

LOCAL RULES OF DIVISIONS I, II AND III, JUVENILE COURT
FOR
MONTGOMERY COUNTY, TENNESSEE
(Effective August 10, 2023)

Preface

Pursuant to the authority vested in the Judges of the Juvenile Court for Montgomery County, Tennessee, by T.C.A. §37-1-101 et seq., and the Tennessee Rules of Juvenile Practice and Procedure, these rules shall govern the practice and procedure in the Juvenile Court of Montgomery County, Tennessee, Divisions II and III. These rules supersede all local rules adopted prior to March 1, 2023. Every person appearing in this Court is charged with the knowledge of these rules. The Magistrate or Judge will deviate from these local rules only in the exception cases where justice so requires.

Rule 1. Scope and Purpose

Juvenile Court shall be considered a closed court and matters and/or proceedings before the Juvenile Court shall likewise be considered private hearings except those cases where the public is allowed by statute and/or permitted under Tennessee Rules of the Supreme Court and the Tennessee Rules of Practice and Procedure. All Dependent and Neglected hearings shall be conducted in a closed courtroom.

Rule 2. Courtroom Decorum

There will be no smoking, eating, drinking, or chewing gum in the courtroom. Attorneys, Court attendants, and all persons will be appropriately dressed while in Court attendance. There shall be no revealing clothing, or pajamas allowed in the Courtroom, and all persons shall conform to the Courthouse rules for dress posted in the Courthouse. The Court officers have the authority to remove any person who is inappropriately dressed.

There will be no telephones, tablets, computers, or other electronic devices allowed in the courtroom unless such devices are silenced. Any such devices that disrupt Court proceedings are subject to seizure and confiscation, and any person who is in possession of such a device that disrupts Court proceedings may be held in contempt of Court and sanctioned accordingly. THERE IS NO RECORDING EITHER VIDEO OR AUDIO ALLOWED IN THE COURTROOMS.

Rule 3. Sessions and Office Hours

There shall be a session of Court daily, except on non-judicial days, which are Saturdays, Sundays, and holidays. Court hours are 8:00 a.m. to 4:30 p.m. Exceptions to this schedule may be authorized by the Judge or Magistrate.

Rule 4. Magistrates

Unless the Judge directs otherwise, a Magistrate may hear any case over which the Court has jurisdiction. Any ruling by a Magistrate on a preliminary matter is final and not reviewable by the Judge, except on the Court’s own motion. Pursuant to T.C.A. Sec. 37-1-107(d); a party may request a rehearing by a Juvenile Court Judge by filing a written request for rehearing with the Juvenile Court Clerk within ten (10) days of the date on which the Magistrate’s Order is stamped "FILED" by the Juvenile Court Clerk. T.C.A. Sec. 37-1-107(d)(1)(A). A prematurely filed request for rehearing shall be treated as if it were timely filed immediately after the entry of the Magistrate's Order. Unless the Judge orders otherwise, the ruling of the Magistrate shall be the decree of the Court pending a rehearing. T.C.A. Sec. 37-1-107(e).

Rule 5. Court Costs and Filing Fees

Costs for filing a pleading, service of process, and Court costs are to be established and assessed by the Juvenile Court Clerk. The schedule of fees shall be made available for inspection and copying upon request in the office of the Juvenile Court Clerk. Filing fees or costs may be waived for good cause upon the filing of an oath of indigency and other documents required by the court to determine indigent status. If the Court determines a party not to be indigent, the filing fee must be paid within 30 days of the determination of the indigent status, or the matter will be dismissed and costs will be assessed to the filing party.

Rule 6. Form of Pleadings

All pleadings filed or presented to the Court shall be on letter-sized (8 ½” x 11”) paper. An original pleading shall be filed in all causes and shall be accompanied by sufficient copies necessary for service upon the parties and sibling files. All pleadings, petitions, motions and orders received by the Clerk shall be stamped “Filed” with the date and time of filing.

ALL PLEADINGS IN A CUSTODY MATTER MUST HAVE THE CHILD(REN)’S NAME IN THE STYLE OF THE CASE AND IN THIS FORMAT:

IN RE: CHILD’S NAME (DOB: _____)
A CHILD UNDER THE AGE OF EIGHTEEN

Rule 7. Intake, Service of Process, Summons, Subpoenas, and other documents

(a) All process shall be delivered to the office of the Juvenile Court Clerk for service of process to be completed by any means reasonably sufficient to insure that the parties

have notice pursuant to the Tennessee Rules of Civil Procedure or other applicable statute.

(b) Unless the Court orders otherwise, every pleading or other document filed with the Court subsequent to the original Petition shall be served on all parties and shall contain a Certificate of Service. The Certificate of Service shall contain the date and manner of service and the names and locations of each person served.

(c) After service of process has been effectuated by personal service for an initial scheduling and the party has presented him/herself to the Court, subsequent notice may be made by mail or in open Court. All parties shall appear at all proceedings unless excused by the Judge or Magistrate or proper motion to appear via Webex or other electronic method.

(d) In delinquent/unruly cases, when a detention hearing is needed, the Petition(s) at issue must be filed with the Juvenile Court Clerk by 8:00 a.m. on the morning of the detention hearing. For non-detention hearings, the Petition(s) must be filed at least five (5) judicial days before the hearing.

(e) In Petitions on children 11 years and under and all felony petitions, the Clerk of the Juvenile Court shall refer all delinquent and unruly petitions to be sworn before a judge or magistrate. Summons and Subpoenas shall be issued by the Clerk's office.

Rule 8. Record of Proceedings

The Court will record all hearings which must, by law, be recorded. Audio recordings will be maintained by the Court. In the discretion of the Court, copies of audio recordings may be released to attorneys of record or court reporters for a fee assessed by the Juvenile Court Clerk. Any such party who desires to obtain a copy of a recording shall submit a written Motion and Order to the Court Clerk, setting forth the reasons supporting the party's need to review the recording. No recordings shall be released to the public or copied and transmitted *via* social media or the internet. This statement shall also be included in the Order.

Rule 9. Scheduling of Hearings and Continuances

(a) At any time prior to the trial date upon motion of any party or on its own motion, the Court may refer any appropriate case for mediation.

(b) Cases may be continued only by leave of the Court. Cases will not be continued except for good cause. All cases continued by leave of the Court will be by written Order stating the reason for the continuance, at whose instance, and the date of reassignment. Agreed continuances shall be by Order signed by counsel for all parties and shall specify a new hearing date. It is the responsibility of the party requesting the continuance to notify all other parties and witnesses under subpoena of the continuance and the reset date.

(c) No case shall be "continued indefinitely."

(d) Absence of a witness will not be grounds for a continuance unless the witness has been properly served with a subpoena in accordance with these rules and the Rules of Civil Procedure.

(e) When a case is set without objection to having it set, failure to have completed discovery, unavailability of counsel on the hearing date, inability to take depositions, or failure to have completed any other trial preparation will not be grounds for a continuance, except for good cause shown prior to the hearing date. In any case which is continued, the Court may award expenses and attorney's fees, including compensation to witnesses for lost income and/or travel expenses and tax the same as Court costs.

(f) All dispositional hearings shall occur immediately after the adjudication of a Petition unless the Court deems otherwise. The Court may, upon proper motion or on its own motion, set a later dispositional date.

(g) All cases in which the State has announced its intention to transfer the case to criminal court shall be set for a transfer hearing within sixty (60) days of the date on which the child is taken into custody or the Petition is filed, whichever is earlier. Counsel may petition and the Court for good cause may grant extensions in the time limit for the hearing. In reviewing such a request, the Court will consider the reason for the request, circumstances of the case, the well being of the child, and whether delaying a hearing on the case will affect other related cases in other courts. If a child is detained beyond the sixty (60) day time period, upon appropriate application to the Court by the attorney for the child, the Court will entertain a Motion to Set Bond.

Rule 10. Guardian *ad litem*

(a) The Court may appoint a Guardian *ad litem* either on its own motion or at the request of any party when the Court deems such an appointment to be appropriate pursuant to Supreme Court Rule 40.

(b) The Guardian ad Litem shall participate in hearings as an attorney and shall not provide a "report" to the Court and shall call witnesses as set out in Rule 40.

Rule 11. Motions

(a) Unless otherwise docketed, motions will be set by the Youth Service Officer or Clerk on a designated court day. Legal argument may be heard and agreements announced on the motion docket. Each side is allowed a maximum of fifteen (15) minutes to present all motions. Motions which cannot be heard within thirty (30) minutes shall not be set on a motion day without leave of the Court. Briefs and responses may be required at the discretion of the Judge or Magistrate.

(b) Motions shall be filed at least five (5) days prior to the hearing date thereon, unless all parties waive the five-day requirement or special approval from the Court is obtained prior to the filing.

(c) If attorneys are directed to prepare an Order, such Order must be filed within fifteen (15) judicial days of the hearing.

(d) In Delinquency Proceedings, the following issues must be raised via written motion prior to the trial or transfer hearing: motions to suppress evidence; request for discovery and inspections; and requests for a severance or consolidation of charges or defendants. Failure of a party to raise defenses or objections or to file motions required prior to trial shall constitute waiver thereof, but the Court for good cause may grant relief from the waiver.

Rule 12. Discovery

(a) Local Rule for Discovery - Non-Delinquent Cases: Parties shall act in good faith to share information without a formal request for discovery. The Court will, however, allow discovery upon motion by either party, being timely filed, and upon good cause shown. Discovery may then be allowed under such terms and conditions as the Court may prescribe.

Local Rule for Discovery - Delinquent Cases: In all delinquent proceedings where the complainant is the State, the attorney for the child, upon request, shall be given access to inspect and/or copy, or be informed of all matters in the possession or control of the State which would be discoverable in criminal court under the Rules of Criminal Procedure. To the extent possible, discovery shall be done informally.

Access to any type of psychological or psychosexual or all other matters involving a juvenile must be requested and approved by the Juvenile Court Judge.

Rule 13. Preliminary Hearings in Dependency/Neglect Proceedings

(a) Preliminary hearings in Dependency/Neglect proceedings shall be limited to one (1) hour. Each side will be allowed a maximum of thirty (30) minutes for opening, presentation of witnesses, cross-examination of adverse witnesses, and closing arguments in a preliminary hearing.

(b) It is unnecessary for the Court to hear more of the Plaintiff's proof than is necessary to establish probable cause, and the Court may terminate the hearing at any time that probable cause has been established and the Defendant(s) have been afforded the opportunity to cross-examine the witnesses called by the Plaintiff and to present defense proof reasonably tending to rebut probable cause.

Rule 14. When custody transfers are completed within the office:

- (1) All parties must be in agreement and cannot be married to each other or separated;
- (2) Custody transfers will only be done by appointment only. Please contact the office at **(931) 648-5700** to schedule the appointment;
- (3) If one party is unable to appear for the custody transfer you must obtain a notarized statement from that party stating that they are willing to transfer or receive the custody of the child. The notarized statement must have been

created in the last 6 months and be a true copy with the seal on the document. No faxed copies will be accepted;

- (4) There will be no same day custody transfers completed, unless approved by the Judge. If you come to the office without an appointment you will be given another date to return for an appointment;
- (5) The fee for agreed custody transfers is to be submitted on the date of the appointment or when filed by cash; money order or cashier's check.
- (6) There is no such provision in the Court for "emergency custody orders" nor shall there be any time limit provisions in any order.

Please note that if the parties are not in agreement they will need to seek private attorneys. If there are concerns of neglect and abuse in the home, the parties will be referred to the Department of Children's Services at (931) 503-3200 or the Clarksville Police Department at (931) 648-0656.

Rule 15. Mediation, Parenting Plans, and Parenting Classes

Parties shall be made aware that mediation services are available and may be ordered at the discretion of the Court in contested cases.

In all contested cases regarding the establishment of parenting plans, the Proposed Parenting Plan shall be submitted prior to the Court hearing and shall be incorporated by reference into any final Order. Additionally, the Court may order parents to complete parenting classes in any case, including Delinquent/Unruly cases.

Rule 16. Extraordinary Relief

Protective Custody Orders and Temporary Restraining Orders: Persons seeking a Protective Custody Order or Temporary Restraining Order shall first file a Petition with the Juvenile Court Clerk, and all Rules in the Tennessee Rules of Civil Procedure shall be strictly adhered.

The Court will then determine whether the matter is an emergency and should be considered immediately *ex parte* or whether all parties can be given notice and the opportunity to be heard. When the opposing party has counsel of record, the party seeking the *ex parte* Order shall endeavor to give counsel notice that he or she will be seeking an *ex parte* Order. Exceptions to this rule include situations where time is of the essence and the best interest or welfare of the child(ren) will be compromised if notice is given. Such notice as the circumstances permit shall be given. Where no notice is given and counsel for the opposing party is known, parties seeking an *ex parte* Order should present an affidavit showing why it was not possible to give notice.

Granting of Age Waiver for Marriage License: The Court may determine whether to grant judicial consent to the removal of the time and/or age requirement for the marriage license.

Request for Consent to Abortion: The Court may determine whether to grant judicial consent to abortion upon proper application consistent with the *Rules of the Supreme Court of the State of Tennessee*.

Handling of Criminal Injuries Compensation Awards for Minors:

When the Tennessee Claims Commission or the Division of Claims Administration turn over a criminal injury compensation awards to the Juvenile Court Clerk's Office, said money shall be accompanied by a Petition and Order directing the Clerk to establish an account for the minor child. The Petition shall state the child's name, social security number, and that the funds are a result of criminal injury compensation award, and the amount that is to be tendered into the Court. The Petition will also request that the funds be placed in an interest-bearing account for the benefit of the minor child. The Order shall contain the following provisions: the child's name; when the money came into the Court; the amount being tendered into the Court; that the same shall be placed in an interest-bearing account; that to encroach upon the funds, a motion must be filed setting forth the need for the funds.

Encroachment of the funds shall be allowed for any injury-related expenses specifically contemplated by the claims commission in granting the compensation award. A written estimate or other appropriate documentation of the specific amount requested should be attached to the motion.

The individuals shall either appear at the hearing on the motion or the custodian or individual petitioning the Court to encroach shall be placed under oath and shall testify as to the child's need. If the Court grants the motion, an Order shall be entered reflecting the date, the amount of the disbursement, and to whom the check(s) are to be made payable. In the event that the check is to be made payable to a health care provider or to the school or other appropriate person. The Juvenile Court Judge has the authority and discretion to order an accounting if necessary.

Rule 17. Orders and Decrees (Amended August 10, 2023)

(a) Unless otherwise directed, the prevailing party shall draw the Order and file the same within fifteen (15) judicial days of the hearing (excluding non-judicial days). All Orders must include a certificate of service to all parties.

(b) All Agreed Orders in which all parties and/or attorneys have approved, will be presented to the Judge for signature through the Clerk of the Court. The Order presented shall have signatures of all necessary parties (including attorneys, Guardian *ad Litem*, Solicitor *ad Litem*, etc.)

(c) If an Order is not agreed upon or the necessary signatures are not on the Order, then the attorney shall file the proposed order with the Clerk of the Court and the following procedure shall apply:

- There shall be a signature line for the non-signing attorney.
- The Order shall be stamped "received" and a copy returned to the party filing said order;
- This order shall held for 10 calendar days after the filing date and if there is no objection, the Judge may sign the Order;
- If no competing order has been filed by the opposing attorney, the appropriate Judge shall sign the order after 10 days.

- If within 10 days a competing order is filed, the Court shall consider both orders and sign the appropriate order or set a review of the matter to determine the appropriate order to sign.

In all parenting plans, the following statement must be included.

Finding of Best Interest

In every Order, the following must be present in the Order, including Agreed Orders:

Upon this Court's review of the Parenting Plan, the Court finds the Parenting Plan: (i) makes adequate and sufficient provisions for the custody and maintenance of the parties' minor child(ren), (ii) provides reasonable allocation of parenting time in accordance with Tenn. Code Ann. § 36-6-106(a), (iii) properly allocates parenting responsibility pursuant to Tenn. Code Ann. § 36-6-407, and (iv) is in the best interest of the parties' minor child(ren).

Rule 18. Delinquent Cases

(a) Detention of Juveniles. In cases alleging juvenile delinquency, no child shall be placed in Juvenile Detention unless an officer authorized by law effects a proper arrest. Reference is made to Rule 203, *Tennessee Rules of Juvenile Practice and Procedure*, for illustration of the proper procedure in this regard.

(b) Detention Hearings. When conducting detention hearings pursuant to *Tennessee Rules of Juvenile Procedure*, it is unnecessary for the Court to hear more of the State's proof than is necessary to establish probable cause, and the Court may terminate the hearing at any time that probable cause has been established and the Defendant(s) have been afforded the opportunity to cross-examine the witnesses called by the State and to present defense proof reasonably tending to rebut probable cause. Upon prior request, the Juvenile who is already detained may appear via Webex.

Rule 19. Unruly Cases

In cases alleging unruly behavior based upon a child's habitual disobedience of his/her parent(s), guardian, or custodian, it is necessary for the Petitioner to prove that the child "habitually is disobedient of the reasonable and lawful commands of the child's parent(s), guardian, or other legal custodian **to the degree that such child's health and safety are endangered.**" See T.C.A. Sec. 37-1-102(a)(23)(ii) (Emphasis Added).

Rule 20. Informal Adjustment

An Informal Adjustment may be granted on a case by case basis to a child who has not had any prior criminal conviction for any criminal offense. Informal Adjustment may be granted at the request of the Attorney, Youth Service Officer and/or the Juvenile Court Judge. If Informal Adjustment is granted the child and his/her

parents must enter into a contract with the Juvenile Court setting forth the guidelines of the Informal Adjustment.

Rule 21. Diversions

Pursuant to Rule 202 and 209 of the Tennessee Rules of Juvenile Practice and Procedures, Pre-Trial Diversion or Post Trial Diversion in Delinquent and Unruly cases may be granted upon motion by Defendant; a parent or custodian; a Youth Service Officer or the Court on its own Motion. Upon court approval of the motion for Diversion the child and custodian shall enter into a contract setting forth the conditions of the Diversion.

Rule 22. Surrenders

All surrenders shall be type written on the forms provided by Tennessee Code Annotated. Further, all surrender documents shall be provided at least 24 hours in advance to the Clerk of the Court. Any surrender shall be scheduled with the Clerk of the Court in accordance with the Judge's calendar. All home studies shall be provided at least 24 hours in advance of the scheduled surrender hearing unless specifically waived by the Court.

All surrenders must be accompanied by a Motion and Order of Guardianship.

Any request for an electronic surrender as provided by Tenn. Code Annotated, shall be at the discretion of the Judge as to whether or not they accept a surrender in that manner.

Rule 23. Waivers or Modification of Rules

Any of the rules herein enacted may be waived or modified by special Order of the Court when in the Court's opinion such waiver or modification is necessary in order to protect the child(ren's) best interests, to do justice, or to arrive at the equities of the case between or among the parties involved.

Rule 24. Appearance via Webex or Other Electronic Means

In any case, where the Attorney intends to utilize Webex or any other electronic means for the testimony or appearance of a party or witness, must have prior permission by filing a motion for appearance via Webex or other Electronic Means at least 5 days prior to the hearing.

In final custody hearings, the preferred method of testifying is in person due to the credibility factor in custody determinations. The discretion for this requirement is with the Judge for extraordinary circumstances.

Rule 25. Use of Webex Board for introduction of exhibits or proof.

Any person who intends to utilize the Webex Board shall prepare the exhibits in advance of the hearing and be prepared to operate the board themselves. The Court

staff are not available to assist the parties and/or attorneys. Final Hearings regarding the custody of minor children, is not the preferred method of appearance. If you are requesting that a party is attending via Webex, this must be made in writing by motion and set on the Motion docket at least 10 days prior to the hearing, or for good cause the Judge may allow attendance without a Motion and hearing.

Rule 26. Motions for Media Presence in Courtroom

Any request for media coverage by any person, agency or entity, must be made in writing at least 24 hours in advance of the hearing. The Judge has the final authority regarding the presence or absence of media. There shall be no media allowed in any dependency and neglect cases.

Rule 27. Setting of Cases.

All cases shall be set through the Clerk’s office and if a case has been heard by one division, the case shall remain with that division absent an agreement by the Court.


Rule 28. Pro Se Litigants

Persons filing Petitions for Custody or other actions shall be held to the same standard as the attorneys if they choose to represent themselves. Service shall be accomplished as with all other filings.

These Local Rules of the Juvenile Court of Montgomery County, Tennessee, are hereby adopted and entered on the minutes of the Court on this the 16th day of August, 2023.



**Sharon Massey Grimes, Division III
Juvenile Court Judge**



**H. Reid Poland III, Division II
Juvenile Court Judge**



**Kenneth R. Goble, Jr., Division I
Juvenile Court Judge**