorney identified on the cover page will be notified of the reason for non-acceptance no later than the next business day.

C. Requirements

Any fax copy filed shall conform to the civil and criminal rules and shall be preceded in transmission by a cover page, which includes the following information:

- Caption of the case
- Case number
- Assigned Judge
- Description of the document being filed
- Attorney name, address, Ohio Supreme Court registration number, telephone, electronic mail address (if available), and fax number
- Date and time of fax initiation
- Transmitting fax number
- Number of pages, including the cover page, being transmitted

Any document requiring a signature shall either contain the signature on the source document at the time of fax transmission or be submitted without the signature but the notation “/s/” followed by the name of the signing person where the signature appears in the signed source document.

D. Fax Documents as Originals

The faxed document shall be considered the original. Additional originals of the documents shall not be filed with the Juvenile Clerk. The sending party must maintain possession of the source document and make it available for inspection

by the Court upon request.

E. Charges

If courtroom or service copies are needed for processing, the Juvenile Clerk may charge the standard page rate or \$.05 per page for all necessary copies. The Juvenile Clerk may charge \$1.00 for a certified copy of a document, in addition to the \$.05 per page copy charge. Attorney checks, cashier's checks, and cash are acceptable methods of payment.

F. Authorization: Notice and Service of Court-Generated Documents by Electronic Mail

The Juvenile Court may use electronic mail to transmit certain Court-generated documents to allow for more prompt and efficient delivery of Court services and cost savings. Whenever the Juvenile Court Clerk is required to send notice of entry of orders, judgments, decisions, or serve any other document by mail, the Juvenile Clerk may use electronic mail in accordance with the guidelines established by the Court.

G. Requirement of Notice and Service

Notice and service by electronic mail are complete, and the Juvenile Court Clerk shall have fully complied with the requirement of notice and service, upon transmission. If Juvenile Clerk is notified that the electronic mail transmission failed, the documents will be posted by regular U.S. mail.

The Juvenile Clerk shall note on the docket the date and time of notice or service of any document transmitted by electronic mail.

This local rule is not intended to conflict with Ohio rules regarding service of process.

H. Electronic Mail Addresses

1. All attorneys practicing before this Court shall provide the Juvenile Court Clerk with a business electronic mail address, if available, in the Notice of Appearance, in the first document filed with the Court, or at the first appearance before the Court within sixty (60) days of publication of this rule. All attorneys shall have a continuing duty to notify the Juvenile Court Clerk, in writing, of any subsequent changes in an electronic mail address. It is highly recommended that attorneys practicing before this Court establish a business electronic mail address.

2. Unrepresented parties and other participants before this Court who would agree to receive notice or service by electronic mail must provide the Juvenile Court Clerk with an electronic mail address.

3. Unrepresented parties and other participants without an electronic mail address, or individuals who do not agree to receive notice or service by electronic mail, will continue to receive notice and service of Court generated documents via regular U.S. mail.

I. Signatures

In accordance with Civ. R. 5(E), any signature on the electronically mailed document shall be considered authentic and shall be considered the signature of the individual it purports to represent.

- J. **Electronic Mail Documents as Originals**
The electronically mailed document shall be considered the original. The Court will maintain possession of the source document and make it available for inspection or copying upon request.
- K. **Charges**
If additional copies are needed of an electronically mailed document, the Juvenile Clerk may charge the standard rate or \$.05 per page for all necessary copies. The Juvenile Clerk may charge \$1.00 for a certified copy of a document, in addition to the \$.05 per page copy charge. Attorney checks, cashier's checks, and cash are acceptable methods of payment.
- L. **Confidentiality**
Any documents that may contain information covered by the Health Insurance Portability and Accountability Act will not be transmitted by electronic mail. The Court in its discretion will determine which documents shall not be transmitted by electronic mail.

4.8 Pursuant to Sup. R. 39, as amended through July 1, 2002, the Court hereby establishes the following plan for the management of cases filed in this division.

- A. The purpose of the case management plan is to ensure the readiness of cases for pre-trial and trial and to maintain and improve the timely disposition of cases. The plan is to be utilized in conjunction with Ohio Revised Code, the Rules of Juvenile Procedure, the Rules of Civil Procedure and the Rules of Criminal Procedure, where applicable.
- B. Time frames set forth in this plan are guidelines only; failure to follow such time frames in individual cases shall not affect the Court's jurisdiction or be grounds for dismissal.
 - 1. **Juvenile Traffic Cases**
 - a. Pre-trials shall be scheduled within fourteen (14) days of arraignment.
 - b. Trials shall be held within sixty (60) days of filing. Dispositions shall be held within ninety (90) days of filing.
 - 2. **Delinquency and Unruly Cases**
 - a. Detention hearings will be held within seventy-two (72) hours after admission to JDC or on the next business day, whichever is earlier (ORC 2151.314).
 - b. When detention is continued after the initial hearing:
 - I. Adjudication hearing will be scheduled
 - i. Ten (10) days from the filing of the complaint, if the complaint was not filed when the child entered detention (Juv. R. 29 (A)).
 - ii. Ten (10) days from the date detention began, if the complaint was filed on or before the detention date.
 - II. Relinquishment of jurisdiction hearings will be held not less than three (3) days nor more than ten (10) days from the date of the detention hearing.
 - III. If the child admits the charges or is found delinquent at trial, the Court may proceed to disposition or continue the matter

for completion of a social history and investigation; in such case, the disposition will be scheduled two (2) weeks after adjudication.

IV. Final disposition for a child in detention will be completed within ninety (90) days of the child's being taken into custody.

V. Continuances may be granted upon showing of good cause.

c. Child not in detention.

I. All felonies and runaways are official filings and are entered into the system within two (2) days.

II. All other case types, within ten (10) days of the complaint having been signed, will be screened by the intake officer to determine:

i. If it should be officially filed, or

ii. If it should be referred to the Court's Mediation Program or an appropriate community agency.

III. Arraignment will be held within thirty (30) days after the complaint is filed:

i. If the child admits, the Court will proceed to disposition or refer the matter to probation for a social history and investigation, in which case, disposition will be scheduled within four (4) weeks after adjudication.

ii. If the child denies, the matter will be set for pre-trial within thirty (30) days.

IV. Trials will be held within thirty (30) days after the pre-trial.

V. Continuances may be granted upon showing of good cause; however, continuances should be for no longer than the period necessary to resolve the good cause.

3. Parentage Cases

a. Summons shall issue within seventy-two (72) hours of the complaint having been filed and shall include a pre-trial date not later than 60 days from the date the complaint was filed.

b. At Pre-trial

I. If the defendant admits, the Court may proceed immediately to a determination of a support order.

II. If the allegations are denied, or the defendant fails to appear the Court may

i. Immediately schedule genetic tests to begin within fourteen (14) days, and

ii. Schedule the matter for trial.

c. If the genetic tests show:

I. Exclusion, the Court will dismiss at the next scheduled hearing;

II. Inclusion, and

i. Defendant admits, the Court may proceed immediately to determination of the support order; or if

ii. Defendant denies, the matter may proceed to trial that day or be scheduled for hearing within thirty (30) days.

- d. If service of summons is not made within one hundred and eighty (180) days from the date of issuance, the complaint shall be dismissed without prejudice on the court's own motion.
 - e. Continuances may be granted upon showing of good cause.
4. Allocation of Parental Rights and Responsibilities and Third Party Custody and Visitation Cases.
- a. If appropriate, cases will be initially referred to the Court's Mediation program prior to being placed on a preliminary hearing docket.
 - b. Summons shall issue within three (3) business days of filing, giving notice of preliminary hearing to be held within forty-five (45) days.
 - c. If matters are not resolved at the preliminary hearing, a trial will be held within thirty (30) days.
 - d. All parental rights and third party custody and visitation complaints will be resolved within one-hundred twenty (120) days of filing.
 - e. Continuances may be granted upon showing of good cause.
5. Dependency, Neglect and Abuse Cases
- a. When a child is removed from his home pursuant to an *ex parte* order, a hearing will be held the next business day or not later than seventy-two (72) hours after the child is placed in shelter care (ORC 2151.314).
 - b. When a private agency files a request for permanent custody based upon a permanent surrender, a hearing will be held within thirty (30) days of the filing of the complaint.
 - c. The adjudicatory hearing will be held within thirty (30) days of the filing of the complaint.
 - d. Disposition hearings shall be held within ninety (90) days of the filing of the complaint.
 - e. Continuances may be granted upon showing of good cause.

4.9 Parenting Plan and Companionship Schedule

The Court shall adopt and cause to be published, an Interim Parenting Schedule, a Parenting Plan and Companionship Schedule and a Long Distance Parenting Plan and Companionship Schedule. Copies of each schedule shall be made available through the office of the Clerk of the Juvenile Court.

Liberal parenting time is encouraged since contact with both parents is important to a child (ren)'s well-being. The schedules are guidelines for parenting time and

it is the responsibility of the parties to adjust the schedule to meet the best interest of their child (ren). The Court, or the parties, may deviate from the schedule if it is in the best interest of the child (ren).

4.10 Waiver, Suspension, Reduction, and Reinstatement of Filing Fees

A. Applicability.

1. Only a natural person is eligible for the waiver, suspension, or reduction of filing fees under this Local Rule.
2. For the purpose of this Local Rule, “filing fee” is defined as the dollar amount required to file complaints, motions, and judgment entries in the Juvenile Clerk of Court’s Office.

B. ***Motion to Waive the Filing Fee and/or Costs with Attached Affidavit.***

- a. Any party who, by reason of indigency, seeks relief from the payment of a filing fee shall file with the Court a ***Motion to Waive the Filing Fee and/or Costs with Attached Affidavit***, setting forth the facts and providing supporting documentation relied upon, to include employment-related financial information, federal income tax returns, documentation of public assistance, and any other financial information the Court may need. The ***Motion to Waive the Filing Fee and/or Costs with Attached Affidavit*** is available in the Juvenile Clerk of Court’s Office, on-line at our webpage or attached to the Local Rules as **Appendix B**. All financial information submitted by the party shall remain on record with the Court.
- b. The ***Motion to Waive the Filing Fee and/or Costs with Attached Affidavit*** may be filed with the Clerk’s Office and will be submitted to the Magistrate for review and approval. If approved, the underlying Complaint/Motion will be set for hearing and notice of hearing will be mailed.
- c. If the ***Motion to Waive the Filing Fee and/or Costs with Attached Affidavit*** is denied, the moving party will be notified by mail and given thirty (30) days to pay the appropriate filing fee. If the fee is not paid within the thirty (30) days, the underlying Complaint/Motion will be dismissed.

C. Reinstatement of Filing Fees and/or Costs.

- a. The Court, on its own motion, at any time, may make further inquiries on the record concerning an indigent party’s financial status. If the Judicial Officer determines that the facts or situation no longer supports a finding of indigency and a waiver, suspension, or reduction of a filing fee, the Court may enter an order requiring the filing party to pay any applicable filing fees and instruct the Juvenile Clerk of Court accordingly.
- b. When a party whose filing fee was waived, suspended, or reduced fails to appear for the initial hearing in the action, and the action is dismissed for that party’s failure to appear, the Judge or Magistrate may order the party to pay the appropriate filing fee if the party re-files the action within one (1) year of the original filing date, or as otherwise may be ordered by the Court.
- c. When a party whose filing fee was waived, suspended, or reduced subsequently retains private counsel in the pending action, the Judge or Magistrate may review the financial status of the party and determine whether the appropriate filing fee should be assessed.

- d. When the Court has reason to question whether a party whose filing fee was waived, suspended, or reduced has a financial situation different from the original situation warranting the deviation from the standard filing fee, the Judge or Magistrate may make further inquiries on the record as described herein and instruct the Juvenile Clerk of Court accordingly.

History: Effective August 1, 2004; Amended Effective August, 2008; Amended Effective February 1, 2020, Amended Effective October 1, 2020.