

# RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

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## **PREFACE**

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

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

**RULE 1. Applicability; Authority; Citation.**

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

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

(C) **Citation.** These rules shall be known as the Rules of Superintendence for the Courts of Ohio and shall be cited as “Sup. R. \_\_.”

**Commentary (July 1, 1997)**

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

**RULE 2. Definitions.**

As used in these rules:

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

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

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

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

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

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

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

**Commentary (July 1, 1997)**

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

**RULE 3. Presiding Judge.**

**(A) Selection and term.** (1) The judges of each multi-judge court, by a majority vote of the judges of the court, shall elect a presiding judge from the judges of the court. If the judges are unable because of equal division of the vote to elect a presiding judge, the judge having the longest total service on the court shall serve as presiding judge for one term. If two or more judges have equal periods of service on the court, the presiding judge shall be determined by lot from the judges with equal periods of service. In the event of a continued failure to elect a presiding judge, the judges of the court shall rotate the position based on the order of seniority as determined by the total length of service on the court.

(2) The term of the presiding judge shall be one year beginning on the first day of January. A presiding judge may be elected to consecutive terms and may serve as administrative judge pursuant to Sup. R. 4. The presiding judge shall notify the administrative director of the Supreme Court of his or her election by the fifteenth day of January.

(3) In courts consisting of one judge, the judge shall be the presiding judge.

**(B) Powers and duties.** In addition to the duties set forth in the Revised Code that do not conflict with the duties of the administrative judge set forth in Sup. R. 4, the presiding judge of the court shall do all of the following:

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

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

**Commentary (July 1, 1997)**

The rule consolidates into a single rule several existing statutory and rule provisions relating to selection and authority of the presiding judge. Each court is responsible for selecting an presiding judge who has the authority set forth in the rule and authority granted to the presiding judge by statute. With regard to the specific statutory authority of the presiding judge, see R.C. 1901.15 and 2501.20.

**RULE 4. Administrative Judge.**

**(A) Selection and term.** (1) In each court of appeals, each multi-judge municipal and county court, and each multi-judge division of the court of common pleas, the judges of the court or division, by a majority vote of the judges of the court or division, shall elect an administrative judge from the judges of the court or division. If the judges of a court or division are unable to elect an administrative judge, the judge of the court or division having the longest total service on the court or division shall serve as administrative judge for one term. If two or more judges have equal periods of service on the court or division, the administrative judge shall be determined by lot from the judges with equal periods of service. In the event of a continued failure to elect an administrative judge, the judges of the court or division shall rotate the position based on the order of seniority as determined by the total length of service on the court or division.

(2) The term of the administrative judge shall be one year beginning on the first day of January. An administrative judge may be elected to consecutive terms and also may serve as presiding judge pursuant to Sup. R. 3. The administrative judge shall notify the administrative director of the Supreme Court of his or her election by the fifteenth day of January.

(3) In courts or divisions consisting of one judge, the judge shall be the administrative judge.

**(B) Powers and duties.** The administrative judge shall have full responsibility and control over the administration, docket, and calendar of the court or division and shall be responsible to the Chief Justice of the Supreme Court in the discharge of the administrative judge's duties, for the observance of these rules, and for the termination of all cases in the court or division without undue delay and in accordance with the time guidelines set forth in Sup. R. 39. The actions of the administrative judge may be modified or vacated by a majority of the judges of the court or division. The administrative judge shall do all of the following:

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

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

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

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

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

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

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

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

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

**(C) Relief from case or trial duties.** By local rule of the court or division, the administrative judge may be relieved of a portion of his or her case or trial duties to manage the calendar and docket of the court or division.

#### **Commentary (July 1, 1997)**

The rule consolidates into a single rule several existing statutory and rule provisions relating to selection and authority of the administrative judge. Each court or division is responsible for selecting an administrative judge who is responsible for all aspects of the daily operation of the court or division and for compliance with the Rules of Superintendence.

**RULE 5. Local Rules.**

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

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

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

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

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

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

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

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

## **Commentary (July 1, 1997)**

This rule consolidates several former provisions relating to the adoption of local rules of court. Division (A)(1) recognizes the rule-making authority granted to local courts by Article IV, Section 5(B) of the Ohio Constitution. Division (A)(2) incorporates provisions of the rules of practice and procedure adopted by the Supreme Court that mandate notice and an opportunity to comment prior to the adoption of local rules of court. See the following rules and accompanying 1994 staff notes: Rule 83(B) of the Ohio Rules of Civil Procedure; Rule 57(A)(2) of the Ohio Rules of Criminal Procedure; Rule 45(A) of the Ohio Rules of Juvenile Procedure; and Rule 31(B) of the Ohio Rules of Appellate Procedure.

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

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

### **Court Security Plans**

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

**RULE 6. Attorney or Pro Hac Vice Registration Number.**

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

**Commentary (July 1, 1997)**

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

**RULE 6.01. Appearance Pro Hac Vice.**

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

**RULE 7. Filing of Judgment Entries.**

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

**Commentary**

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

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

**RULE 8. Court Appointments.**

(A) As used in this rule:

(1) “Appointment” means the selection by a court of any person or entity designated pursuant to constitutional or statutory authority, rule of court, or the inherent authority of the court to represent, act on behalf or in the interests of another, or perform any services in a court proceeding.

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

(B) Each court or division of a court shall adopt a local rule of court governing appointments made by the court or division. The local rule shall include all of the following:

(1) A procedure for selecting appointees from a list maintained by the court or division of persons qualified to serve in the capacity designated by the court or division. The procedure shall ensure an equitable distribution of appointments among all persons on the appointment list. the court may consider the skill and expertise of the appointee in the designated area of the appointment and the management by the appointee of his or her current caseload. The court or division may maintain separate lists for different types of appointments.

(2) A procedure by which all appointments made by the court or division are reviewed periodically to ensure the equitable distribution of appointments among persons on each list maintained by the court or division.

(3) The manner of compensation and rate at which persons appointed will be compensated for services provided as a result of the appointment, including, if applicable, a fee schedule.

(C) The local rule required by division (B) of this rule may include qualifications established by the court or division for inclusion on the appointment list, the process by which persons are added to or removed from the appointment list, and other provisions considered appropriate by the court or division.

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

### **Commentary (July 1, 1997)**

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

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

Division (D) requires that a notice of appointment and regular fee and expense statements be provided to a party or other person who is required to pay all or a portion of an appointee's fees. This requirement may be satisfied with service upon counsel of record as provided in the applicable rules of procedure. If a criminal defendant is required, as a condition of probation, to repay all or part of the costs of indigent defense, notice under this division is not required.

The rule does not apply to the appointment of "acting judges" pursuant to R.C. 1901.10, 1901.12, or 1907.14 or to the appointment of attorneys pursuant to a contractual arrangement, such as with a multi-county public defender program.

**Sup. R. 9. Court Security Plans.**

**(A) Court Security Plan**

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

**(B) Public Access**

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

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

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

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

**Commentary (July 1, 1997)**

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

**Commentary (March 1, 2000)**

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

**FORM 10-A: PROTECTION ORDER NOTICE TO NCIC**

(Required fields appear in bold print)

Initial NCIC Form

Modification of Previous Form

\_\_\_\_\_ of \_\_\_\_\_ Pages

**SUBJECT NAME**

\_\_\_\_\_  
(LAST) (FIRST) (M.I.)

**ADDRESS**

\_\_\_\_\_  
(STREET) (CITY) (STATE) (ZIP)

**PHYSICAL DESCRIPTION:**

HGT \_\_\_\_\_ WGT \_\_\_\_\_ HAIR \_\_\_\_\_ EYES \_\_\_\_\_ RACE \_\_\_\_\_ SEX \_\_\_\_\_

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

- 1. SSN \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ 2. DOB \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_
- 3.\* DRIVER'S LIC. NO. \_\_\_\_\_ STATE \_\_\_\_\_ EXPIRATION YR. \_\_\_\_\_
- 4.\* VEHICLE LIC. NO. \_\_\_\_\_ STATE \_\_\_\_\_ EXPIRATION YR. \_\_\_\_\_ LIC. TYPE \_\_\_\_\_

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

**BRADY DISQUALIFIERS:**

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

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

**CASE / ORDER NO.** \_\_\_\_\_ (15 DIGIT MAXIMUM)

**COURT ORIGINATING AGENCY IDENTIFIER** \_\_\_\_\_ (9 DIGIT ORI ASSIGNED BY NCIC)

- R.C. 2903.213  R.C. 2903.214  R.C. 2151.34 NAME OF JUDGE \_\_\_\_\_
- R.C. 2919.26  R.C. 3113.31

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

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

- 01 The subject is restrained from assaulting, threatening, abusing, harassing, following, interfering, or stalking the protected person and/or the child(ren) of the protected person.
- 02 The subject shall not threaten a member of the protected person's family or household.
- 03 The protected person is granted exclusive possession of the residence or household.
- 04 The subject is required to stay away from the residence, property, school, or place of employment of the protected person or other family or household member.
- 05 The subject is restrained from making any communication with the protected person, including but not limited to, personal, written, or telephone contact, or their employer, employees, or fellow workers, or others with whom the communication would be likely to cause annoyance or alarm the victim.
- 06 The subject has visitation or custody rights of the children named in this Order.
- 07 The subject is prohibited from possessing and/or purchasing a firearm or other weapon.
- 08 See the Miscellaneous Field for comments regarding the specific terms and conditions of this Order.

Miscellaneous comments: \_\_\_\_\_

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

**LIST ALL PROTECTED PERSONS** (Total of 9 allowed, may attach additional forms; SSN is NOT necessary if DOB is given):

**PROTECTED PERSON**

\_\_\_\_\_  
(LAST) (FIRST) (M.I.)  
DOB \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ SSN \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ RACE \_\_\_\_\_ SEX \_\_\_\_\_

**PROTECTED PERSON**

\_\_\_\_\_  
(LAST) (FIRST) (M.I.)  
DOB \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ SSN \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ RACE \_\_\_\_\_ SEX \_\_\_\_\_

**PROTECTED PERSON**

\_\_\_\_\_  
(LAST) (FIRST) (M.I.)  
DOB \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ SSN \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ RACE \_\_\_\_\_ SEX \_\_\_\_\_

**Authorized by (signature):** \_\_\_\_\_ **Date** \_\_\_\_\_

Judge/Magistrate (circle one)

OHP  
DATA  
ONLY  
#EPO

MIS/

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

These instructions are intended to assist the court in the proper completion of Form 10-A, Protection Notice to NCIC, in compliance with requirements of Ohio and federal law. Thorough and accurate completion of Form 10-A is critical, as this form is the sole method used to enter the terms and conditions of the protection orders issued by the court into the computerized index of criminal justice information maintained by the National Crime Information Center ("NCIC"). Inaccurate or inconsistent information in Form 10-A will result in delay in entering the protection order into the NCIC index and enforcing the order. Form 10-A must be completed each time the court approves, issues, modifies, renews, or terminates a protection order or consent agreement, regardless of whether it is an *ex parte* or full hearing order.

### ELEMENTS OF FORM 10-A

- (A) The required fields in Form 10-A appear in **BOLD**.
- (B) Form 10-A is the primary method used to inform law enforcement of the terms and conditions of the protection order. The court should be cautious to mark the appropriate box in the upper right corner of the form. The court must check the box next to "Initial NCIC Form" anytime the court is issuing a protection order out of the same set of facts for the first time, i.e., an *ex parte* order or a full hearing order where an *ex parte* order was not issued. The court must check the box next to "Modification of Previous NCIC" anytime the court has already issued a protection order arising out of the same facts and is now modifying or terminating the order or is making a clerical or orthographical correction to the form.
- (C) **SUBJECT'S NAME, RACE, & SEX.** The subject's full name, including first and last name, race and sex, are mandatory identifiers that the court must provide to have the form accepted by NCIC. The other identifiers under physical description, i.e., height ("HGT"), weight ("WGT"), hair, and eyes, are not mandatory, yet they are helpful information to ensure the correct person is identified if a violation of the order occurs. Similarly, the address is not mandatory information.
- (D) **NUMERICAL IDENTIFIER.** The FBI requires the court to provide certain numerical identifiers to properly identify the person subject to the protection order. While completion of all the numerical identifiers is very useful, the FBI mandates that only **one** of the following numerical identifiers be entered to have the form accepted by NCIC:
1. SOCIAL SECURITY NUMBER ("SSN");
  2. DATE OF BIRTH ("DOB");
  3. DRIVER'S LICENSE NUMBER ("DRIVER'S LIC. NO."): In the instance the driver's license number is to be provided, the state that issued the driver's license and the expiration date of the driver's license must also be included for this entry to be accepted by NCIC;
  4. VEHICLE LICENSE NUMBER ("VEHICLE LIC. NO."): In the instance the vehicle's license plate is to be provided, the state that issued the license plate and the expiration date of the license plate must also be included for this entry to be accepted by NCIC.
- (E) **BRADY DISQUALIFIERS.** Federal law makes it illegal for certain persons subject to a protection order to purchase or possess a firearm, including a rifle, pistol or revolver, or ammunition. This section guides the court in properly identifying those persons subject to a protection order that are also Brady disqualified. An affirmative response to all three questions on Form 10-A results in disqualifying the person subject to a protection order from purchasing or possessing firearms pursuant to 18 U.S.C. 922(g)(8).

Generally, a person subject to a protection order is Brady disqualified under 18 U.S.C. 922(g)(8) when the protected party is a spouse, former spouse, person living or who lived as a spouse, a child of the person subject to the protection order or a child of a spouse, former spouse, or person living or who lived as a spouse. The court must afford the person

subject to the protection order an opportunity to be heard and, after evaluating all the evidence, find that the person subject to the order poses a credible threat of harm to the protected party.

- (F) **CASE/ORDER NO.** The case/order number of the protection order is a required element. It is particularly relevant when the court modifies, renews, or terminates a protection order. Law enforcement and NCIC will use the case/order number to cross-reference the appropriate order. In addition, law enforcement also uses this information to verify the currency of an order.
- (G) **COURT ORIGINATING AGENCY IDENTIFIER.** To accept a Form 10-A entry into the federal protection order database, NCIC mandates the court issuing the protection order to include its agency identifier. The agency identifier is a unique nine digit alphabetic and/or numeric series issued by the FBI that easily allows identification of the court issuing the order. Although the "Name of Judge" is not a mandatory field, it is prudent to include the name of the judicial officer issuing the protection order. Similarly, NCIC does not require a court to indicate under which Revised Code section the order is being issued. However, this information is useful for law enforcement to quickly determine the relationship between the parties and determine how to assess risk if the order is violated.
- (H) **DATE OF ORDER AND EXPIRATION OF ORDER.** The court must note on the form the date the protection order was issued and the date when it will expire. The protection order database will automatically purge the orders on their expiration date. If a protection order is terminated before the original expiration, it is critical the court explicitly indicate on Form 10-A the new expiration date to allow proper removal of the order from the database.
- (I) **TERMS AND CONDITIONS OF ORDER.** The court must check every box that corresponds to all provisions of the protection order as ordered by the court. Note the numbering next to each term and condition in Form 10-A does not correspond to the sequence of the remedies listed in the protection orders. However, the remedies in the protection order forms cross-reference, by number, the terms and conditions listed in Form 10-A.

The court should submit a modified Form 10-A to the appropriate law enforcement reporting agency in every instance that any court order, i.e., divorce decree or custody order, results in the modification of a term or a protected party in a protection order.

- (J) **LIST ALL PROTECTED PERSONS.** The court must provide the full name and date of birth for all persons who are protected by the protection order. The protected person's social security number, race, and gender are not required entry in Form 10-A.
- (K) **AUTHORIZED SIGNATURE.** The judge or magistrate who issued the protection order must sign and date Form 10-A.

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

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

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

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

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

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

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

### **Commentary (January 1, 1998)**

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

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

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

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

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

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

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

## DEFINITIONS YOU NEED TO KNOW

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

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

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

### IN A CIVIL DOMESTIC VIOLENCE CASE:

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

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

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

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

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

### IN A CRIMINAL DOMESTIC VIOLENCE CASE:

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

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

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

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

**FEES**

UNDER FEDERAL AND STATE LAW YOU CANNOT BE CHARGED ANY COSTS OR FEES FOR OBTAINING A PROTECTION ORDER.

**CIVIL PROTECTION ORDERS**

**What is a Domestic Violence Civil Protection Order (“CPO”)?**

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

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

**Why get a Domestic Violence Civil Protection Order?**

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

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

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

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

**Who can get a Domestic Violence Civil Protection Order?**

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

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

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

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

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

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

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

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

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

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

**Full Hearing:** The full hearing is the final hearing.

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

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

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

**DOMESTIC VIOLENCE CRIMINAL TEMPORARY PROTECTION ORDERS**

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

**RESOURCES**

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

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

- |  |  |
|--|--|
| Ohio Domestic Violence Network                             | <a href="http://www.odvn.org">www.odvn.org</a>                       |
| Ohio State Legal Services Association's DV Resource Center | <a href="http://www.ohiodvresources.org">www.ohiodvresources.org</a> |
| National Resource Center on Domestic Violence              | <a href="http://www.nrcdv.org">www.nrcdv.org</a>                     |

**PLEASE NOTE:** Computer use can be monitored. It is impossible to completely clear all website footprints. If you are in danger, please use a safer computer that your abuser cannot access directly or remotely. For example, computers at a public library, internet café, domestic violence shelter, or community technology center, which can be found through [www.ctcnet.org](http://www.ctcnet.org), would be safer computers.

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

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

### FORMS TO FILL OUT FOR A DOMESTIC VIOLENCE CPO

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

1. Petition for Domestic Violence Civil Protection Order, Form 10.01-D.
2. Domestic Violence Civil Protection Order *Ex Parte*, Form 10.01-H.
3. If you are requesting temporary custody of a child, Information for Parenting Proceeding Affidavit, Form 10.01-F.
4. If you request financial support, you might need to fill out additional forms that the Clerk of Court’s office will provide you.

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

### FILING THE PETITION FOR A DOMESTIC VIOLENCE CPO FORM

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

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

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

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

### VICTIM ADVOCATE

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

### ATTENDING THE *EX PARTE* COURT HEARING

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

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

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

1. Order the Respondent to stay away from you;
2. Order the Respondent to be removed from your home;
3. Order the Respondent to get counseling;
4. Award you custody of any children;
5. Order the Respondent to have visitation only under conditions that will keep you and the children safe;
6. Order the Respondent to pay you child support and/or spousal support (alimony);
7. Order the Respondent to be prohibited from having any weapons;
8. Award you possession of a car for your use;
9. Award you possession of your personal property and the children’s personal property.

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

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

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

### YOU MUST ATTEND THE FULL HEARING

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

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

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

After the hearing, if the judge or magistrate decides you are entitled to a CPO, the Court issues a new CPO called a “Domestic Violence Civil Protection Order ‘CPO’ Full Hearing.” This CPO is usually more detailed than the *Ex Parte* CPO issued after the first hearing. The judge or magistrate could also deny your Petition for a CPO if the Court decides you are not entitled to a CPO. The law does not allow the Court to issue a protection order against you, unless the Respondent has filed a separate action against you.

At the full hearing, you and the Respondent can decide to enter into a Consent Agreement instead of having a hearing in front of the judge or magistrate. If you decide to enter into a Consent Agreement, give the judge or magistrate the Consent Agreement and Domestic Violence Civil Protection Order Form 10.01-J contained in the “How to Get a Domestic Violence Protection Order” packet. The Court should also have a Consent Agreement and Domestic Violence Civil Protection Order form available.

### ENFORCING YOUR CPO

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

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

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

### CRIMINAL COURT

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

Tell the domestic relations division of the Court about any pending criminal cases. Tell the criminal court about any pending domestic relations division of the Court cases.

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

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

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

## SOME HINTS BEFORE YOU BEGIN

- All forms must be typed or printed.
- When you write your name on the Petition, use the same name you use when you write your signature.
- Write your name and Respondent's name the same way throughout the Petition.
- Fill out the Petition as completely and accurately as possible.
- If you have any questions about completing the Petition, ask the Clerk of Court's office for assistance or contact your local victim assistance program, domestic violence program, or the Ohio Domestic Violence Network at 800-934-9840.
- Under federal and state law you **cannot be charged any fees** to obtain a protection order.

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

- On the front page, leave the "Case No." line and "Judge" lines BLANK.** The Clerk of Court's office fills in this information.
- On the top left-hand side of the front page, fill in the requested information about yourself.** If you do not want your present address to be known, write "confidential" in the space for your address. Do not write your address anywhere on the Petition if you want it to be confidential. However, you must include someone's mailing address on the Petition to allow the Court to send you legal notices concerning your case.
- On the top left-hand side of the front page, fill in the requested information about Respondent as best you can.** You may use Respondent's work address if you do not know Respondent's home address. If you do not know Respondent's date of birth, leave that line blank. Do not attempt to obtain this information unless it is safe to do so.
- Paragraph 1:** If you are filing the Petition to protect yourself, mark the first box and the box that describes your relationship to Respondent.
- Paragraph 2:** If you are filing the Petition to protect a family or household member, mark the box and fill in their name(s) and the other information requested in the chart. You may attach additional pages if you need more room.
- Paragraph 3:** State the date(s) of the incident(s) that caused you to file the Petition. Provide a brief description of what happened. You may attach additional pages if you need more room to complete your description. You may attach an affidavit instead of or in addition to the written description.
- Paragraph 4:** Indicate what action you want the Court to take by marking the boxes next to the numbered paragraphs that apply to your situation.
- Paragraph 4(b):** Provide the address of the residence that you want Respondent to stay away from. If you do not want your present address known, write "address confidential." Do not write your address anywhere on the Petition if you want it to be confidential.
- Paragraphs 4(d) and (e):** If you want temporary custody of your minor children or want the Court to establish temporary visitation rights, list the names and birth dates of the children. If you have children whose custody or visitation will be at issue in this domestic violence case, you must also complete and file a Parenting Proceeding Affidavit, Form 10.01-F. There is a separate form and instructions for the Parenting Proceeding Affidavit, Form 10.01-E and Form 10.01-F.
- Paragraph 4(i):** If you want the Court to grant you use of a motor vehicle, describe that vehicle.
- Paragraph 4(j):** Write any special court orders you believe would help ensure you and your family or household members' safety and protection.
- Paragraph 5:** If you need an emergency ("*ex parte*") protection order mark the box next to Paragraph 5.
- Paragraph 9:** List ALL present court cases and pertinent past court cases or investigations that involve you or a household member that may be related to you, your children, your family, or household members. This list should include all civil, criminal, divorce, juvenile, custody, visitation, and bankruptcy cases. Write the case name, the court, the case number, if known, the type of case, and the result of the case. If the case is not over, write "pending." You may attach additional pages if you need more room.

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

**FILING THE PETITION:** After you have your signature notarized, file your Petition at the Clerk of Court's office. The Clerk of Court's office will tell you when and where your *ex parte* hearing will take place. **There is no filing fee for a Petition for a CPO.**

IN THE \_\_\_\_\_ COURT  
 \_\_\_\_\_ COUNTY, OHIO

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

v. :

**Notice to Petitioner:** Throughout this form, check every  that applies.

\_\_\_\_\_  
**Respondent** :  
 \_\_\_\_\_  
 Address : DO NOT WRITE YOUR ADDRESS ON THIS FORM IF YOU  
 \_\_\_\_\_  
 City, State, Zip Code : **ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE**  
 \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ : **AN ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM**  
 \_\_\_\_\_  
 : **THE COURT.**

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

- |  |   |
|--|---|
| <input type="checkbox"/> Spouse of Respondent  | <input type="checkbox"/> Child of Respondent  |
| <input type="checkbox"/> Former spouse of Respondent   | <input type="checkbox"/> Parent of Respondent   |
| <input type="checkbox"/> The natural parent of Respondent's child  | <input type="checkbox"/> Foster Parent  |
| <input type="checkbox"/> Other relative (by blood or marriage) of Respondent/ Petitioner who has lived with Respondent at any time | <input type="checkbox"/> Person "living as a spouse of Respondent" defined as:  |
|  | <ul style="list-style-type: none"> <li>• now cohabiting;</li> <li>• or cohabited within five years before the alleged act of domestic violence</li> </ul> |

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

NAME	DATE OF BIRTH	HOW RELATED TO		RESIDES WITH
		PETITIONER	RESPONDENT	

3. Respondent has engaged in the following act(s) of domestic violence (describe the acts as fully as possible, add additional pages if necessary): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

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

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

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

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

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

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

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

(h) Requires Respondent to refrain from entering, approaching, or contacting (including contact by telephone, fax, e-mail, and voice mail) the residence, school, business, and place of employment of Petitioner and the family or household members named in this Petition.

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

(j) Includes the following additional provisions: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

- 8. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.
- 9. Petitioner lists here all present court cases and pertinent past court cases (including civil, criminal, divorce, juvenile, custody, visitation, and bankruptcy cases) that relate to the Respondent, you, your children, your family, or your household members:

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

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

Sworn to and subscribed before me on this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_

**SIGNATURE OF PETITIONER**

**DO NOT WRITE YOUR ADDRESS BELOW IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE AN ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.**

\_\_\_\_\_  
**NOTARY PUBLIC**

\_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney for Petitioner (if applicable)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_  
Attorney Registration Number

\_\_\_\_\_

\_\_\_\_\_  
Phone Number

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

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

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

- Print or type only.** Attach an additional page to the Affidavit for your answers if you need more room.
  - At the top of the front page, fill in the names.** YOU are the "Petitioner." The person you want protection from is the "Respondent." Leave the Case No. and Judge lines blank for the Clerk of Court to complete.
  - First Paragraph.** Fill in your legal name in the blank line.
  - Paragraph 1:** Check this box if you wish your current address to remain confidential.
  - Paragraph 2:** On the blank line fill in the number of children that are subject to this court case. For each table at the top write in the child's name, place of birth, date of birth, sex, and address unless confidential. As you write on each line going across the table start with the length of time, the address unless confidential, the adult the child lived with at that time, and the relationship of that adult to the child. There are three tables. If you have more than three children that are subject to this court case, attach additional pages containing the requested information for each of those additional children.
  - Paragraph 3:** Mark the box showing whether or not you have participated as party, witness, or in any capacity concerning any civil or criminal case regarding custody or visitation of any of the children that are subject to this court case. If you have been involved in such a case fill in the details requested in lines a, b, c, and d.
  - Paragraph 4:** Mark the box showing whether or not you have any information concerning any case that could affect the current case including any case relating to custody, domestic violence and or protection orders, dependency, neglect, or abuse allegations or adoptions other than those listed in paragraph 3. If you do have such information, fill in the details requested in lines a, b, c, and d.
  - Paragraph 5:** List the criminal background and history of yourself and members of your household including any convictions or guilty pleas of any offense resulting in a child being an abused or neglected child, any offense that is a violation of R.C. 2919.25, any sexually oriented offense defined by R.C. 2950.01, and any offense involving a victim who was a family or household member at the time of the offense and caused physical harm to the victim during the commission of the offense.
  - Paragraph 6:** Check the first box if you do not know of any person not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case. Check the second box if you do know anyone who is not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case. If you check the second box you will fill in the required information for each person that you know who is not a party to this case who has physical custody or claims to have custody or visitation rights with respect to any child subject to this case.
- Paragraph 7:** You have an on-going duty to notify the Court of any custody, visitation, parenting time, divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, parentage, termination of parental rights, or domestic violence case concerning the children that are subject to this case.

**SIGNING THE FORM: AFTER YOU HAVE FILLED OUT THE FORM, TAKE THE FORM TO THE CLERK OF COURT'S OFFICE OR TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. DO NOT SIGN THE FORM UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC.**

IN THE \_\_\_\_\_ COURT  
 \_\_\_\_\_ COUNTY, OHIO

\_\_\_\_\_  
 Petitioner

Case No. \_\_\_\_\_

v.

Judge: \_\_\_\_\_

\_\_\_\_\_  
 Respondent

INFORMATION FOR PARENTING PROCEEDING  
 AFFIDAVIT (R.C. 3127.23(A))

**(Filed with Petition for Domestic Violence Civil  
 Protection Order)**

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

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

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

2. **(Number):** \_\_\_\_\_ **Minor child(ren) are subject to this case as follows:**

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

a. Child's name		Place of birth	Date of birth	Sex
Period of residence	<input type="checkbox"/> Address Confidential	Person child lived with (name & address)		Relationship
to present	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			

b. Child's name		Place of birth	Date of birth	Sex
Period of residence	<input type="checkbox"/> Address Confidential	Person child lived with (name & address)		Relationship
to present	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			

c. Child's name		Place of birth	Date of birth	Sex
Period of residence	<input type="checkbox"/> Address Confidential	Person child lived with (name & address)		Relationship
to present	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			
to	<input type="checkbox"/> Address Confidential			

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

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

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

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

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

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

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

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

- a. Name of each child \_\_\_\_\_
- b. Type of case \_\_\_\_\_
- c. Court and state \_\_\_\_\_
- d. Date of court order or judgment (if any): \_\_\_\_\_

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

NAME	CASE NUMBER	COURT/STATE/COUNTY	CHARGE

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

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

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

a. Name and address of person \_\_\_\_\_

has physical custody     claims custody rights     claims visitation rights

Name of each child \_\_\_\_\_

b. Name and address of person \_\_\_\_\_

has physical custody     claims custody rights     claims visitation rights

Name of each child \_\_\_\_\_

c. Name and address of person \_\_\_\_\_

has physical custody     claims custody rights     claims visitation rights

Name of each child \_\_\_\_\_

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

**OATH OF AFFIANT**

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

\_\_\_\_\_  
**AFFIANT**

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
**NOTARY PUBLIC**

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

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

**WARNING TO RESPONDENT / DEFENDANT**

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

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

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

Only the Court can change this Order. The Petitioner/Alleged Victim cannot give you legal permission to change this Order. If you go near the Petitioner/Alleged Victim, even with the Petitioner's/Alleged Victim's consent, you may be arrested. If you and the Petitioner/Alleged Victim want to resume your relationship you must ask the Court to modify or terminate this Protection Order. Unless the Court modifies or terminates this Order, you can be arrested for violating this Protection Order. You act at your own risk if you disregard this WARNING.

**WARNING TO PETITIONER / ALLEGED VICTIM**

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

**NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS**

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

**IN THE COURT OF COMMON PLEAS**  
 \_\_\_\_\_  
**COUNTY, OHIO**

# Order of Protection

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

**LAW ENFORCEMENT AGENCY WHERE INDEXED**

( ) -  
**PHONE NUMBER**

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

County \_\_\_\_\_

State

**OHIO**

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

**PETITIONER:**

First Middle Last

**v.**

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_  
 Petitioner's Family or Household Member(s) (May attach additional forms):  
 \_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_

**RESPONDENT:**

First Middle Last

Relationship to Petitioner: \_\_\_\_\_

Address where Respondent can be found:  
 \_\_\_\_\_  
 \_\_\_\_\_

**RESPONDENT IDENTIFIERS**

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

Distinguishing features: \_\_\_\_\_

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

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

The terms of this Order shall be effective until \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (DATE CERTAIN).

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

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

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

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

- 1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence: \_\_\_\_\_
- 3. **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at: \_\_\_\_\_ is granted to: \_\_\_\_\_. Respondent shall not interfere with this individual's right to occupy the residence including, but not limited to canceling utilities or insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_
- 5. **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]
- 6. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]
- 8. **RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE:** \_\_\_\_\_ to the law enforcement agency that served Respondent with the Order or as follows \_\_\_\_\_ and Petitioner is granted exclusive use of this motor vehicle.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

11. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_

\_\_\_\_\_

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

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

\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_

\_\_\_\_\_

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

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

(B) As a limited exception to paragraphs 6 and 7, temporary visitation rights are established as follows: [NCIC 06]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_

\_\_\_\_\_

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

15. **RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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

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

18. IT IS FURTHER ORDERED: [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law, the Clerk shall not charge any fees for filing, issuing, registering, or serving this protection order.

20. ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL \_\_\_\_\_, \_\_\_\_\_ unless earlier modified by or dismissed by order of this Court. Except for paragraphs 12, 13, 14, and 15 above, this Order survives a divorce, dissolution of marriage, or legal separation.

IT IS SO ORDERED.

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**A FULL HEARING** on this Order,  
and on all other issues raised by the Petition, shall be held  
before Judge \_\_\_\_\_  
or Magistrate \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_  
at \_\_\_\_\_ a.m./p.m. at the following location:  
\_\_\_\_\_  
\_\_\_\_\_

**TO THE CLERK**  
**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**  
 Petitioner  
 Respondent (by personal service)  
 Police Department Where Petitioner Resides:  
\_\_\_\_\_  
 The \_\_\_\_\_ County Sheriff's Office  
 Police Department Where Petitioner Works:  
\_\_\_\_\_  
 Other: \_\_\_\_\_

**IN THE COURT OF COMMON PLEAS**  
 \_\_\_\_\_  
**COUNTY, OHIO**

**Order of Protection**

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

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LAW ENFORCEMENT AGENCY WHERE INDEXED  
 (        ) -  
 \_\_\_\_\_  
 PHONE NUMBER

Case No.

Judge \_\_\_\_\_

County  State **OHIO**

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

WITH SUPPORT ORDER

**PETITIONER:**

First                      Middle                      Last

v.

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s) (May attach additional form):

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

**RESPONDENT:**

First                      Middle                      Last

Relationship to Petitioner: \_\_\_\_\_

Address where Respondent can be found: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**RESPONDENT IDENTIFIERS**

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

Distinguishing features: \_\_\_\_\_

\_\_\_\_\_

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

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

The terms of this Order shall be effective until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (DATE CERTAIN – FIVE YEARS MAXIMUM)

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

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

The Court hereby makes the following findings of fact: \_\_\_\_\_

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

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

- 1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence: \_\_\_\_\_
- 3. **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at: \_\_\_\_\_ is granted to: \_\_\_\_\_. Respondent shall not interfere with this individual’s right to occupy the residence including, but not limited to canceling utilities or insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_
- 5. **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]
- 6. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order and not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner’s permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of protected person**. [NCIC 05]

8. **RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE,** \_\_\_\_\_, to the law enforcement agency that served Respondent with the Order or as follows \_\_\_\_\_ and Petitioner is granted exclusive use of this motor vehicle.

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

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

11. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_  
\_\_\_\_\_

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

12. **PARENTAL RIGHTS AND RESPONSIBILITIES ARE TEMPORARILY ALLOCATED AS FOLLOWS:** [NCIC 09]  
\_\_\_\_\_  
\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_  
\_\_\_\_\_

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

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

(B) As a limited exception to paragraphs 6 and 7, temporary visitation rights are established as follows: [NCIC 06]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_  
\_\_\_\_\_

14. **LAW ENFORCEMENT AGENCIES** including but not limited to \_\_\_\_\_ are ordered to assist Petitioner in gaining physical custody of the child(ren) if necessary.

15. **RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

18. IT IS FURTHER ORDERED: [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM: \_\_\_\_\_

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

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

20. IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy of this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law, the Clerk shall not charge any fees for filing, issuing, registering, or serving this Protection Order.

21. ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL \_\_\_\_\_ unless earlier modified or terminated by order of this Court. Except for paragraphs 12, 13, 14, and 15 above, this Order survives a divorce, dissolution of marriage, or legal separation. Until this Order is delivered to Respondent, the terms of the *ex parte* CPO remain in effect.

IT IS SO ORDERED.

APPROVED and ADOPTED by:

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**NOTICE OF FINAL APPEALABLE ORDER**  
Copies of the foregoing Order, which is a final appealable order, were mailed by ordinary U.S. mail or hand-delivered to the parties indicated on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.  
By: \_\_\_\_\_  
CLERK OF COURT

**TO THE CLERK:**  
**COPIES OF THIS ORDER SHALL BE DELIVERED TO**  
 Petitioner  Attorney for Petitioner  
 Respondent  Attorney for Respondent  
 Counseling Program: \_\_\_\_\_  
 The \_\_\_\_\_ County Sheriff's Office  
 Police Department Where Petitioner Resides: \_\_\_\_\_  
 Police Department Where Petitioner Works: \_\_\_\_\_  
 CSEA  
 Other: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS

COUNTY, OHIO

Order of Protection

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

Case No.

Judge

County

State

OHIO

LAW ENFORCEMENT AGENCY WHERE INDEXED

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

WITH SUPPORT ORDER

( ) -

PHONE NUMBER

PETITIONER:

PERSON(S) PROTECTED BY THIS ORDER:

Petitioner:
Petitioner's Family or Household Member(s)(May attach additional forms):

DOB

DOB

DOB

DOB

DOB

First

Middle

Last

v.

RESPONDENT:

RESPONDENT IDENTIFIERS

Table with columns: SEX, RACE, HT, WT, EYES, HAIR, DATE OF BIRTH, DRIVER'S LIC. NO., EXP. DATE, STATE

First

Middle

Last

Relationship to Petitioner:

Address where Respondent can be found:

Distinguishing Features:

WARNING TO LAW ENFORCEMENT: RESPONDENT HAS FIREARMS ACCESS - PROCEED WITH CAUTION

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

THE COURT HEREBY FINDS:

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

THE COURT HEREBY ORDERS:

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

The terms of this Order shall be effective until / / (DATE CERTAIN - FIVE YEARS MAXIMUM)

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

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

The parties agree to waive their notice and hearing rights and their rights under Civ. R. 53, including the right to request findings of fact and conclusions of law and to file objections to the Magistrate’s Decision in this matter.

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT.**

- 1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence: \_\_\_\_\_
- 3. **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at: \_\_\_\_\_ is granted to: \_\_\_\_\_. Respondent shall not interfere with this individual’s right to occupy the residence including, but not limited to canceling utilities or insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_
- 5. **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care center, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 04]
- 6. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order and not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons, wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner’s permission.** If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 05]
- 8. **RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE,** \_\_\_\_\_ , to the law enforcement agency that served Respondent with the Order or as follows \_\_\_\_\_ and Petitioner is granted exclusive use of this motor vehicle.
- 9. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order. Personal property shall be apportioned as follows: \_\_\_\_\_
- 10. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

11. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_

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

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

\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_

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

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

(B) As a limited exception to paragraphs 6 and 7, temporary visitation rights are established as follows: [NCIC 06]

\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_

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

15. **RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows: \_\_\_\_\_

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

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

18. **IT IS FURTHER ORDERED:** [NCIC 08] \_\_\_\_\_

19. **RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM:** \_\_\_\_\_

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

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

20. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law the Clerk shall not charge any fees for filing, issuing, registering, or serving this Protection Order.

21. **ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL \_\_\_\_\_** unless earlier modified or terminated by order of this Court. Except for paragraphs 12, 13, 14, and 15 above, this Order survives a divorce, dissolution of marriage, or legal separation. Until this Order is delivered to Respondent, the terms of the *Ex Parte* CPO remain in effect.

IT IS SO ORDERED.

**APPROVED and ADOPTED by:**

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

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

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

\_\_\_\_\_  
SIGNATURE OF PETITIONER

\_\_\_\_\_  
SIGNATURE OF RESPONDENT

\_\_\_\_\_  
Address of Petitioner

\_\_\_\_\_  
Address of Respondent

\_\_\_\_\_  
Signature of Attorney for Petitioner

\_\_\_\_\_  
Signature of Attorney for Respondent

\_\_\_\_\_  
Address of Attorney for Petitioner

\_\_\_\_\_  
Address of Attorney for Respondent

**NOTICE OF FINAL APPEALABLE ORDER**

Copies of the foregoing Order, which is a final appealable order, were mailed by ordinary U.S. mail or hand-delivered to the parties indicated on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

By: \_\_\_\_\_  
CLERK OF COURT

**TO THE CLERK**  
**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

- Petitioner
- Respondent
- Counseling Program: \_\_\_\_\_
- The \_\_\_\_\_ County Sheriff's Office
- Police Department Where Petitioner Resides: \_\_\_\_\_
- Police Department Where Petitioner Works: \_\_\_\_\_
- CSEA
- Other: \_\_\_\_\_
- Attorney for Petitioner
- Attorney for Respondent

IN THE COURT OF COMMON PLEAS  
COUNTY, OHIO

\_\_\_\_\_ : Case No. \_\_\_\_\_  
**Petitioner** :

\_\_\_\_\_ :  
Address : Judge \_\_\_\_\_

\_\_\_\_\_ :  
City, State, Zip Code :

v. :

**MOTION TO MODIFY OR TERMINATE DOMESTIC  
VIOLENCE CIVIL PROTECTION ORDER OR CONSENT  
AGREEMENT**

\_\_\_\_\_ :  
**Respondent** :

**DO NOT WRITE YOUR ADDRESS ON THIS FORM IF  
YOU ARE REQUESTING CONFIDENTIALITY. PLEASE  
PROVIDE AN ADDRESS WHERE YOU CAN RECEIVE  
NOTICES FROM THE COURT.**

\_\_\_\_\_ :  
Address :

\_\_\_\_\_ :  
City, State, Zip Code :

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

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The reasons for the modification or termination are: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you are the Petitioner, you cannot be assessed court fees or other costs for filing a Motion to Modify or Terminate Domestic Violence Civil Protection Order or Consent Agreement.

Respectfully submitted,

\_\_\_\_\_  
**SIGNATURE OF PETITIONER/RESPONDENT**

Address where Petitioner/Respondent can be contacted:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DO NOT WRITE your address on this form if you are requesting confidentiality. Please provide an address where you can receive notices from the Court.

Signature of Attorney for Petitioner/Respondent (if applicable)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address

\_\_\_\_\_  
\_\_\_\_\_

Attorney Registration Number

\_\_\_\_\_

Telephone Number

\_\_\_\_\_

Fax Number

\_\_\_\_\_

Email

\_\_\_\_\_

**REQUEST FOR SERVICE**

Please serve a copy of the foregoing Motion upon \_\_\_\_\_  
by certified mail or personal service at the following address: \_\_\_\_\_

\_\_\_\_\_

IN THE COURT OF COMMON PLEAS  
COUNTY, OHIO

\_\_\_\_\_  
Petitioner : Case No. \_\_\_\_\_

Date of Birth: \_\_\_\_\_ :  
Judge \_\_\_\_\_

v. :  
: **JUDGMENT ENTRY ON MOTION TO MODIFY/TERMINATE**  
: **DOMESTIC VIOLENCE CIVIL PROTECTION ORDER OR**  
: **CONSENT AGREEMENT**  
:

\_\_\_\_\_  
Respondent :  
Date of Birth: \_\_\_\_\_ :

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

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

The Court has considered the following factors:

1. Petitioner  consents  does not consent to the  modification  termination of the Domestic Violence Civil Protection Order or Consent Agreement.
2. Petitioner  continues to fear  does not fear the Respondent.
3. The current nature of the relationship between the Petitioner and Respondent is as follows: \_\_\_\_\_  
\_\_\_\_\_
4. Relative proximity of the Petitioner's and Respondent's workplaces and residences.
5. Petitioner and Respondent  have  do not have minor children together.
6. Respondent has  complied  failed to comply with the terms and conditions of the original civil protection order or consent agreement.
7. Respondent  has  does not have a continuing involvement with illegal drugs or alcohol.

- 8. Respondent  has been  has not been convicted of or pleaded guilty to an offense of violence since the protection order was issued or the consent agreement was approved.
- 9. Other protection orders, consent agreements, restraining orders, or no contact orders  have been  have not been issued against the Respondent pursuant to R.C. 3113.31 or 2919.26, any other provision of state law, or the law of any other state.
- 10. Respondent  participated  has not participated in a domestic violence treatment, intervention program, or other counseling addressing domestic violence.
- 11. Respondent  completed  has not completed the domestic violence treatment, intervention program, or other counseling addressing domestic violence.
- 12. \_\_\_\_\_ (time) has elapsed since the protection order was issued or the consent agreement was approved.
- 13. The age and health of the Respondent is as follows: \_\_\_\_\_  
\_\_\_\_\_
- 14. The last incident of abuse, threat of harm, or commission of a sexually oriented offense occurred on:  
\_\_\_\_\_  
\_\_\_\_\_
- 15. Other information considered concerning the safety and protection of the Petitioner or other protected parties:  
\_\_\_\_\_  
\_\_\_\_\_

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

- The terms of the original civil protection order or consent agreement are no longer appropriate. The Order shall be **modified** as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- The civil protection order or consent agreement is no longer needed. The Order is **terminated**.
- The civil protection order or consent agreement remains in full force and effect. The motion is **denied**.

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

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

**IT IS SO ORDERED.**

APPROVED and ADOPTED by:

\_\_\_\_\_  
**MAGISTRATE**

\_\_\_\_\_  
**JUDGE**

IN THE COURT OF COMMON PLEAS  
 \_\_\_\_\_ COUNTY, OHIO

**Order of Protection**

Per section R.C. 3113.31(E)(8), this Order is indexed at

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LAW ENFORCEMENT AGENCY WHERE INDEXED  
 (     ) -  
 \_\_\_\_\_  
 PHONE NUMBER

Case No.

Judge \_\_\_\_\_

County  State **OHIO**

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

**PETITIONER:**

First                      Middle                      Last

v.

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s) (May attach additional forms):

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

**RESPONDENT:**

First                      Middle                      Last

Relationship to Petitioner: \_\_\_\_\_

Address where Respondent can be found: \_\_\_\_\_

\_\_\_\_\_

**RESPONDENT IDENTIFIERS**

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

Distinguishing Features: \_\_\_\_\_

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

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

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

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

This proceeding came on for a hearing on \_\_\_\_\_. Based on the evidence presented and consideration of factors set forth in R.C. 3113.31(E)(8), the Court finds that the motion to modify the prior Domestic Violence Civil Protection Order issued on \_\_\_\_\_ is well taken.

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

- 1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence: \_\_\_\_\_  
\_\_\_\_\_
- 3. **EXCLUSIVE POSSESSION OF THE RESIDENCE** located at: \_\_\_\_\_  
is granted to: \_\_\_\_\_. Respondent shall not interfere with this individual's right to occupy the residence including, but not limited to canceling utilities or insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the above residence at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_  
\_\_\_\_\_
- 5. **RESPONDENT SHALL NOT ENTER** or interfere with the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]
- 6. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order, and not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with Petitioner's permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order or their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of protected person**. [NCIC 05]
- 8. **RESPONDENT SHALL IMMEDIATELY SURRENDER POSSESSION OF ALL KEYS TO THE FOLLOWING MOTOR VEHICLE** \_\_\_\_\_ to the law enforcement agency that served Respondent with the Order or as follows \_\_\_\_\_ and Petitioner is granted exclusive use of this motor vehicle.
- 9. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order. Personal property shall be apportioned as follows: \_\_\_\_\_  
\_\_\_\_\_
- 10. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.

11. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_

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

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

\_\_\_\_\_

\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_

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

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

(B) As a limited exception to paragraphs 6 and 7, Respondent's visitation rights are established as follows: [NCIC 06]

\_\_\_\_\_

\_\_\_\_\_

This Order applies to the following child(ren): \_\_\_\_\_

14. **LAW ENFORCEMENT AGENCIES** including but not limited to \_\_\_\_\_ are ordered to assist Petitioner in gaining physical custody of the child(ren) if necessary.

15. **RESPONDENT SHALL SUPPORT** the protected persons named in this Order as follows: \_\_\_\_\_

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

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

18. **IT IS FURTHER ORDERED:** [NCIC 08] \_\_\_\_\_

19. RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM: \_\_\_\_\_

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

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

20. IT IS FURTHER ORDERED that the Clerk of Court shall cause a copy this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law, the Clerk shall not charge any fees for filing, issuing, registering, or serving this Protection Order to the Petitioner.

21. ALL OF THE TERMS OF THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF NOT TO EXCEED THE DATE SET IN THE PRIOR ORDER OR UNTIL \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ unless earlier modified or terminated by order of this Court. Except for paragraphs 12, 13, 14, and 15 above, this Order survives a divorce, dissolution of marriage, or legal separation. Until this Order is delivered to Respondent, the terms of the prior Domestic Violence Civil Protection Order remain in effect.

IT IS SO ORDERED.

APPROVED and ADOPTED by:

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**NOTICE OF FINAL APPEALABLE ORDER**  
Copies of the foregoing Order, which is a final appealable order, were mailed by ordinary U.S. mail or hand-delivered to the parties indicated on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.  
By: \_\_\_\_\_  
CLERK OF COURT

**TO THE CLERK:**  
**COPIES OF THIS ORDER SHALL BE DELIVERED TO**  
 Petitioner  Attorney for Petitioner  
 Respondent  Attorney for Respondent  
 Counseling Program: \_\_\_\_\_  
 The \_\_\_\_\_ County Sheriff's Office  
 Police Department Where Petitioner Resides: \_\_\_\_\_  
 Police Department Where Petitioner Works: \_\_\_\_\_  
 CSEA  
 Other: \_\_\_\_\_

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

## ENFORCING YOUR CIVIL PROTECTION ORDER

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

## SOME HINTS BEFORE YOU BEGIN

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

## FORM YOU WILL NEED

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

- Fill in the name of the Court, the case number and the judge's last name.
- If you obtained the CPO, you are the Petitioner.** Fill in your name and address. If you want your address to be confidential, do not write your address anywhere on the Motion. However, you must include someone's mailing address to allow the Court to send you legal notices about your case.
- If the Court issued the CPO against you, you are the Respondent.** Fill in your name and address.
- Fill in the other party's name and address.
- Complete the first paragraph.
- In the numbered paragraphs, check every box that applies. There is space at the end of the Motion for any facts or explanations that you want to tell the Court. Attach additional pages, if needed.
- Signing the Motion:** Try to fill out the Motion before you go to the courthouse. **AFTER YOU HAVE FILLED OUT THE MOTION, TAKE IT TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. DO NOT SIGN THE MOTION UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC. An employee of the Clerk of Court may be available to notarize your Motion.**
- Complete the Instructions for Service at the end of the Motion. This tells the Clerk of Court how you want the Motion delivered.

## FILING THE MOTION FOR CONTEMPT OF A DOMESTIC VIOLENCE CPO

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

**VICTIM ADVOCATE**

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

**ATTENDING THE CONTEMPT HEARING**

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

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

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

**IN THE COURT OF COMMON PLEAS**  
\_\_\_\_\_ **COUNTY, OHIO**

Petitioner	:	Case No. _____
Address	:	Judge _____
City, State, Zip Code	:	<b>MOTION FOR CONTEMPT OF A DOMESTIC VIOLENCE CIVIL PROTECTION ORDER</b>
<b>v.</b>	:	<b>Notice: Throughout this form, check every <input type="checkbox"/> that applies</b>
Respondent	:	<b>DO NOT WRITE YOUR ADDRESS ON THIS FORM IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE AN ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.</b>
Address	:	
City, State, Zip Code	:	

Petitioner  Respondent moves this Court to find \_\_\_\_\_ in contempt of this Court's Civil Protection Order dated \_\_\_\_\_ for the reasons below.

For any item that needs additional explanation, you may use paragraph 18 and/or attach additional pages as needed.

1.  Respondent violated the Civil Protection Order by engaging in one or more of the following acts against me and/or another protected person:
  - Harmed or attempted to harm
  - Threatened
  - Followed
  - Stalked
  - Harassed
  - Forced sexual relations upon
  - Committed a sexually oriented offense
  - Other \_\_\_\_\_
  
2.  Respondent failed to vacate the residence at \_\_\_\_\_
  
3.  Respondent interfered with the exclusive possession of the residence located at \_\_\_\_\_

Furthermore, Respondent interfered with my right to occupy the residence by

- Canceling utilities
- Canceling insurance
- Interrupted telephone service
- Interrupted mail delivery
- Interrupted delivery of any other documents or items

- 4.  Respondent failed to surrender keys and/or garage door openers to the residence for which exclusive use was ordered in the Civil Protection Order.
- 5.  Respondent entered or interfered with the residence, school, business, place or employment, day care center, or child care provider of the protected persons.
- 6.  Respondent violated the stay away provision of the Civil Protection Order.
- 7.  Respondent violated the no contact provision of the Civil Protection Order.
- 8.  Respondent failed to surrender the keys to the motor vehicle for which exclusive use was granted to the Petitioner in the Civil Protection Order.
- 9.  Respondent removed, damaged, hid or disposed of personal property or pets in violation of the Civil Protection Order.
- 10.  Respondent caused or encouraged another person to do acts prohibited by the Civil Protection Order.
- 11.  Respondent violated the Civil Protection Order by possessing, using, carrying, obtaining or failing to turn over a deadly weapon.
- 12.   Petitioner  Respondent violated the temporary allocation of parental rights and responsibilities (custody).
- 13.   Petitioner  Respondent violated the visitation order.
- 14.   Petitioner  Respondent violated the support provision of the Civil Protection Order.
- 15.  Respondent used or possessed alcohol and/or illegal drugs in violation of the Civil Protection Order.
- 16.   Petitioner  Respondent failed to attend the ordered counseling program.
- 17.  List other violations of the Civil Protection Order here: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- 18.  Additional explanation here: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

\_\_\_\_\_  
**SIGNATURE OF PETITIONER/RESPONDENT**

Case No. \_\_\_\_\_

**DO NOT WRITE YOUR ADDRESS BELOW IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE AN ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.**

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Address

\_\_\_\_\_  
**NOTARY PUBLIC**

\_\_\_\_\_  
Signature of Attorney (if applicable)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Attorney Registration Number

\_\_\_\_\_  
Phone Number

**INSTRUCTIONS FOR SERVICE**

Please serve a copy of the foregoing Motion upon \_\_\_\_\_ by  personal service or  certified mail, return receipt requested at the following address: \_\_\_\_\_

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

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

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

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

**Commentary (January 1, 1998)**

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

IN THE \_\_\_\_\_ COURT  
 \_\_\_\_\_ COUNTY, OHIO

# Order of Protection

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

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

STATE OF OHIO/CITY OF \_\_\_\_\_  
 v. \_\_\_\_\_

**DEFENDANT**

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

County \_\_\_\_\_

State

**OHIO**

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

New Order       Modification of Previous Order

**ALLEGED VICTIM:**

First                      Middle                      Last

**PERSON(S) PROTECTED BY THIS ORDER:**

Alleged Victim \_\_\_\_\_ DOB: \_\_\_\_\_

Alleged Victim's Family or Household Member(s):

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

**DEFENDANT:**

First                      Middle                      Last

Address where Defendant can be found:

\_\_\_\_\_  
 \_\_\_\_\_

**DEFENDANT IDENTIFIERS**

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

Distinguishing Features: \_\_\_\_\_

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

**Ex Parte DVTPO Granted:** \_\_\_\_\_ (Date)

**DVTPO Granted:** \_\_\_\_\_ (Date)

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

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

(Ex Parte DVTPPO)

(DVTPPO)

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

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE DEFENDANT**

- 1. **DEFENDANT SHALL NOT ABUSE** protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **DEFENDANT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 04]
- 3. **DEFENDANT SHALL NOT INTERFERE** with protected persons' right to occupy any residence by canceling utilities or insurance and interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **DEFENDANT SHALL SURRENDER** all keys and garage door openers to the following residence: \_\_\_\_\_  
 \_\_\_\_\_  
 at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Defendant with this Order or as follows: \_\_\_\_\_  
 \_\_\_\_\_
- 5. **DEFENDANT SHALL STAY AWAY FROM PROTECTED PERSONS NAMED IN THIS ORDER**, and shall not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons wherever those protected persons may be found, or any place the Defendant knows or should know the protected persons are likely to be, **even with the protected persons' permission**. If Defendant accidentally comes in contact with protected persons in any public or private place, Defendant must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 6. **DEFENDANT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 05]
- 7. **DEFENDANT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 8. **DEFENDANT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON**. Defendant shall turn over all deadly weapons in Defendant's possession to the law enforcement agency that serves Defendant with this Order as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]
- 10. **DEFENDANT MAY PICK UP CLOTHING** and personal items from the following residence: \_\_\_\_\_  
 \_\_\_\_\_ only in the company of a uniformed law enforcement officer within seven days of the filing of this Order or the date of Defendant's release on bond in connection with this charge, whichever is later. Arrangements may be made by contacting: \_\_\_\_\_  
 \_\_\_\_\_

11. DEFENDANT SHALL NOT USE OR POSSESS alcohol or illegal drugs.

12. IT IS FURTHER ORDERED: [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

15. THIS ORDER REMAINS IN EFFECT: (1) until modified by this Court; or (2) until the criminal proceeding arising out of the complaint upon which these orders were issued is disposed of by this Court or by the court of common pleas to which the defendant is bound over for prosecution; or (3) until a Court issues a Domestic Violence Civil Protection Order ("CPO") arising out of the same activities as those that were the basis of the complaint filed in this action.

IT IS SO ORDERED.

\_\_\_\_\_  
MAGISTRATE – DATE OF *EX PARTE* DVTPO

\_\_\_\_\_  
JUDGE – DATE OF *EX PARTE* DVTPO

\_\_\_\_\_  
MAGISTRATE – DATE OF DVTPO

\_\_\_\_\_  
JUDGE – DATE OF DVTPO

**NOTICE TO DEFENDANT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**A HEARING** on this Order shall be held before

Judge \_\_\_\_\_ or

Magistrate \_\_\_\_\_

on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.,

(the next court day) at the following location:

\_\_\_\_\_

\_\_\_\_\_

**TO THE CLERK:**

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

Prosecutor

Alleged Victim

Defendant (by personal service)

Attorney for Defendant

Police Department Where Alleged Victim Resides: \_\_\_\_\_

Police Department Where Alleged Victim Works: \_\_\_\_\_

The \_\_\_\_\_ County Sheriff's Office

Other \_\_\_\_\_

Service acknowledged: \_\_\_\_\_  
Defendant Signature

\_\_\_\_\_  
Date

**WAIVER OF HEARING**

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

DEFENDANT: \_\_\_\_\_

DATE: \_\_\_\_\_

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

(A) A court that has jurisdiction to issue a criminal protection order pursuant to section 2903.213 of the Revised Code shall distribute, upon request, a form packet for use in criminal protection order proceedings. The packet shall include, at a minimum, a form that is substantially similar to “Form 10.03-A.”

(B) A court that has jurisdiction to issue a civil stalking protection order or civil sexually oriented offense protection order pursuant to section 2903.214 of the Revised Code shall distribute, upon request, a forms and instructions packet for use in civil stalking protection order or civil sexually oriented offense protection order proceedings. The packet shall include, at a minimum, forms and instructions that are substantially similar to “Forms 10.03-D, 10.03-E, and 10.03-G.”

(C) In every case in which a court issues a criminal protection order pursuant to section 2903.213 of the Revised Code, it shall use the applicable form that is substantially similar to “Form 10.03-B” and a cover sheet that is substantially similar to “Form 10.03-H.”

(D) In every case in which a court issues a civil stalking protection order or civil sexually oriented offense protection order pursuant to section 2903.214 of the Revised Code, it shall use the applicable form that is substantially similar to “Form 10.03-E or 10.03-F” and a cover sheet that is substantially similar to “Form 10.03-H.”

**Commentary (March 1, 2000)**

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

IN THE \_\_\_\_\_ COURT  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO/CITY OF \_\_\_\_\_ :

Case No. \_\_\_\_\_

v. \_\_\_\_\_

Judge \_\_\_\_\_

DEFENDANT \_\_\_\_\_ :

**MOTION FOR CRIMINAL PROTECTION  
ORDER (CRPO) (R.C. 2903.213)**

\_\_\_\_\_ (Name of person), moves the Court to issue a protection order containing terms designed to ensure the safety and protection of the complainant or the alleged victim in the above captioned case, in relation to the named defendant, pursuant to its authority to issue a protection order under R.C. 2903.213.

A complaint, a copy of which has been attached to this motion, has been filed in this Court charging the named defendant with a violation of R.C. 2903.11 (*Felonious Assault*), 2903.12 (*Aggravated Assault*), 2903.13 (*Assault*), 2903.21 (*Aggravated Menacing*), 2903.211 (*Menacing by Stalking*), 2903.22 (*Menacing*), or 2911.211 (*Aggravated Trespass*) or a violation of a municipal ordinance substantially similar to R.C. 2903.13, 2903.21, 2903.211, 2903.22, or 2911.211, or the commission of sexually oriented offenses as defined in R.C. 2950.01.

I understand that I must appear before the Court, at a time set by the Court not later than the next day that the Court is in session after the filing of this motion, for a hearing on the motion, and that any protection order granted pursuant to this motion is a pretrial condition of release and is effective only until the disposition of the criminal proceeding arising out of the attached complaint or until the issuance under R.C. 2903.214 of a protection order arising out of the same activities as those that were the basis in the attached complaint.

\_\_\_\_\_  
Signature of Alleged Victim

\_\_\_\_\_  
Address of Alleged Victim

NOTES: (1) *This form must be provided by the Clerk of Court, per R.C. 2903.213(B).*

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

IN THE \_\_\_\_\_ COURT  
 \_\_\_\_\_ COUNTY, OHIO

# Order of Protection

Per R.C. 2903.213(G)(2), this Order is indexed at

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

STATE OF OHIO/CITY OF \_\_\_\_\_

v.

DEFENDANT

ALLEGED VICTIM

First Middle Last

PERSON(S) PROTECTED BY THIS ORDER:

Alleged Victim \_\_\_\_\_ DOB: \_\_\_\_\_  
 Alleged Victim's Family or Household Member(s) (May attach additional form):

\_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_  
 \_\_\_\_\_ DOB: \_\_\_\_\_

DEFENDANT:

First Middle Last

Address where Defendant can be found:

\_\_\_\_\_

DEFENDANT IDENTIFIERS

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

Distinguishing Features: \_\_\_\_\_

- WARNING TO LAW ENFORCEMENT: DEFENDANT HAS FIREARMS ACCESS – PROCEED WITH CAUTION**
- Ex Parte CRPO Granted:** \_\_\_\_\_ (Date)
- CRPO Granted:** \_\_\_\_\_ (Date)

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

That the above named Defendant be restrained from committing acts of abuse or threats of abuse against and contacting the Alleged Victim and other protected persons named in this Order, as set forth below. Additional terms of this Order are set forth below.

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

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

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE DEFENDANT**

- 1. **DEFENDANT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, contacting, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **DEFENDANT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 04]
- 3. **DEFENDANT SHALL NOT INTERFERE** with protected persons' right to occupy the residence including, but not limited to canceling utilities, insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]
- 4. **DEFENDANT SHALL SURRENDER** all keys and garage door openers to the following residence: \_\_\_\_\_  
 \_\_\_\_\_  
 at the earliest possible opportunity after service of this Order to the law enforcement agency that serves Defendant with this Order or as follows: \_\_\_\_\_  
 \_\_\_\_\_
- 5. **DEFENDANT SHALL STAY AWAY** from protected persons named in this Order, and shall not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons, wherever those protected persons may be found, or any place the Defendant knows or should know the protected persons are likely to be, **even with protected persons' permission**. If Defendant accidentally comes in contact with protected persons in any public or private place, Defendant must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 6. **DEFENDANT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 7. **DEFENDANT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Defendant may not violate this Order **even with the permission of a protected person**. [NCIC 05]
- 8. **DEFENDANT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **DEFENDANT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON**. Defendant shall turn over all deadly weapons in Defendant's possession to the law enforcement agency that serves Defendant with this Order or as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 Any law enforcement agency is authorized to take possession of deadly weapons pursuant to this paragraph and hold them in protective custody until further Court order. [NCIC 07]
- 10. **IT IS FURTHER ORDERED:** [NCIC 08] \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

- 11. **IT IS FURTHER ORDERED** that a copy of this Order shall be delivered to Defendant on the same day that the Order is entered.
- 12. **THIS ORDER REMAINS IN EFFECT:** (1) until modified by this Court; or (2) until the criminal proceeding arising out of the complaint upon which these orders were issued is disposed by this Court or by the court of common pleas to which the Defendant is bound over for prosecution; or (3) until the Court issues a Civil Stalking Protection Order ("CSPO") or Civil Sexually Oriented Offense Protection Order ("CSOOPO") arising out of the same activities as those that were the basis of the complaint filed in this action.

IT IS SO ORDERED.

\_\_\_\_\_  
MAGISTRATE – DATE OF *EX PARTE* CRPO

\_\_\_\_\_  
JUDGE – DATE OF *EX PARTE* CRPO

\_\_\_\_\_  
MAGISTRATE – DATE OF CRPO

\_\_\_\_\_  
JUDGE – DATE OF CRPO

**NOTICE TO DEFENDANT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

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

**A HEARING** on this Order shall be held before

Judge \_\_\_\_\_

or Magistrate \_\_\_\_\_

on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.

(the next court day) at the following location:

\_\_\_\_\_

\_\_\_\_\_

**TO THE CLERK**

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

Prosecutor

Alleged Victim

Defendant (by personal service)

Attorney for Defendant

Police Department Where Alleged Victim Resides: \_\_\_\_\_

Police Department Where Alleged Victim Works: \_\_\_\_\_

The \_\_\_\_\_ County Sheriff's Office

Other: \_\_\_\_\_

Service acknowledged: \_\_\_\_\_  
Defendant Signature \_\_\_\_\_ Date \_\_\_\_\_

**WAIVER OF HEARING**

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

DEFENDANT: \_\_\_\_\_ DATE: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS

COUNTY, OHIO

<b>Petitioner</b>	:	<b>Case No.</b>	
Address	:	<b>Judge</b>	
City, State, Zip Code	:	PETITION FOR CIVIL STALKING PROTECTION ORDER OR CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER (R.C. 2903.214)	
Date of Birth: _____	:		
<b>v.</b>	:	<b>Notice to Petitioner: Check every <input type="checkbox"/> that applies.</b>	
<b>Respondent</b>	:	DO NOT WRITE YOUR ADDRESS ON THIS FORM IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE ANOTHER ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.	
Address	:		
City, State, Zip Code	:		
Date of Birth: _____	:	<b>The Respondent does NOT have to be related to Petitioner in any way for Petitioner to be eligible for relief.</b>	

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

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

NAME	DATE OF BIRTH	HOW RELATED TO PETITIONER

Ohio law defines "Menacing by Stalking" as follows:

*"No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person."* R.C. 2903.211(A)(1).

*"No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section (above)"* R.C. 2903.211-(A)(2).

"Sexually oriented offenses" are defined in R.C. 2950.01.

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

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

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

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

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

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

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

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

- (d) Requires Respondent not to remove, damage, hide, or dispose of any property or pets owned or possessed by the Petitioner and Petitioner's family or household members named in this Petition.
- (e) Requires Respondent not to possess, use, carry, or obtain any deadly weapon.
- (f) Requires Respondent to be electronically monitored.
- (g) Includes the following additional provisions: \_\_\_\_\_  
\_\_\_\_\_
- 5. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order under R.C. 2903.214(D) and this Petition.
- 6. Petitioner further requests that the Court not issue any mutual protection orders or other orders against Petitioner unless all of the conditions of R.C. 2903.214(E)(3) are met.
- 7. Petitioner further requests that if Petitioner has a victim advocate, the Court permit the victim advocate to accompany Petitioner at all stages of these proceedings as required by R.C. 2903.214(L).
- 8. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.
- 9. The following is a list of all present and past court cases involving Respondent, that Petitioner knows of:

CASE NAME	CASE NUMBER	COURT/COUNTY	OUTCOME OF CASE

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

\_\_\_\_\_  
SIGNATURE OF PETITIONER

Sworn to and subscribed before me on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

**DO NOT WRITE YOUR ADDRESS BELOW IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE ANOTHER ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.**

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Signature of Attorney for Petitioner (if applicable)

---

Name

---

Address

---

City, State, Zip Code

---

Attorney Registration Number

---

Telephone Number

---

Fax

---

Email

**IN THE COURT OF COMMON PLEAS**  
 \_\_\_\_\_ **COUNTY, OHIO**

# Order of Protection

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

**LAW ENFORCEMENT AGENCY WHERE INDEXED**

(       )

**PHONE NUMBER**

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

County \_\_\_\_\_

State

**OHIO**

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

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

**PETITIONER:**

First                      Middle                      Last

**v.**

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s): \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

**RESPONDENT:**

First                      Middle                      Last

Address where Respondent can be found:

\_\_\_\_\_

\_\_\_\_\_

**RESPONDENT IDENTIFIERS**

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

Distinguishing Features: \_\_\_\_\_

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

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

The terms of this Order shall be effective until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ (DATE CERTAIN).

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

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

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

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

- 1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]
- 2. **RESPONDENT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 04]
- 3. **RESPONDENT SHALL NOT INTERFERE** with protected persons' right to occupy the residence including, but not limited to canceling utilities, insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items.
- 4. **RESPONDENT SHALL SURRENDER** all keys and garage door openers to the following residence:  


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


---
- 5. **RESPONDENT SHALL STAY AWAY FROM** protected persons named in this Order, and shall not be present within 500 feet or \_\_\_\_\_ (distance) of any protected persons wherever those protected persons may be found, or any place the Respondent knows or should know the protected persons are likely to be, **even with protected persons' permission**. If Respondent accidentally comes in contact with protected persons in any public or private place, Respondent must depart *immediately*. This Order includes encounters on public and private roads, highways, and thoroughfares. [NCIC 04]
- 6. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 05]
- 8. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON**. Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_

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

10. IT IS FURTHER ORDERED: [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law, the Clerk shall not charge any fees for filing, issuing, registering, or serving this Protection Order.

12. **ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL**

\_\_\_\_\_, \_\_\_\_\_ .

IT IS SO ORDERED.

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**A FULL HEARING** on this Order shall be held before  
Judge \_\_\_\_\_ or  
Magistrate \_\_\_\_\_  
on \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m.  
at the following location:  
\_\_\_\_\_  
\_\_\_\_\_

**TO THE CLERK:**  
**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**  
 Petitioner  
 Respondent (by personal service)  
 Police Department Where Petitioner Resides: \_\_\_\_\_  
 Police Department Where Petitioner Works: \_\_\_\_\_  
 The \_\_\_\_\_ County Sheriff's Office  
 Other: \_\_\_\_\_

**IN THE COURT OF COMMON PLEAS**  
 \_\_\_\_\_ COUNTY, OHIO

# Order of Protection

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

\_\_\_\_\_  
 LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -  
 \_\_\_\_\_  
 PHONE NUMBER

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

County \_\_\_\_\_

State

**OHIO**

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

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

**PETITIONER:**

First Middle Last

v.

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s): \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

**RESPONDENT:**

First Middle Last

Address where Respondent can be found:  
 \_\_\_\_\_  
 \_\_\_\_\_

**RESPONDENT IDENTIFIERS**

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

Distinguishing Features: \_\_\_\_\_  
 \_\_\_\_\_

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

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

The terms of this Order shall be effective until \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (DATE CERTAIN – FIVE YEARS MAXIMUM).

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

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

The Court hereby makes the following findings of fact: \_\_\_\_\_

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

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

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

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

1. **RESPONDENT SHALL NOT ABUSE** the protected persons named in this Order by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them. [NCIC 01 and 02]

2. **RESPONDENT SHALL NOT ENTER** the residence, school, business, place of employment, day care centers, or child care providers of the protected persons named in this Order, including the buildings, grounds, and parking lots at those locations. Respondent may not violate this Order **even with the permission of a protected person**. [NCIC 03]

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

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

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

- 6. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 7. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order at their residences, businesses, places of employment, schools, day care centers, or child care providers. Contact includes, but is not limited to, telephone, fax, e-mail, voice mail, delivery service, writings, or communications by any other means in person or through another person. Respondent may not violate this Order **even with the permission of a protected person.** [NCIC 05]
- 8. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY OTHER PERSON** to do any act prohibited by this Order.
- 9. **RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON.** Respondent shall turn over all deadly weapons in Respondent's possession to the law enforcement agency that serves Respondent with this Order or as follows: \_\_\_\_\_

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

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

11. **RESPONDENT IS ORDERED TO COMPLETE** the following counseling program: \_\_\_\_\_  
\_\_\_\_\_

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

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

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

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

14. **IT IS FURTHER ORDERED** that the Clerk of Court shall cause a copy of the Petition and this Order to be delivered to the Respondent as required by law. The Clerk of Court shall also provide certified copies of the Petition and this Order to Petitioner upon request. This Order is granted without bond. Under federal and state law, the Clerk shall not charge any fees for filing, issuing, registering, or serving this Protection Order.

15. ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT FOR A PERIOD OF FIVE YEARS FROM ISSUANCE, OR UNTIL \_\_\_\_\_

IT IS SO ORDERED.

APPROVED and ADOPTED by:

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**NOTICE OF FINAL APPEALABLE ORDER**

Copies of the foregoing Order, which is a final appealable order, were mailed by ordinary U.S. mail or hand-delivered to the parties indicated on the following date:

\_\_\_\_\_, \_\_\_\_\_

By: \_\_\_\_\_  
CLERK OF COURT

**TO THE CLERK**

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

- Petitioner
- Respondent
- Police Department Where Petitioner Resides: \_\_\_\_\_
- Police Department Where Petitioner Works: \_\_\_\_\_
- The \_\_\_\_\_ County Sheriff's Office
- Other: \_\_\_\_\_
- Attorney for Petitioner
- Attorney for Respondent

**WAIVER**

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

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

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

RESPONDENT: \_\_\_\_\_

DATE: \_\_\_\_\_

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

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

## SOME HINTS BEFORE YOU BEGIN

- All forms must be typed or printed.
- When you print your name on the Petition, use the same name you use when you write your signature.
- Write your name and Respondent's name the same way throughout the Petition.
- Fill out the Petition as completely and accurately as possible.
- If you have any questions about completing the Petition, ask the Clerk of Court's office for assistance or contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840.
- Under federal and state law no fees may be charged to obtain a protection order.

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

- On the front page, leave the "Case No." line and "Judge" lines blank.** The Clerk of Court's office will fill in this information.
- On the top left-hand side of the front page, fill in the requested information about yourself.** If you do not want your present address to be known, write "confidential" in the space for your address, but list someone else's address where you can receive notices from the Court.
- Also on the top left-hand side of the front page, fill in the requested information about Respondent as best you can.** You may use Respondent's work address if you do not know Respondent's home address. If you do not know Respondent's date of birth, leave that line blank. Do not attempt to obtain this information unless it is safe to do so.
- Paragraph 1:** If you are filing the Petition on behalf of yourself, mark the first box.
- Paragraph 2:** If you are filing the Petition on behalf of a family or household member, mark the box and fill in their name(s) and the other information requested in the chart. You may attach additional pages if you need more room.
- Paragraph 3(a):** State the date(s) of the incident(s) that caused you to file the Petition. Exact date(s) is not necessary; approximate time frame may be sufficient. If you are requesting a civil stalking protection order due to stalking, provide a brief description of the pattern of conduct (two or more instances) that caused you to believe that the Respondent will cause physical harm or cause mental distress to you or another family member. (NOTE: Petitioner and/or Respondent need not be related in any way for Petitioner to obtain the protection order.) If you are aware of any prior convictions of the Respondent for menacing by stalking or similar offenses, or prior convictions of Respondent for any sexually oriented offenses, list what information you know about those convictions. You may attach additional pages if you need more room to complete your description.
- Paragraph 3(b):** State the date(s) of the incident(s) that caused you to file the Petition. Exact date(s) is not necessary; approximate timeframe may be sufficient. If you are requesting a civil sexually oriented offense protection order due to a sexually oriented offense, you do not have to provide a description of a pattern of conduct. A brief description of what happened that caused you to request the protection order will be enough. (NOTE: Petitioner and/or Respondent need not be related in any way for Petitioner to obtain the protection order.) If you are aware of any prior convictions of the Respondent for menacing by stalking or similar offenses, or prior convictions of Respondent for any sexually oriented offenses, list what information you know about those convictions. You may attach additional pages if you need more room to complete your description.
- Paragraph 3(c):** State the date(s) of the incident(s) that caused you to file the Petition and request electronic monitoring of the Respondent. Exact date(s) is not necessary; approximate timeframe may be sufficient. If you are requesting electronic monitoring of the Respondent, describe the nature and extent of the Respondent's conduct before the filing of this Petition that puts you or your family or household members' health, welfare, or safety at risk. Also describe how the Respondent presents a continuing danger to you or your family or household members.
- Paragraph 4:** Indicate the action you want the Court to take by marking the boxes next to the numbered paragraphs that apply to your situation.

- Paragraph 4(f):** Write any special court orders you believe would help protect you and your family or household members.
- Paragraph 5:** Be sure to mark the box next to Paragraph 5 if you need an emergency (“*ex parte*”) protection order.
- Paragraph 9:** List ALL present or past court cases or investigations that involve Respondent. This includes all criminal, divorce, custody, visitation, and any other case that may have a bearing on the safety of you or your family or household members. Write the case name, the court, the case number, and the outcome of the case, if known. You may attach additional pages if you need more room.

### SIGNING THE PETITION

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

### FILING THE PETITION

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

### FEES

Under federal and state law, you cannot be charged any costs or fees for filing and obtaining a protection order.

## FORM 10.03-H: WARNING CONCERNING THE ATTACHED PROTECTION ORDER

**NOTE:** Rule 10.03 of the Rules of Superintendence for the Courts of Ohio requires this Warning to be attached to the **FRONT** of all protection orders issued pursuant to R.C. 2903.213 and 2903.214 by the courts of the State of Ohio. **TO BE USED WITH FORMS 10.03-B, 10.03-E, and 10.03-F.**

### **WARNING TO RESPONDENT/ DEFENDANT**

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

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

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

Only the Court can change this Order. The Petitioner/Alleged Victim cannot give you permission to violate this order. If you go near the Petitioner or other protected persons, even with their consent, you may be arrested. You act at your own risk if you disregard this WARNING. If you want to change the Order you must ask the Court.

### **WARNING TO PETITIONER / ALLEGED VICTIM**

You cannot change the terms of this Order by your words or actions. This Order **cannot** be changed by either party without obtaining a written court order.

### **NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS**

The attached Protection Order is enforceable in all jurisdictions. Violating this Protection Order, whether it is a criminal or civil Protection Order, is a crime under R.C. 2919.27. Law enforcement officers with powers to arrest for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2919.27, 2903.213, and 2903.214. If you have reasonable grounds to believe that Respondent/Defendant has violated this Protection Order, in Ohio under R.C. 2935.03, you should arrest and detain Respondent/Defendant until you can obtain a warrant. Federal and state laws prohibit charging a fee for service of this order.

**RULE 10.04. Standard Notice Concerning Possession or Purchase of a Firearm.**

(A) A court that has jurisdiction to convict a person of a misdemeanor offense of violence against a family or household member shall provide notice to the defendant pursuant to section 2943.033 of the Revised Code.

(B) In every case prior to accepting a guilty plea or plea of no contest to an indictment, information, or complaint that charges a person with a misdemeanor offense of violence against a family or household member, the court shall use a form that is substantially similar to Form 10.04-A unless the court provides oral notice to the defendant.

## FORM 10.04-A: NOTICE CONCERNING POSSESSION OR PURCHASE OF FIREARMS

NOTE: Rule 10.04 of the Rules of Superintendence for the Courts of Ohio requires notice of possible firearm restrictions be provided to the Defendant before entering a guilty plea or plea of no contest to a misdemeanor crime of violence against a family or household member.

Pursuant to R.C. 2943.033, you are advised that if you enter a guilty plea or plea of no contest to a misdemeanor crime involving violence where you are or were any of the following:

- A spouse, person living as a spouse, former spouse of the Alleged Victim;
- A parent or child of the Alleged Victim;
- A parent or child of a spouse, person living as a spouse, or former spouse of the Alleged Victim;
- The natural parent of any child of whom the Alleged Victim is the other natural parent or the putative natural parent

it may be unlawful for you to ship, transport, purchase, or possess a firearm or ammunition as a result of any conviction for a misdemeanor offense of violence pursuant to federal law under 18 U.S.C. 922(g)(9).

**If you have any questions whether this law makes it illegal for you to ship, transport, purchase, or possess a firearm or ammunition, you should consult an attorney.**

**RULE 10.05. Standard Civil Protection Order Forms in Juvenile Division of the Court of Common Pleas.**

(A) A court of common pleas that has juvenile jurisdiction to issue a civil protection order pursuant to sections 2151.34 and 3113.31 of the Revised Code shall distribute, upon request, a forms and instructions packet for use in juvenile civil protection order proceedings. The packet shall include, at a minimum, a form and instructions that are substantially similar to “Forms 10.05-A and 10.05-B.”

(B) In every case in which a court of common pleas that has juvenile jurisdiction issues a civil protection order pursuant to section 2151.34 of the Revised Code, it shall use the applicable form that is substantially similar to “Forms 10.05-C and 10.05-D.”

(C) In every case in which a court of common pleas that has juvenile jurisdiction issues a domestic violence civil protection order against a minor pursuant to section 3113.31 of the Revised Code, it shall use the applicable form that is substantially similar to “Forms 10.05-C and 10.05-E.”

(D) In every case in which a court of common pleas that has juvenile jurisdiction issues an order pursuant to sections 2151.34 and 3113.31 of the Revised Code and uses a form that is substantially similar to “Forms 10.05-C through 10.05-E,” it shall include a cover sheet that is substantially similar to “Form 10.05-F.”

## FORM 10.05-A: HOW TO COMPLETE A PETITION FOR A JUVENILE CIVIL PROTECTION ORDER OR A JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER

These instructions are intended to assist you in preparing the Petition for a Juvenile Civil Protection Order or Juvenile Domestic Violence Civil Protection Order, which can be heard only by the juvenile division of the court of common pleas in the county where you reside. If your county does not have a juvenile division in the court of common pleas, the Petition will be heard in the court of common pleas in the county where you reside. **Throughout the Petition, you (the party to be protected) are called *Petitioner* and the person you are filing this petition against is called *Respondent*.**

### SOME HINTS BEFORE YOU BEGIN

- Read these instructions carefully.
- The types of offenses for which a juvenile civil protection order or juvenile domestic violence civil protection order can be obtained are explained in the last section of this Form.
- A juvenile civil protection order or a juvenile domestic violence civil protection order should **ONLY** be requested if the Respondent is less than 18 years old.
- If the Respondent is 18 years old or older, then you must file another petition for a civil protection order in the appropriate court of common pleas.
- Fill out the Petition as completely and accurately as possible.
- All forms must be typed or printed.
- When you write your name on the Petition, use the same name you use when you write your signature.
- Write your name and Respondent's name the same way throughout the Petition.
- If you have any questions about completing the Petition, contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840 for assistance.
- Under federal and state law, no fees may be charged to obtain a protection order.

### FILLING OUT THE PETITION

**On the front page, leave the “Case No.” line and “Judge” lines blank.** The Clerk will fill in this information.

**On the top left-hand side of the front page, fill in the requested information about yourself or minor for whom you are filing.** If you do not want your present address or that of the minor for whom you are filing to be known, write in the space provided someone else's address where you can receive notices from the Court.

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

**Paragraph 1:** Mark the first box if you are filing the Petition on your own behalf.

**Paragraph 2:** If you are filing the Petition on behalf of a minor who is not your family or household member, mark the box and write the minor's name.

**Paragraph 3:** If you are filing the Petition on behalf of a family or household member, mark the box and fill in their names and the other information requested in the chart. You may attach additional pages if you need more room.

**Paragraph 4:** Mark this box if you are NOT related to the Respondent by blood or marriage.

**Paragraph 5:** Mark this box if you ARE related to the Respondent in one of the three ways shown in the Petition. Please mark the appropriate box to show your relation to the Respondent and indicate your relationship.

**Paragraph 6:** Mark this box if you or a family or household member of yours has a child with the Respondent.

**Paragraph 7:** Provide a description of the Respondent's action(s) that caused you to believe that the Respondent caused or will cause physical or emotional harm to you or another family or household member. State the date(s) of the incident(s) that caused you to file the Petition. An exact date(s) is not necessary; approximate timeframe may be sufficient. You may attach additional pages if you need more room.

**Paragraph 8:** Provide a description of the impact of the Respondent's actions have had on you or your family or household members. You may attach additional pages if you need more room to complete your description.

**Paragraph 9:** Mark this box if you, your family or household members, or the person for whom you are filing attends the same school or are transported in the same school bus as the Respondent. Please write the name and address of the school AND the school bus number, route, district or any other information which can be helpful to the Court.

**Paragraph 10:** Complete as much of the chart as you are able by listing all relevant open, pending, or closed court cases involving the Respondent, your family or household members, or you (or the person for whom you are filing).

**Paragraph 11(a)–(h):** Indicate the action you want the Court to take by marking the boxes next to the lettered paragraphs that apply to your situation.

If you do **NOT** want the Respondent to come to a specific location, tell the Court in Paragraph 11(b) of these locations and their addresses.

If you do **NOT** want the Respondent to contact you or your family or household members at all by landline, cordless, or cellular telephone; text; instant message; fax; e-mail; voice mail; delivery service; social network media (like Twitter, My Space, Facebook, etc.); writings; or communications by any other means regardless if directly or through another person, mark Paragraph 11(c).

If you want the Respondent to be electronically monitored, make sure you mark Paragraph 11(f) and provide a description of the Respondent's conduct that puts your and/or your family or household members' health, welfare, and safety at risk.

Write any special court orders you believe would help protect you and your family or household members in Paragraph 11(h).

**Paragraph 12:** Mark this box if you want to request the Court grant you an emergency (*Ex Parte*) protection order because you and/or your family and household members are in immediate and present danger.

## SIGNING THE PETITION

Try to fill out the Petition before you go to the courthouse. AFTER YOU HAVE FILLED OUT THE PETITION, TAKE IT TO A NOTARY PUBLIC OR DEPUTY CLERK OF COURT TO HAVE YOUR SIGNATURE NOTARIZED. **DO NOT SIGN THE PETITION UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC OR DEPUTY CLERK OF COURT.**

## FILING THE PETITION

After you have your signature notarized, file your Petition at the Clerk of Court's office. If you have requested an emergency protection order, the Clerk of Court's office will tell you when and where your *Ex Parte* hearing will take place.

## FEES

Under federal and state law, **you cannot be charged any costs or fees** for filing or obtaining a protection order. [R.C. 2151.34(J) and 3113.31(J)]

## RENEWAL

A juvenile civil protection order and juvenile domestic violence civil protection order can be renewed in the same manner as the initial protection order was issued. [R.C. 2151.34(E)(2)(b) and 3113.31(E)(3)(c)]

## EXPIRATION OF CIVIL PROTECTION ORDER

A juvenile civil protection order and juvenile domestic violence civil protection order will terminate on a specific date as determined by the Court, but no later than the Respondent's 19th birthday. [R.C. 2151.34(E)(2)(a) and 3113.31(E)(3)(a)]

## SEALING OF RECORDS

The Court will automatically seal all of the records of the juvenile civil protection order or juvenile domestic violence civil protection order proceeding if a full hearing or consent agreement civil protection order is not granted.

The Court will automatically seal all of the records of the juvenile civil protection order or juvenile domestic violence civil protection order proceeding on the Respondent's 19th birthday, unless you provide the Court information that the Respondent did not comply with the order.

If the Respondent did not comply with all the terms of the juvenile civil protection order or juvenile domestic violence civil protection order, the Court may consider sealing the records two years after the order expires. The Court must provide you notice of the hearing to seal the juvenile civil protection order or juvenile domestic violence civil protection order records.

## APPOINTMENT OF COUNSEL

The Court may appoint a lawyer for the Respondent.

## NOTICE TO PARENT, GUARDIAN, OR LEGAL CUSTODIAN

The Court **may** provide your parent, guardian, or legal custodian notice that you (if you are a minor) or someone else on your behalf has filed a petition for a juvenile civil protection order or a juvenile domestic violence civil protection order.

The Court **must** provide the parent, guardian, or legal custodian of the Respondent notice of the full hearing on a petition to obtain a juvenile civil protection order or juvenile domestic violence civil protection order.

## OFFENSES

A juvenile civil protection order or juvenile domestic violence civil protection order can **ONLY** be issued for specific behavior under R.C. 2151.34 and 3113.31. Below is a summary of the specific behaviors identified in the law.

**Aggravated Assault** No person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, shall knowingly cause serious physical harm to another or to another's unborn. [R.C. 2903.12(A)(1)]

No person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, shall knowingly cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code. [R.C. 2093.12(A)(2)]

**Aggravated Menacing** No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. [R.C. 2903.21(A)]

**Aggravated Trespass** No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to the person. [R.C. 2911.211 (A)]

**Assault** No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn. [R.C. 2903.13(A)]

No person shall recklessly cause serious physical harm to another or to another's unborn. [R.C. 2903.13(B)]

**Domestic Violence** "Domestic violence" means the occurrence of one or more of the following acts against a family or household member: attempting to cause or recklessly causing bodily injury; placing another person by the threat of force in fear of imminent serious physical harm or committing a violation of section 2903.211 or 2911.211 of the Revised Code; committing any act with respect to a child that would result in the child being an abused child, as defined in section 2151.031 of the Revised Code; committing a sexually oriented offense. [R.C. 3113.31(A)(1)(a)-(d)]

**Family or Household Member** "Family or household member" means any of the following:

(a) Any of the following who is residing with or has resided with the respondent, such as a spouse, a person living as a spouse, or a former spouse of the respondent; a parent, a foster parent, or a child of the respondent, or another person related by consanguinity or affinity (blood or marriage) to the respondent; a parent or a child of a spouse, person living as a spouse, or former spouse of the respondent, or another person related by consanguinity or affinity (blood of marriage) to a spouse, person living as a spouse, or former spouse of the respondent. [R.C. 3113.31(A)(3)(a)]

(b) The natural parent of any child of whom the respondent is the other natural parent or is the putative other natural parent. [R.C. 3113.31(A)(3)(a)-(b)]

"Person living as a spouse" means a person who is living or has lived with the respondent in a common law marital relationship, who otherwise is cohabiting with the respondent, or who otherwise has cohabited with the respondent within five years prior to the date of the alleged occurrence of the act in question. [R.C. 3113.31(A)(4)]

**Felonious Assault** No person shall knowingly cause serious physical harm to another or to another's unborn. [R.C. 2903.11(A)(1)]

No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn by means of a deadly weapon or dangerous ordnance. [R.C. 2903.11(A)(2)]

No person, with knowledge that the person has tested positive as a carrier of a virus that causes AIDS, shall knowingly do any of the following: (1) engage in sexual conduct with another person without disclosing that knowledge to the other person prior to engaging in the sexual conduct; (2) engage in sexual conduct with a person whom the offender knows or has reasonable cause to believe lacks the mental capacity to appreciate the significance of the knowledge that the offender has tested positive as a carrier of a virus that causes AIDS; or (3) engage in sexual conduct with a person under eighteen years of age who is not the spouse of the offender.[R.C. 2903.11(B)]

**Menacing** No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. [R.C. 2903.22(A)]

**Menacing by Stalking** No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person. [R.C. 2903.211(A)(1)]

No person, through the use of any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, or computer system, shall post a message with purpose to urge or incite another to commit a violation of division (A)(1) of this section. [R.C. 2903.211(A)(2)]

**Sexually Oriented Offense** Sexually oriented offenses are defined in R.C. 2950.01.

IN THE COURT OF COMMON PLEAS, \_\_\_\_\_ DIVISION  
 \_\_\_\_\_ COUNTY, OHIO

\_\_\_\_\_  
**Petitioner** : **Case No.** \_\_\_\_\_

\_\_\_\_\_  
 Address : **Judge** \_\_\_\_\_

\_\_\_\_\_  
 City, State, Zip Code :

Date of Birth: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ : **PETITION FOR JUVENILE CIVIL PROTECTION ORDER  
 OR JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION  
 ORDER (R.C. 2151.34 and 3113.31)**

v. :

\_\_\_\_\_  
**Respondent** : **DO NOT WRITE YOUR ADDRESS ON THIS FORM IF YOU  
 ARE REQUESTING CONFIDENTIALITY. PLEASE  
 PROVIDE ANOTHER ADDRESS WHERE YOU CAN  
 RECEIVE NOTICES FROM THE COURT.**

\_\_\_\_\_  
 Address :

\_\_\_\_\_  
 City, State, Zip Code : **Notice to Petitioner: Throughout this form, check every  
 that applies.**

Date of Birth: \_\_\_\_ / \_\_\_\_ / \_\_\_\_ :

- 1. Petitioner seeks relief on his or her own behalf.
- 2. Petitioner seeks relief on behalf of, \_\_\_\_\_, who is a minor.  
 The minor is not a family or household member of the Petitioner pursuant to R.C. 3113.31(A)(3)(a) and (b).
- 3. Petitioner seeks relief on behalf of the following family or household members:

NAME (first, middle initial, and last)	DATE OF BIRTH	HOW RELATED TO PETITIONER/APPLICANT

- 4. Petitioner is not a family or household member of Respondent.
- 5. Petitioner is a family or household member of Respondent and a victim of domestic violence. The relationship of Petitioner to Respondent is that of:
  - Parent of Respondent
  - Foster Parent of Respondent
  - Other relative by blood or marriage of Respondent or Petitioner/ who has lived with Respondent at any time (describe relationship): \_\_\_\_\_
- 6. Petitioner and/or a family or household member of Petitioner has a child in common with the Respondent.



11. Petitioner requests the Court grant relief under R.C. 2151.34 or 3113.31. Check all that apply.

a. Require the Respondent not to harm, attempt to harm, threaten, follow, stalk, harass, contact, force sexual relations upon, or commit sexually oriented offenses against the Petitioner and/or the Petitioner's family or household members named in this Petition.

b. Require the Respondent not to enter or have limited access to the following places (include name and address, as applicable) where Petitioner and Petitioner's family or household members named in this Petition may be found, including the buildings, grounds, and parking lots at these places.

Residence: \_\_\_\_\_

School: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Business or Place of Employment: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other (specify): \_\_\_\_\_  
\_\_\_\_\_

c. Require the Respondent not to have contact with Petitioner and/or Petitioner's family or household members named in this Petition by any means whatsoever.

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

e. Require the Respondent not to possess, use, carry, or obtain any deadly weapon.

f. Require the Respondent to be electronically monitored. Please explain why the Respondent's conduct is a past, present, and future danger to the health, welfare, or safety of the Petitioner and/or the Petitioner's family or household members. Attach additional page if you need more room.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

g. Require the Respondent to complete batterer counseling, substance abuse counseling, or other counseling as determined necessary by the Court.

h. Includes the following additional provisions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order.

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

I hereby swear or affirm that the answers above are true, complete, and accurate to the best of my knowledge. I understand that falsifying this document may result in a contempt of court finding against me which could result in a jail sentence and fine and that falsifying this document may also subject me to criminal penalties or adjudication of delinquency for perjury under R.C. 2921.11 or falsification under R.C. 2921.13.

Sworn to and subscribed before me on this day of

\_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE OF PETITIONER

\_\_\_\_\_  
NOTARY/DEPUTY CLERK OF COURT

**DO NOT WRITE YOUR ADDRESS BELOW IF YOU ARE REQUESTING CONFIDENTIALITY. PLEASE PROVIDE AN ADDRESS WHERE YOU CAN RECEIVE NOTICES FROM THE COURT.**

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Attorney (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attorney Registration: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

\_\_\_\_\_  
Signature of Attorney for Petitioner (if applicable)

IN THE COURT OF COMMON PLEAS, \_\_\_\_\_ DIVISION  
 \_\_\_\_\_ COUNTY

# Order of Protection

Per R.C. 2151.34(F)(3) or 3113.31(F)(3), this Order is indexed at \_\_\_\_\_

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

State

**OHIO**

LAW ENFORCEMENT AGENCY WHERE INDEXED

( )

PHONE NUMBER

**JUVENILE CIVIL PROTECTION ORDER OR JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER *EX PARTE* (R.C. 2151.34 or 3113.31)**

**PETITIONER:**

First Middle Initial Last

v.

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s) (First, MI, Last):

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

\_\_\_\_\_ DOB: \_\_\_\_\_

**RESPONDENT:**

First Middle Initial Last

Distinguishing Features: \_\_\_\_\_

**RESPONDENT IDENTIFIERS**

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

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

The terms of this Order shall be effective until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **DATE CERTAIN – NO LATER THAN RESPONDENT ATTAINS 19 YEARS OF AGE**  
 Respondent will attain 19 years of age on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

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

This proceeding came for an *ex parte* hearing on \_\_\_\_\_ (Respondent not being present), upon the filing of a Petition by Petitioner for a juvenile civil protection order or juvenile domestic violence civil protection order against the Respondent, pursuant to R.C. 2151.34 and 3113.31. The Court held an *ex parte* hearing in accordance with R.C. 2151.34(D)(1) and 3113.31(D)(1).

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

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

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

2. **RESPONDENT SHALL NOT ENTER** the places indicated in this Order, including the buildings, grounds, and parking lots at those locations, except as specifically provided. [NCIC 04]

**Residence:** \_\_\_\_\_  
\_\_\_\_\_

**School:** \_\_\_\_\_  
\_\_\_\_\_

**Business or Place of Employment:** \_\_\_\_\_  
\_\_\_\_\_

**Other:** \_\_\_\_\_  
\_\_\_\_\_

**RESPONDENT IS A MINOR AND WILL RESIDE** at the following address until the Court determines otherwise:  
\_\_\_\_\_  
\_\_\_\_\_

3. **RESPONDENT SHALL STAY AWAY FROM** protected persons named in this Order or as follows [NCIC 04]:  
\_\_\_\_\_  
\_\_\_\_\_

4. **RESPONDENT IS ALLOWED CONTACT WITH** protected person(s) as follows:  
\_\_\_\_\_  
\_\_\_\_\_

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

**RESPONDENT MAY REMOVE THE FOLLOWING:** \_\_\_\_\_  
\_\_\_\_\_

6. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order. Contact includes, but is not limited to, landline, cordless, or cellular telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social network media; writings; or communications by any other means regardless if directly or through another person, and as follows: [NCIC 05]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

8. **NOTICE TO RESPONDENT AND RESPONDENT’S PARENT, GUARDIAN, OR LEGAL CUSTODIAN: RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** while this Order remains in effect.

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. **IT IS FURTHER ORDERED** that a copy of the Petition and this Order to be delivered to the Respondent and Respondent’s parent, guardian, or legal custodian as required by law. Under federal and state law, no fees shall be charged for filing, issuing, registering, or serving this protection order.

11. **ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL A DATE CERTAIN** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **OR UNTIL RESPONDENT ATTAINS 19 YEARS OF AGE.**

12. **SUBJECT TO FURTHER ORDER OF THIS COURT, this Order and all records of the proceeding shall be sealed** upon the happening of the earliest of the following: (1) Dismissal of this Petition; (2) Expiration of the Order, or (3) Respondent’s 19th birthday.

13. **RESPONDENT WILL ATTAIN** 19 years of age on: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_.

**IT IS SO ORDERED.**

\_\_\_\_\_  
**MAGISTRATE**

\_\_\_\_\_  
**JUDGE**

**NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON’S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

**A FULL HEARING** on this Order shall be held before

Judge \_\_\_\_\_ or

Magistrate \_\_\_\_\_

on \_\_\_\_\_ at \_\_\_\_\_ a.m. / p.m.

at the following location: \_\_\_\_\_

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

- Petitioner
- Attorney for Petitioner
- Petitioner's Mother: \_\_\_\_\_
- Petitioner's Father: \_\_\_\_\_
- Petitioner's Guardian or Legal Custodian: \_\_\_\_\_
- Respondent (by personal service)
- Respondent's Mother: \_\_\_\_\_
- Respondent's Father: \_\_\_\_\_
- Respondent's Guardian or Legal Custodian: \_\_\_\_\_
- Police Department Where Petitioner Resides: \_\_\_\_\_
- Police Department Where Petitioner Works: \_\_\_\_\_
- The \_\_\_\_\_ County Sheriff's Office
- School: \_\_\_\_\_
- Police Department Where School is Located: \_\_\_\_\_
- Other: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS, \_\_\_\_\_ DIVISION  
\_\_\_\_\_ COUNTY, OHIO

# Order of Protection

Per R.C. 2151.34(F)(3), this Order is indexed at

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

State

**OHIO**

**JUVENILE CIVIL PROTECTION ORDER FULL HEARING  
(R.C. 2151.34)**

### PETITIONER:

First Middle Initial Last

v.

### PERSON(S) PROTECTED BY THIS ORDER:

Petitioner \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s) (First, MI, Last)

DOB: \_\_\_\_\_

DOB: \_\_\_\_\_

DOB: \_\_\_\_\_

DOB: \_\_\_\_\_

### RESPONDENT:

First Middle Initial Last

Distinguishing Features: \_\_\_\_\_

### RESPONDENT IDENTIFIERS

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

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

### THE COURT HEREBY FINDS:

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

### THE COURT HEREBY ORDERS:

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

The terms of this Order shall be effective until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **DATE CERTAIN - NO LATER THAN  
RESPONDENT ATTAINS 19 YEARS OF AGE**

Respondent will attain 19 years of age on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ .

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

This proceeding came on for a hearing on \_\_\_\_\_ before the Court and the Juvenile Civil Protection Order *Ex Parte* filed on \_\_\_\_\_ in accordance with R.C. 2151.34. The following individuals were present: \_\_\_\_\_

The Court hereby makes the following findings of fact: \_\_\_\_\_

The Court finds by a preponderance of the evidence that 1) the Petitioner and/or the Petitioner's family or household member(s) are in danger of being or have been harmed by Respondent as defined in R.C. 2903.11, 2903.12, 2903.13, 2903.21, 2903.211, 2903.22, 2911.211, and 2950.01; and 2) the following orders are equitable, fair, and necessary to protect the person(s) named in this Order from offenses of violence.

The Court finds by clear and convincing evidence that 1) the Petitioner or Petitioner's family or household member reasonably believed the Respondent's conduct before the filing of the Petition endangered the health, welfare, or safety of the Petitioner or Petitioner's family or household member(s), 2) the Respondent presents a continuing danger to the Petitioner or Petitioner's family or household member(s), and 3) the following orders are equitable, fair, and necessary to protect the person(s) named in this Order. This finding is necessary for electronic monitoring of Respondent.

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT**

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

2. **RESPONDENT SHALL NOT ENTER** the places indicated in this Order, including the buildings, grounds, and parking lots at those locations, except as specifically provided. [NCIC 04]

**Residence:** \_\_\_\_\_

**School:** \_\_\_\_\_

**Business or Place of Employment:** \_\_\_\_\_

**Other:** \_\_\_\_\_

**RESPONDENT IS A MINOR AND WILL RESIDE** at the following address:

\_\_\_\_\_  
\_\_\_\_\_

**3. RESPONDENT SHALL STAY AWAY** from protected person(s) named in this Order or as follows. [NCIC 04]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**4. RESPONDENT IS ALLOWED CONTACT WITH** protected persons(s) as follows: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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

**RESPONDENT MAY REMOVE THE FOLLOWING:** \_\_\_\_\_

\_\_\_\_\_

**6. RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order. Contact includes, but is not limited to, landline, cordless, or cellular telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social network media; writings; or communications by any other means directly or through another person, and as follows: [NCIC 05]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

**8. IT IS FURTHER ORDERED:** [NCIC 08] \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**9. RESPONDENT IS ORDERED TO COMPLETE** the following counseling program(s): \_\_\_\_\_

\_\_\_\_\_

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

Case No. \_\_\_\_\_

Respondent is ordered to appear before Judge \_\_\_\_\_ or Magistrate \_\_\_\_\_ on \_\_\_\_\_, at \_\_\_\_\_ a.m. / p.m., to review Respondent's compliance with this Order. Respondent is warned: If you fail to attend the above-named program you may be held in contempt of court.

10. NOTICE TO RESPONDENT AND RESPONDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN: RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON while this Order remains in effect.

11. RESPONDENT SHALL BE ELECTRONICALLY MONITORED. The Court having found the factors set forth in R.C. 2151.34(E)(1)(b). Respondent is ordered to report to \_\_\_\_\_ for the installation of a global positioning system for the purpose of electronic monitoring for the duration of this Order or until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ whichever expires first. The Court further imposes the following terms and conditions: \_\_\_\_\_

12. IT IS FURTHER ORDERED that a copy of the Petition and this Order to be delivered to the Respondent and Respondent's parent, guardian, or legal custodian as required by law. Under federal and state law, no fees shall be charged for filing, issuing, registering, or serving this protection order.

13. ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL A DATE CERTAIN, \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ OR UNTIL RESPONDENT ATTAINS 19 YEARS OF AGE.

14. THE COURT WILL SEAL THIS RECORD ON THE RESPONDENT'S 19th BIRTHDAY, unless otherwise determined by the Court.

RESPONDENT WILL ATTAIN the 19 years of age on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_.

IT IS SO ORDERED.

APPROVED and ADOPTED by:

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

NOTICE TO RESPONDENT: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.

**NOTICE OF FINAL APPEALABLE ORDER**

Copies of the foregoing Order, which is a final, appealable order, were mailed by ordinary U.S. mail or hand-delivered to the parties indicated on the following date: \_\_\_\_\_

**By:** \_\_\_\_\_

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

- Petitioner
- Attorney for Petitioner
- Petitioner's Mother: \_\_\_\_\_
- Petitioner's Father: \_\_\_\_\_
- Petitioner's Guardian or Legal Custodian: \_\_\_\_\_
- Respondent
- Attorney for Respondent
- Respondent's Mother: \_\_\_\_\_
- Respondent's Father: \_\_\_\_\_
- Respondent's Guardian or Legal Custodian: \_\_\_\_\_
- School: \_\_\_\_\_
- Police Department Where Petitioner Resides: \_\_\_\_\_
- Police Department Where Petitioner Works: \_\_\_\_\_
- Police Department Where School is Located: \_\_\_\_\_
- The \_\_\_\_\_ County Sheriff's Office
- Other: \_\_\_\_\_

IN THE COURT OF COMMON PLEAS, \_\_\_\_\_ DIVISION  
 \_\_\_\_\_ COUNTY, OHIO

# Order of Protection

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

Case No.

Judge \_\_\_\_\_

State

OHIO

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

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

LAW ENFORCEMENT AGENCY WHERE INDEXED

( ) -

PHONE NUMBER

**PETITIONER:**

First

Middle

Last

v.

**PERSON(S) PROTECTED BY THIS ORDER:**

Petitioner: \_\_\_\_\_ DOB: \_\_\_\_\_

Petitioner's Family or Household Member(s) (First, MI, Last):

DOB: \_\_\_\_\_

DOB: \_\_\_\_\_

DOB: \_\_\_\_\_

DOB: \_\_\_\_\_

**RESPONDENT:**

First

Middle

Last

Relationship to Petitioner: \_\_\_\_\_

Address where Respondent can be found: \_\_\_\_\_

**RESPONDENT IDENTIFIERS**

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

Distinguishing Features: \_\_\_\_\_

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

**THE COURT HEREBY FINDS:**

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

**THE COURT HEREBY ORDERS:**

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

The terms of this Order shall be effective until \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ **DATE CERTAIN – NO LATER THAN RESPONDENT ATTAINS 19 YEARS OF AGE**  
 Respondent will attain 19 years of age on \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ .

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

Case No. \_\_\_\_\_

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

The Court further makes the following findings of fact: \_\_\_\_\_

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

The parties agree to waive their notice and hearing rights and their rights under Civ. R. 53, including the right to request findings of fact and conclusions of law and to file objections to the Magistrate's Decision in this matter. Therefore, the Court approves a Juvenile Domestic Violence Consent Agreement Civil Protection Order pursuant to R.C. 3113(E)(1).

**ALL OF THE PROVISIONS CHECKED BELOW APPLY TO THE RESPONDENT.**

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

2. **RESPONDENT SHALL IMMEDIATELY VACATE** the following residence: \_\_\_\_\_

3. **RESPONDENT IS A MINOR AND WILL RESIDE** at the following address: \_\_\_\_\_

4. **RESPONDENT SHALL NOT INTERFERE WITH THE PROTECTED PERSONS RIGHT** to occupy the residence including, but not limited to canceling utilities or insurance, interrupting telephone service, mail delivery, or the delivery of any other documents or items. [NCIC 03]

5. **RESPONDENT SHALL NOT ENTER** the places indicated in this Order, including the buildings, grounds and parking lots at those locations. [NCIC 04]

**Residence:** \_\_\_\_\_

**Business or Place of Employment:** \_\_\_\_\_

**Other:** \_\_\_\_\_

- 6. **RESPONDENT SHALL STAY AWAY FROM PETITIONER** and all other protected persons named in this Order or as follows [NCIC 04]: \_\_\_\_\_

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- 7. **RESPONDENT SHALL NOT REMOVE, DAMAGE, HIDE, OR DISPOSE OF ANY PROPERTY OR PETS** owned or possessed by the protected persons named in this Order.
- 8. **RESPONDENT SHALL NOT INITIATE OR HAVE ANY CONTACT** with the protected persons named in this Order. Contact includes, but is not limited to, land line, cordless, or cellular telephone; text; instant messaging; fax; e-mail; voice mail; delivery service; social network media; writings; or communications by any other means directly or through another person. [NCIC 05]
- 9. **RESPONDENT SHALL NOT CAUSE OR ENCOURAGE ANY PERSON** to do any act prohibited by this Order.
- 10. **RESPONDENT IS ALLOWED CONTACT** with protected persons as follows: \_\_\_\_\_

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- 11. **RESPONDENT MAY PICK UP CLOTHING** and personal items from the above residence only in the company of a uniformed law enforcement officer or \_\_\_\_\_ within seven days of the filing of this Order. Arrangements may be made by contacting: \_\_\_\_\_
- 12. **RESPONDENT SHALL IMMEDIATELY SURRENDER** to law enforcement or \_\_\_\_\_ the following personal property: \_\_\_\_\_
- 13. **RESPONDENT SHALL COMPLETE THE FOLLOWING COUNSELING PROGRAM:** \_\_\_\_\_

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

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

**14. NOTICE TO THE RESPONDENT AND RESPONDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN: RESPONDENT SHALL NOT POSSESS, USE, CARRY, OR OBTAIN ANY DEADLY WEAPON** while this Order remains in effect.

Case No. \_\_\_\_\_

15. IT IS FURTHER ORDERED: [NCIC 08] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

16. IT IS FURTHER ORDERED that a copy of the Petition and this Order to be delivered to the Respondent and Respondent's parent, guardian, or legal custodian as required by law. Under state and federal law, no fees shall be charged for filing, issuing, registering, or serving this protection order.

17. ALL OF THE TERMS OF THIS ORDER REMAIN IN FULL FORCE AND EFFECT UNTIL A DATE CERTAIN, \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ OR UNTIL THE RESPONDENT ATTAINS THE AGE OF 19.

18. THE COURT WILL SEAL THIS RECORD ON THE RESPONDENT'S 19th BIRTHDAY, unless otherwise determined by the Court.

19. RESPONDENT WILL ATTAIN 19 years of age on: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_.

IT IS SO ORDERED.

APPROVED and ADOPTED by:

\_\_\_\_\_  
MAGISTRATE

\_\_\_\_\_  
JUDGE

**NOTICE TO RESPONDENT AND RESPONDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN: THE PERSONS PROTECTED BY THIS ORDER CANNOT GIVE YOU LEGAL PERMISSION TO CHANGE OR VIOLATE THIS ORDER. IF YOU VIOLATE ANY TERMS OF THIS ORDER, EVEN WITH THE PROTECTED PERSON'S PERMISSION, YOU MAY BE ARRESTED. ONLY THE COURT CAN CHANGE THIS ORDER. IF THERE IS ANY REASON WHY THIS ORDER SHOULD BE CHANGED, YOU MUST ASK THE COURT TO CHANGE IT. YOU ACT AT YOUR OWN RISK IF YOU DISREGARD THIS WARNING.**

*I have read this Consent Agreement and agree to its terms.*

*I have read this Consent Agreement and agree to its terms.*

\_\_\_\_\_  
SIGNATURE OF PETITIONER

\_\_\_\_\_  
SIGNATURE OF RESPONDENT

\_\_\_\_\_  
Address of Petitioner

\_\_\_\_\_  
Address of Respondent

\_\_\_\_\_  
Signature of Attorney for Petitioner

\_\_\_\_\_  
Signature of Attorney for Respondent

\_\_\_\_\_  
Address of Attorney for Petitioner

\_\_\_\_\_  
Address of Attorney for Respondent

**NOTICE OF FINAL APPEALABLE ORDER**

Copies of the foregoing Order, which is a final appealable order, were mailed by ordinary U.S. mail or hand-delivered to the parties indicated on the following date: \_\_\_\_\_

By: \_\_\_\_\_

**COPIES OF THIS ORDER SHALL BE DELIVERED TO:**

- Petitioner
- Attorney for Petitioner
- Petitioner's Mother: \_\_\_\_\_
- Petitioner's Father: \_\_\_\_\_
- Petitioner's Guardian or Legal Custodian: \_\_\_\_\_
- Respondent
- Attorney for Respondent
- Respondent's Mother: \_\_\_\_\_
- Respondent's Father: \_\_\_\_\_
- Respondent's Guardian or Legal Custodian: \_\_\_\_\_
- Counseling Program: \_\_\_\_\_
- The \_\_\_\_\_ County Sheriff's Office
- Police Department Where Petitioner Resides: \_\_\_\_\_
- Police Department Where Petitioner Works: \_\_\_\_\_
- CSEA: \_\_\_\_\_
- Other: \_\_\_\_\_

**FORM 10.05-F: WARNING CONCERNING THE ATTACHED JUVENILE CIVIL PROTECTION ORDER OR JUVENILE DOMESTIC VIOLENCE CIVIL PROTECTION ORDER**

**NOTE:** Rule 10.05 of the Rules of Superintendence for the Courts of Ohio requires this Warning to be attached to the *FRONT* of all civil protection orders issued by the courts of the State of Ohio. **TO BE USED WITH FORMS 10.05-C TO 10.05-E.**

**WARNING TO RESPONDENT**

Violating the attached Civil Protection Order (1) is a crime, punishable by imprisonment or fine or both, and (2) can result in a contempt of court citation against you.

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

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

Only the Court can change this Order. If you want to change the Order you must ask the Court. The Petitioner cannot give you legal permission to change this Order. If you go near the Petitioner, even with the Petitioner's permission, you may be arrested. You act at your own risk if you disregard this WARNING.

**WARNING TO PETITIONER**

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

**NOTICE TO ALL LAW ENFORCEMENT AGENCIES AND OFFICERS**

The attached Protection Order is enforceable in all jurisdictions. Violation of this Protection Order is a crime under R.C. 2919.27. Law enforcement officers with powers to arrest under R.C. 2935.03 for violations of the Ohio Revised Code must enforce the terms of this Protection Order as required by R.C. 2151.34 and 3113.31. Federal and State law prohibit charging a fee for service of this Order.

**RULE 10.06. Inter-Court Communication in Domestic Violence and Related Cases.**

**(A) Determining existence of conflicting order**

(1) A court issuing a protection order pursuant to section 2919.26 or 3113.31 of the Revised Code should make a reasonable effort to determine the existence and terms of any domestic violence civil protection orders, domestic violence temporary protection orders, and orders allocating parental rights and responsibilities issued by another court and involving the same parties. A court issuing an order allocating parental rights and responsibilities should make a reasonable effort to determine the existence and terms of any protection orders issued by another court pursuant to section 2919.26 or 3113.31 of the Revised Code and involving the same parties.

(2) To determine the existence and terms of other orders pursuant to division (A)(1) of this rule, a court may utilize the Ohio Courts Network, examine publicly available court records involving the same parties from other courts, or use any other reasonable mechanism suitable for communicating and sharing public information.

(3) A court need not make a record of any communication between it and another court made for the purpose of determining the existence and terms of other orders pursuant to division (A)(1) of this rule.

(4) A court issuing a protection order pursuant to section 2919.26 or 3113.31 of the Revised Code or an order allocating parental rights and responsibilities shall comply with Chapter 3127. of the Revised Code.

**(B) Avoiding conflicting order**

(1) If a court has issued a protection order pursuant to section 2919.26 or 3113.31 of the Revised Code or an order allocating parental rights and responsibilities and becomes aware another court has issued a conflicting order, the court should consider, if appropriate, revising its order to avoid conflict between the orders.

(2) A court shall consider and may adopt a local rule of court creating a procedure by which the court may revise its orders pursuant to division (B)(1) of this rule.

(3) Division (B)(1) of this rule is not intended to change the procedures for the modification or early termination of a domestic violence civil protection order pursuant to division (E)(8) of section 3113.31 of the Revised Code or the procedures for the filing of a copy of a civil or criminal protection order with the

local enforcement agency for entry in the National Crime Information Center database pursuant to Rule 10 of the Rules of Superintendence for the Courts of Ohio.

**RULE 11. Recording of Proceedings.**

(A) **Recording devices.** Proceedings before any court and discovery proceedings may be recorded by stenographic means, phonographic means, photographic means, audio electronic recording devices, or video recording systems. The administrative judge may order the use of any method of recording authorized by this rule.

(B) **Appeal.** Transcripts of proceedings in electronic media shall be prepared in accordance with Rule 9(A) of the Rules of Appellate Procedure.

(C) **Custody.** Electronically recorded transcripts of proceedings shall be maintained and transcribed in the manner directed by the trial court.

(D) **Inspection of electronically recorded transcripts of proceedings.** A party may request a copy of an electronically recorded transcript of proceedings, or a portion of the transcript. The court may permit a party to view or hear the transcript of proceedings on file with the court.

(E) **Reference to electronically recorded transcripts of proceedings.** Reference to a particular portion of an electronically recorded transcript of proceedings shall be to the event, the number of the reel of tape on which it was recorded and the elapsed time counter reading.

(F) **Expense of electronically recorded transcripts of proceedings.** The expense of copies of electronically recorded transcripts of proceedings or such portions as are considered necessary by a party shall be borne by the requesting party or as provided by law. The expense of viewing or hearing an electronically recorded transcript of proceedings under division (D) of this rule shall be borne by the requesting party. All other expenses of electronically recorded transcripts of proceedings shall be costs in the action.

**Commentary (July 1, 1997)**

Rule 11 is analogous to former C.P. Sup. R. 10 and M.C. Sup. R. 8.

The rule authorizes the use of any one of several media in recording proceedings before a court.

In this comment and in the comment to Rule 12, the terms, “record,” “transcript of proceedings,” “transcribe,” and “transcription” are used. As a preliminary consideration, the manner in which those terms are used in these comments is set forth.

The definition of “record” is the same as that contained in App. R. 9(A):

The original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court shall constitute the record on appeal in all cases. \* \* \*

The transcript of proceedings is the part of the record that reflects the events in the trial not represented by original papers. Essentially, it is the testimony of witnesses and the oral participation of counsel and of the trial judge, as recorded by the court reporter, and required for the purposes of appeal. The transcript of proceedings is the end product of whatever medium is used to record the proceedings. In traditional practice, the stenographic notes constituted a transcript of proceedings in that oral testimony was transcribed into stenographic notes. Of course, a second transcription into written form was necessary to put the proceedings into a form that could be readily used by all.

When the verb, transcribe, is used in these comments, it means preserving oral testimony by conversion to another medium. The other medium may be stenographic notes, videotape, motion picture sound track, or audio tape. It may also mean the conversion from one recorded medium to another.

When the noun, transcription, is used, it means the copy, either in the original medium or in the conversion medium.

### **Rule 11(A) Recording Devices**

Recordation represents the best method of providing an accurate base for the creation of a transcript of proceedings required for an appeal under App. R. 9(A). In civil matters, there is no obligation to record the proceedings before the court. However, the court must provide a means of recording the proceedings in a civil matter upon the request of a party. R.C. 2301.20 requires the court of common pleas to provide a reporter on request of a party or their attorney. That provision applies to the municipal court by virtue of R.C. 1901.21(A).

Rule 11(A) authorizes stenographic means, which refers to shorthand in one of its forms. Phonogramic means refers to the use of a stenotype. Photographic means refers to sound motion pictures, the recording on photographic film. Audio electronic recording devices refers to the several systems for recording sound on magnetic tape, magnetic discs, or an impression disc or belt. A video recording system is one which records sound and picture on videotape.

Rule 11(A) directs that the choice of method of recording of proceedings is vested in the administrative judge rather than in the individual judge in a multi-judge court.

### **Rule 11(B) Appeal**

A major source of delay in the appellate process is the transcribing from stenographic notes to written record. One of the advantages of recording proceedings on videotape is that there is an instant record prepared. The preparation of briefs can begin at the conclusion of the

trial without a lengthy wait for the transcribing of the reporter's notes. Videotape has an advantage over the other electronic media in that it is easier to identify overlapping voices than it is in a pure audio recording.

On appeal, the record is composed of the original papers (pleadings, motions, depositions, exhibits, etc.), the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries. The parties to the appeal have control over the extent of the transcript of proceedings under App. R. 9(B). The appellant selects the portions of the transcript that are necessary to the appeal. The appellee may require additional inclusions, if necessary to the resolution of the assignments of error. When the appellant intends to urge that a finding or conclusion is unsupported by the evidence or is contrary to the weight of the evidence, the appellant must include a transcript of all evidence relevant to the finding or conclusion. Even where it is claimed that a verdict is against the manifest weight of the evidence, it is not automatic that all evidence is relevant to that issue. For example, where a verdict finds no liability, evidence as to damages is not relevant to the issue of the verdict being against the manifest weight of the evidence. Appellants have followed a common practice of ordering the entire transcription of the proceedings for inclusion in the record on appeal, thus aggravating the problem of delay. The record on videotape negates the problem.

Rule 11(E) requires that the reference in a brief to a particular portion of a videotape recorded transcript of proceedings be to the event, the reel of videotape, and the elapsed time counter reading. For example: Testimony of Dr. Doug Ross, Reel 3, 1-06-55 to 1-14-23. The party would have the testimony within that time span transcribed into written form and append it to the brief to comply with Rule 11(B). The party may make the transcription from the videotape or from an audio tape recording furnished by the reporter, provided there is an accurate frame of reference to the elapsed time counter. The inclusion assists the reviewing court in that the court does not have to place the appropriate reel on the playback equipment, find the appropriate portion, and view the testimony, remembering it for the purposes of decision.

### **Rule 11(C) Custody**

R.C. 2301.20 provides that the official shorthand reporter is required to retain and preserve the shorthand notes. The provision is necessary because the reporter may be called upon to transcribe the notes into written form. It is a difficult task for another person to transcribe a reporter's shorthand notes. In contrast, records made in electronic media are complete at the conclusion of the proceedings and do not require a reporter's transcription to be utilized by others.

The trial court has custody and control over the electronic recordings of proceedings, including the release of the videotape recording after it has served its function. Videotape is reusable and specific provision is made in Rule 13(E) for the disposition of videotape recordings filed with the court. The same standards serve to guide the court in releasing a videotape recording of proceedings under this rule.

### **Rule 11(D) Inspection of electronically recorded transcripts of proceedings**

All electronically recorded transcripts of proceedings are required to be maintained in the manner directed by the trial court as provided in Rule 11(C).

Rule 11(D) provides that a party may view or hear the transcript of proceedings on file. Party is used as a simplified reference; the reference includes a party's counsel. There is a clear implication that electronic transcripts of proceedings are not available for indiscriminate public viewing, anymore than stenographic notes in the hands of the official court reporter are available for public inspection and reading. Rule 11(C) places the responsibility for custody and maintenance of the filed electronically recorded transcripts in the trial court. The court may entertain and dispose of requests to view the videotape record by persons other than parties or their counsel.

The important aspect of the rule is that a party does not have to order a copy of the videotape recording in videotape or in an audio recording for the purposes of preparing an appeal. The party may work from the original. As a practical matter, the inexpensive audio cassette recording made simultaneously with the videotape recording or made from the videotape sound track provides the information needed for brief preparation with the exception of the superimposed time readings.

### **Rule 11(E) References to electronically recorded transcripts of proceedings**

The rule implements App. R. 16(D) and Rule VI, Section 1(B)(3) of the Rules of Practice of the Supreme Court. Those references contemplated written records and call for reference to the pages of the record. This rule adapts the reference system to the electronically recorded transcript of proceedings. The example used in the discussion above is repeated to illustrate the reference to videotape: Testimony of Dr. Doug Ross, Reel 3, 1-06-55 to 1-14-23.

### **Rule 11(F) Expense of electronically recorded transcripts of proceedings**

The rule refers to three distinct areas of expense: (1) the recording of the proceedings themselves; (2) the securing of copies of the transcript of proceedings; and (3) the viewing of the transcript of proceedings.

The expense of recording the proceedings electronically may be made up of different items: the cost of the videotape used, a fee for personnel and equipment to make the recording, and a fee for renting equipment operated by court personnel. The rule provides that these expenses are costs in the action. The official shorthand reporter's services are paid for on an annual salary basis or, if the appointment is for less than one year, on a per diem fixed by the court. R.C. 2301.22. It is also provided that an \$25.00 per diem fee be taxed as costs in each reported case and paid into the county general fund. R.C. 2301.21. The rule provision that the expenses of making the electronic recording of the proceedings be costs has the force of statute by virtue of Article IV, Section 5 of the Ohio Constitution and provides an equivalency to the statutory provision relating to an official shorthand reporter. The costs charged for electronic

recording consist of the disbursements made by the court; the amounts applicable to the official shorthand reporter are not the amounts charged. Costs would not include allowances for regular court employees. The owner of the videotape is the party who pays the assessed costs, which include the price of the videotape used in the recording of the proceedings.

The rule provides that the cost of an electronically recorded transcript of proceedings shall be borne by the party requesting the copy or as provided by law. This is in contrast to the provisions made for copies of transcripts from the notes of the official shorthand reporter. R.C. 2301.24 provides that the requesting party pay the compensation specified directly to the reporter, and R.C. 2301.25 provides that the cost of the transcript shall be charged as costs in the case. The same statutes provide that the cost of copies ordered by the trial judge or the prosecuting attorney are to be paid from the public treasury and charged as costs in the case. The difference in treatment between an electronically recorded transcript and one recorded stenographically or phonographically is that the electronic transcript is completed, accessible and usable at any given time without a transcription. A transcription is a convenience, not a necessity, in contrast to stenographic notes which must be transcribed to be useful. R.C. 2301.24 and 2301.25, relating to the provision of transcripts to indigent criminal defendants remain in effect, leaving the matter to the discretion of the trial court. Copies of the transcript may be whole or partial. It may be in the same medium or it may be transcribed into another medium. For example, videotape may be reproduced, the sound track alone may be reproduced as an audio tape recording, or the testimony may be transcribed into written form. Rule 13(A). The cited section applies in municipal courts by virtue of R.C. 1901.21. An example of a provision of law which would make the cost of a transcript recorded on videotape an item of costs in the case is App. R. 24.

Electronically recorded transcripts of proceedings introduce a new factor, viewing or hearing the original transcript of proceedings for brief preparation or the purposes of post-judgment motions. The rule provides that the expense of such viewing or hearing is an expense to be borne by the requesting party. The provision has no counterpart in the statutes by virtue of the nature of the reporter's notes. The provision is commensurate with the requirement that the requesting party bear the cost of a copy. It is a substitute for securing a copy. Viewing or hearing by the prosecuting attorney will be at public expense whether through the prosecuting attorney's budget or through the court's budget. The rule does not provide for that expense to be charged as costs in the case as was true of the expense of copies under the cited statutes.

## **RULE 12. Conditions for Broadcasting and Photographing Court Proceedings.**

(A) **Presiding judge.** The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the written order of the judge shall be made a part of the record of the proceedings.

### **(B) Permissible equipment and operators.**

(1) Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.

(2) Not more than one still photographer shall be permitted to photograph trial proceedings without permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.

(3) For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.

(4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.

(5) Arrangements between or among media for “pooling” of equipment shall be the responsibility of the media representative authorized to cover the proceeding. “Pooling” arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.

(6) The judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification.

(7) Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.

**(C) Limitations.**

(1) There shall be no audio pickup or broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel or of conferences conducted at the bench between counsel and the judge.

(2) The judge shall inform victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

(3) This rule shall not be construed to grant media representatives any greater rights than permitted by law.

(4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.

**(D) Revocation of permission.** Upon the failure of any media representative to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to broadcast or photograph the trial or hearing.

**Commentary (July 1, 1997)**

Rule 12 is analogous to former C.P. Sup. R. 11 and M.C. Sup. R. 9. Division (A) was revised to include a reference to standards set forth in Ohio law, such as *In re T.R.* (1990), 52 Ohio St.3d 6, that govern public access to court proceedings. The 1997 amendments also eliminated the prohibition against changing film and videotape during court proceedings.

**Rule 12(A) Presiding Judge**

The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings open to the public, upon request, if the judge determines that to do so would not distract the participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair trial. Both the request for permission and the ruling on the request must be in writing and made a part of the record of the proceedings.

The filming, videotaping, recording, or taking of photographs of victims or witnesses who object shall not be permitted.

After consultation with the media the judge specifies the locations within the courtroom where operators and equipment may be located. However, still photographers and television and radio representatives must be given a clear view of the proceedings under division (B)(7).

## **Rule 12(B) Permissible Equipment and Operators**

Not more than one portable television, videotape, or movie camera with one operator and not more than one still photographer with two cameras shall be allowed unless the judge presiding at the trial or hearing specifically permits additional cameras or operators. Each of the two still cameras permitted by the rule is limited to two lenses.

For purposes of radio broadcasting, not more than one audio system is permitted. If an existing audio system is available and suitable, it shall be used. If an audio system is not available, then microphones and other necessary equipment “shall be as inconspicuous as possible but must be visible.”

Portable audio recording equipment may be used by reporters if it is visible and if the permission of the judge presiding at the trial or hearing is first obtained.

All pooling arrangements are the responsibility of the media representatives. Pooling arrangements must be made without involving the court. If any disputes arise, the judge may exclude all contesting media representatives.

Electronic or photographic equipment that produces distracting sound or light shall be prohibited by the judge. No artificial lighting, other than that normally used in the courtroom, is permitted unless the judge, upon request and after consultation with the media representatives, determines that the normal light can be improved without becoming obtrusive.

Still photographers and television and radio representatives shall not move about the courtroom from the place where they have been positioned by the judge, except to leave or enter the courtroom.

## **Rule 12(C) Limitations**

Audio pickup or broadcast of conferences in a court facility between attorney and client or between counsel and the judge are prohibited.

The trial judge must advise victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.

No part of Rule 12 gives authority for media coverage where it is otherwise limited or prohibited by law.

While the court is in session, media representatives are not permitted to either transmit or record anything from the courtroom other than court proceedings.

**Rule 12(D) Revocation of Permission**

If any media representative fails to comply with the conditions set by either the judge or this rule, the judge may revoke the permission to broadcast or photograph the trial or hearing.

### **RULE 13. Videotaped Testimony and Evidence.**

#### **(A) Videotape depositions.**

- (1) **Authority.** Videotape depositions are authorized by Civil Rule 30(B)(3).
- (2) **Notice.** The notice requirements of Civil Rule 30(B)(3) regarding the manner of recording, preserving, and filing depositions apply to videotape depositions. Notice is sufficient if it specifies that the videotape deposition is to be taken pursuant to the provisions of this rule.
- (3) **Persons authorized to take depositions.** The officer before whom a videotape deposition is taken shall be one of those persons enumerated in Civil Rule 28.
- (4) **Date and time recording.** A date and time generator shall be used to superimpose the year, month, day, hour, minute, and second over the video portion of the recording during the taking of the deposition. The total deposition time shall be noted on the outside of the videotape.
- (5) **Objections.** The officer shall keep a log of objections referenced to the time of making each objection as superimposed on the video portion of the recording. If the deposition is transcribed, the log shall include the page of the transcript on which each objection occurs.
- (6) **Copies of the deposition.** Upon the request of a party, the officer shall provide an audio cassette recording of the deposition at the conclusion of its taking. Upon the request of a party, the officer shall provide a copy of the deposition in the medium of videotape or a written transcript of the deposition within a reasonable period of time. The requesting party shall bear the cost of the copy requested.
- (7) **Submission to witness.** After a videotape deposition is taken, the videotape shall be shown immediately to the witness for his examination, unless the examination is waived by the witness and the parties.
- (8) **Certification of original videotape deposition.** The officer before whom the videotape deposition is taken shall cause a written certification to be attached to the original videotape. The certification shall state that the witness was fully sworn or affirmed by the officer and that the videotape is a true record of the testimony given by the witness. If the witness has not waived his or her right to a showing and examination of the videotape deposition, the witness shall also sign the certification.

When an officer makes a copy or a transcription of the videotape deposition in any medium, he or she shall attach a written certification to the copy or transcription. The certification shall state that the copy is a true record of the videotape testimony of the witness.

- (9) **Certification of edited videotape depositions.** The officer who edits the original videotape deposition shall attach a written certification to the edited copy of the videotape

deposition. The certification shall state that the editing complies with the rulings of the court and that the original videotape deposition has not been affected by the editing process.

(10) **Filing where objections not made.** Where objections are not made by a party or witness during the deposition and, if pursuant to Civil Rule 30(F)(1) a party requests, or the court orders, that the deposition be filed with the court, the officer shall file the deposition with the clerk of the court.

(11) **Filing where objections made.** When a deposition containing objections is filed with the court pursuant to Civil Rule 30(F)(1), it shall be accompanied by the officer's log of objections. A party may request that the court rule upon the objections within fourteen days of the filing of the deposition or within a reasonable time as stipulated by the parties. In ruling upon objections, the court may view the videotape recording in its entirety or view only those parts of the videotape recording pertinent to the objections made. If the parties are not present at the time the court's rulings are made, the court shall provide the parties with copies of its rulings on the objections and his instructions as to editing.

(12) **Editing alternatives.** The original videotape shall not be affected by any editing process.

(a) In its order and editing instructions the court may do any of the following:

(i) Release the videotape to the officer with instructions to keep the original videotape intact and make an edited copy of the videotape that deletes all references to objections and objectionable material;

(ii) Order the person showing the original videotape at trial to suppress the objectionable audio portions of the videotape;

(iii) Order the person showing the original videotape at trial to suppress the objectionable audio and video portions of the videotape.

(b) If the court uses alternative in division (A)(12)(a)(i) of this rule, the officer shall cause both the original videotape recording and the edited videotape recording, each clearly identified, to be filed with the clerk of the court. If the court uses the alternative in division (A)(12)(a)(ii) of this rule, it shall, in jury trials, instruct the jury to disregard the video portions of the presentation when the audio portion is suppressed. If the court uses the alternative in division (A)(12)(a)(iii) of this rule, it shall, in jury trials, instruct the jury to disregard any deletions apparent in the playing of the videotape.

(13) **Storage.** Each court shall provide secure and adequate facilities for the storage of videotape recordings.

(14) **Inspection or viewing.** Except upon order of the court and upon such terms as it may provide, the videotape recordings on file with the clerk of the court shall not be available for

inspection or viewing after filing and prior to use at trial or disposition in accordance with this rule. Upon the request of a party under division (A)(3) of this rule, the clerk, without court order, may release the videotape to the officer to allow the making of a copy of the videotape.

(15) **Objections at trial.** Objections should be made prior to trial, and all objections shall be made before actual presentation of the videotape at trial. If an objection is made at trial that has not been waived pursuant to Civil Rule 32(D)(3) or previously raised and ruled upon, the objection shall be made before the videotape deposition is presented. The trial judge shall rule on objections prior to the presentation of the videotape. If an objection is sustained, that portion of the videotape containing the objectionable testimony shall not be presented.

**(B) Videotape trials.**

(1) **Authority.** Videotape trials are authorized by Civil Rule 40. In videotape trials, videotape is the exclusive medium of presenting testimony irrespective of the availability of the individual witness to testify in person. All testimony is recorded on videotape and the limitations of Civil Rule 32 upon the use of depositions shall not apply.

(2) **Initiation of videotape trial.** By agreement of the parties and with the consent of the trial judge all or a portion of testimony and appropriate evidence may be presented by videotape. The trial judge may order the recording of all or a portion of testimony and evidence on videotape in an appropriate case. In determining whether to order a videotape trial, the trial judge, after consultation with counsel, shall consider the costs involved, the nature of the action, and the nature and amount of testimony.

(3) **Procedure.** Divisions (A)(3) to (13) and (D) apply to videotape trials. The sequence of taking the testimony of individual witnesses and the sequence of presentation of that testimony shall be at the option of the proponent. In ordering or consenting to the recording of all of the testimony on videotape, the trial judge shall fix a date prior to the date of trial by which all recorded testimony shall be filed with the clerk of the court.

(4) **Objections.** All objections shall be made and ruled upon in advance of the trial. Objections may not be made during the presentation of the videotape evidence.

(5) **Presence of counsel and trial judge.** In jury trials, counsel for the parties and the trial judge are not required to be present in the courtroom when the videotape testimony is played to the jury. If the trial judge leaves the courtroom during the playing of the videotape, the judge shall admonish the jurors regarding their duties and responsibilities. In the absence of the judge, a responsible officer of the court shall remain with the jury. The trial judge shall remain within such proximity to the courtroom that he or she can be readily summoned.

**(C) Equipment.**

(1) **Standard.** There are several recording format standards used in the trial courts of this state. Proponents of videotape testimony or evidence shall determine the format utilized by

the trial court in which the videotape is to be filed and shall make the videotape recording on the appropriate format machine. If a party records testimony or evidence on videotape that is not compatible with the trial court equipment, the party shall be responsible for the furnishing of reproduction equipment of institutional quality or for the conversion of the videotape to the standards used in trial court equipment, all of which shall be at the cost of the party and not chargeable as costs of the action.

Each court shall provide for the availability of playback equipment. As may be appropriate, the court may purchase or lease equipment or make contract for the equipment on occasions of need. The court shall provide for the adequate training of an operator from the personnel of the court or for the services of a competent operator to operate the equipment when videotape testimony or evidence is presented in court.

(2) **Minimum equipment.** At a minimum, facilities for playback at trial shall consist of a videotape player and one monitor, having at least a fourteen-inch screen. Color facilities are not required.

(3) **Maintenance.** The trial court shall take reasonable steps to ensure that the equipment is maintained within operating tolerances. The trial court shall provide for competent regular maintenance of equipment that is owned or leased by the court.

**(D) Costs; videotape depositions.**

(1) The expense of videotape as a material shall be borne by the proponent.

(2) The reasonable expense of recording testimony on videotape, the expense of playing the videotape recording at trial, and the expense of playing the videotape recording for the purpose of ruling upon objections shall be allocated as costs in the proceeding in accordance with Civil Rule 54.

(3) The expense of producing the edited version of the videotape recording shall be costs in the action, provided that the expense of the videotape, as a material, shall be borne by the proponent of the testimony.

(4) The expense of a copy of the videotape recording and the expense of an audio tape recording of the videotape sound track shall be borne by the party requesting the copy.

**(E) Disposition of videotape filed with the court.**

(1) **Ownership.** Videotape used in recording testimony shall remain the property of the proponent of the testimony. Videotape may be reused, but the proponent is responsible for submitting a recording of acceptable quality.

(2) **Release of videotape recordings.**

(a) The court may authorize the clerk of the court to release the original videotape recording and the edited videotape recording to the owner of the videotape upon any of the following:

- (i) The final disposition of the cause where no trial occurs;
- (ii) The expiration of the appeal period following trial, if no appeal is taken;
- (iii) The final determination of the cause, if an appeal is taken.

If the testimony is recorded stenographically by a court reporter during the playing of the videotape at trial, the videotape may be returned to the proponent upon disposition of the cause following the trial.

(b) The court shall order release by journal entry.

**Commentary (July 1, 1997)**

Rule 13 is analogous to former C.P. Sup. R. 12 and M.C. Sup. R. 10. The rule is revised to require the exterior of the videotape to include the total deposition time [division (A)(4)]; to require objections to be noted on the log of transcribed depositions [division (A)(5)]; and to allow expenses associated with the use of videotape to be allocated as costs in the proceeding [division (D)(6)(b)].

In general, the rule implements Civ. R. 30(B)(3), which permits the recording of oral depositions by a means other than stenographic, and Civ. R. 40, which authorizes the prerecording of testimony on videotape for presentation at trial. The rule adapts the provisions developed in stenographic recording to use in electronic recording. Depositions in criminal cases are taken in the same manner as in civil cases. Crim. R. 15(E).

**Rule 13(A) Videotape depositions**

**Rule 13(A)(2) Notice**

Civ. R. 30(B)(3) provides that the notice must specify the manner of recording, preserving, and filing of the deposition taken by other than stenographic means. A complete statement of notice would be lengthy, serve no useful purpose, refer to procedures within the control of the court, and not be uniform. Division (A) specifies the manner of recording, preserving and filing; thus it is necessary in the notice to merely make reference to Rule 13 to satisfy the requirements of Civ. R. 30(B)(3).

### **Rule 13(A)(3) Persons authorized to take depositions**

R.C. 147.01 was amended in 1977 to provide that a notary public is appointed and commissioned as a notary public for the state. A videotape equipment operator need only be commissioned as a notary public to be an officer before whom a deposition may be taken anywhere in the state.

### **Rule 13(A)(4) Date and time recording**

A date and time generator is required because it facilitates reference to any portion of the tape and provides an assurance that no material has been edited out of the tape.

### **Rule 13(A)(5) Objections**

The officer before whom the deposition is taken is required to keep a log of objections and where recorded on the tape to facilitate reference to the objections. For the same purpose, the log must include the page of the transcript on which objections occur if the videotaped deposition is transcribed.

### **Rule 13(A)(6) Copies of the deposition**

This provision was formerly a part of division (A)(3). It is more specific than its predecessor by providing for immediate delivery of an audio cassette recording and by placing the responsibility for the cost of copies on the requesting party.

### **Rule 13(A)(7) Submission to witnesses**

Civ. R. 30(E) provides that an oral deposition, when fully transcribed, is to be submitted to the witness for examination and reading. The rule provides that changes in form or substance desired by the witness may be entered on the deposition with a statement as to the reasons the witness had for making the changes. The changes are not corrections. They are additions with explanations for the additions. When videotape is used, there is no necessity for waiting for a transcription into written form. As soon as the deposition is completed, it is ready for viewing by the witness. If there are changes desired, those additions may be made to the deposition, together with the reasons therefor, and recorded on the videotape in the same manner that the initial testimony was entered. The showing can be waived just as the reading can be waived.

In neither the stenographic method of recording nor in the videotape method of recording is the primary purpose of the review by the witness a check on the accuracy of the recording. It is intended to be an assurance that the final product is the testimony that the deponent wants used in the trial or proceeding.

### **Rule 13(A)(8) Certification of original videotape deposition**

Civ. R. 30(F), relating to certification by the officer before whom the deposition was taken, was designed for the written deposition. Division (A)(8) allays confusion as to how a reel of videotape can be signed. It provides that a written certification be attached to the original videotape recording reel. The content of the certification is the same for either method. The rule also provides for adding the signature of the witness, if the witness' signing is not waived by the parties. Civ. R. 30(E) incorporates the requirement that the witness sign a written deposition.

The final paragraph of division (A)(8) provides for a different certification. It relates to the officer's certification as to the authenticity of a copy. It is applicable to every copy or transcription the officer makes.

### **Rule 13(A)(9) Certification of edited videotape depositions**

When the court requires an edited copy of a videotape deposition pursuant to division (A)(12), the officer who makes the edited copy is required to certify the conformity of the edited copy to the rulings of the court. The officer also is required to certify that the integrity of the original videotape recording has not been breached.

### **Rule 13(A)(10) Filing where objections not made**

The rule is the counterpart of a provision in Civ. R. 30(F)(1). Filing is not automatic in the case of a deposition irrespective of the medium in which it is recorded. Filing depends upon the request of the party or order of the court. When there are no objections interposed, there is no further step to be taken before the deposition is viewed by the trier of fact.

Civ. R. 30(F)(3) requires that the party requesting the filing of a deposition give notice of its filing to all other parties. Civ. R. 5(A). The modes of service are set forth in Civ. R. 5(B). Filing of the notice with proof of service is provided for in Civ. R. 5(D).

### **Rule 13(A)(11) Filing where objections made**

The officer's log of objections is required by division (A)(5) and provides a means of easy reference to the location of the objections by listing the time of the objection as shown by the date and time generator's recording. When there are objections, a party may request the court to rule on the objections. The appropriate form of request would be a written motion. The rule has extended the period for filing the request to fourteen days from the filing of the deposition or such reasonable time as may be stipulated by the parties. Civ. R. 32(A) provides that a deposition need be filed only one day before trial to be used in the trial. In the event of late filing of a deposition, the disposition of the objections should be as the court directs.

Rarely does an objecting party urge all objections made. Good procedure requires the objecting party to indicate, by log reference, the objections no longer urged.

### **Rule 13(A)(12) Editing alternatives**

It is vital to the use of videotape that the integrity of the original recording be maintained at every stage of the proceedings. No mode of editing may alter the original recording. The rule specifies three alternatives to be followed in the editing process, the choice among which lies with the court. The court, in an order to the officer, specifies the method desired.

One of the purposes of videotape usage is to provide an uninterrupted flow of admissible testimony. Editing serves to keep inadmissible testimony from the jurors.

The first alternative involves the making of a second tape, which is a copy of the original except that it omits all reference to inadmissible testimony. This method has the disadvantage of additional expense in material and time in creating the second tape, the one actually played to the jury.

The second alternative involves the use of the original videotape deposition. At the playing of the tape to the jury, the operator suppresses the sound where there is inadmissible testimony. A schedule of suppression, keyed to the time recorded on the videotape, is prepared in advance by the officer. The operator merely follows the directions of the schedule in playing the videotape recording. Editing for that mode consists of creating the suppression schedule in conformity to the court's rulings. Usage has demonstrated that the jury is not adversely affected by viewing the picture during the period of sound suppression. The method has the advantage of economy in preparation.

The third alternative involves the suppression of the picture as well as the sound.

The rule requires the court to instruct the jury against reading some meaning into the periods of suppression.

### **Rule 13(A)(13) Storage**

The provision is necessitated by Civ. R. 30(B)(3), which requires the notice to contain information as to the method of preserving the recording. Rule 12(A)(2) permits compliance by a reference to Civ. R. 30(B)(3).

### **Rule 13(A)(14) Inspection or viewing**

Former R.C. 2319.19 provided that a deposition, when sealed and filed, remained sealed until opened by the clerk for use, by order of the Court, or at the request of a party or counsel. Civ. R. 30(F)(1), which superseded the statute, provides that the deposition is sealed only upon request or upon court order with the implication of its unavailability to others until it is offered into evidence. The videotape medium requires mechanical aid in viewing that places an additional limitation upon inspection. Division (A)(14) limits inspection to that ordered by the court. Provision for copies of depositions in the form of videotape, audio recording, or written transcript is made in division (A)(6). The simplest and most economical copy is on audio tape

and it obviates the necessity for viewing of the videotape deposition. To facilitate the making of a copy for a party, division (A)(14) provides for release of the original recording to the officer before whom the deposition was taken for the purpose of making a copy. Release may be by the clerk without a court order.

### **Rule 13(A)(15) Objections at trial**

The rule recognizes that it is not possible for all objections to be ruled upon in advance of trial. For example, an objection to a hypothetical question propounded to a medical witness may be found to incorporate facts not established in the trial. Until the testimony relative to the facts has been introduced, the sufficiency of the question cannot be determined. In addition, it cannot be assumed that attorneys can foresee every valid objection, particularly when the testimony is being taken out of the normal sequence. The rule recognizes the possibility of a proper objection made at the trial for the first time. Two limitations are placed upon such objections. It cannot be the renewal of an objection previously ruled upon and it cannot be an objection waived under Civ. R. 32(D)(3). Under division (D)(3)(a) of that rule, objection to the competency of a witness or the competency, relevancy, or materiality of testimony is not waived by failure to raise at the deposition unless the ground might have been obviated or removed, if presented then. Errors and irregularities (e.g., form of question, which might be obviated), if raised, are waived unless objected to at the hearing. Division (A)(15) provides that objections raised at trial must be considered and ruled upon in advance of the playing of the recording. Testimony ruled inadmissible at that point poses no problem. The sound (and picture) may be suppressed for that testimony and thus not heard by the jury.

### **Rule 13(B) Videotape trials**

#### **Rule 13(B)(1) Authority**

Division (B) implements Civ. R. 40, which permits the presentation of the entire testimony and other appropriate evidence in a civil case by videotape. It does not authorize the use of videotape for the presentation of part of the testimony. If only part of the testimony is to be offered on videotape, then the deposition procedure of division (A) is to be followed. Division (B)(1) spells out the limitation of the concept to the entirety of the testimony in a civil trial and also provides that the limitations placed upon the use of depositions do not apply when Civ. R. 40 is invoked. The reason is that the deposition rule does not apply because depositions are not being offered.

In *State v. Gettys* (1976), 49 Ohio App. 2d 241, a local rule of court required the prerecording of testimony on videotape in a criminal case for presentation to the jury without the intervention of testimony from the witness stand. The court of appeals held the rule to be unconstitutional as a violation of Article I, Section 10 of the Ohio Constitution, which limits depositions in criminal cases to situations of witness unavailability. The Court viewed the videotape recording of all testimony as a collection of depositions. The court also noted that the procedure was inconsistent with Crim. R. 15(A) and (F).

### **Rule 13(B)(2) Initiation of videotape trial**

The procedure is to be invoked by agreement between the parties with the consent of the trial judge or upon the order of the trial judge in appropriate cases. The current application in municipal and county courts is more limited than in the common pleas court. Rising jurisdictional levels, refinements in docket control and scheduling, together with the development and usage of the medium, may increase the use of videotape prerecorded testimony in all courts. In its present form, agreement of the parties is necessary. A court is empowered to order the use of the procedure only after inquiry into the appropriateness of the measure.

### **Rule 13(B)(3) Procedure**

The entire prerecording of testimony is distinguished from the taking of a deposition in division (B)(1). Although the concept is different, there are parallels. Division (B)(3) takes advantage of the similarity by making the procedures relative to the taking of depositions applicable to the taking of the entire testimony. If the parties do not simplify the procedure by stipulation pursuant to Civ. R. 29, the procedure of Civ. R. 30, as supplemented by division (A), is applicable. Division (B)(3) contains a very important reference to an inclusion in the order for prerecording of the entire testimony. That inclusion is the date for filing of all of the videotape. The trial judge must set a date that will permit him or her to rule on all objections before trial as required in division (B)(4).

The cost provisions for videotape trials parallel those for depositions. The proponent bears the cost of the videotape used to record the testimony because it is returned to the proponent for reuse when it has fulfilled its purpose. Requesting parties bear the cost of copies of the videotape or of transcriptions they have made in accordance with the basic rule practice expressed in Civ. R. 30(F)(2). For the same reasons expressed in the comment to division (D), the expense of the playback of the videotape trial is a general expense of the court not allocable as costs to the parties. All other expenses are costs to be charged or allocated as provided by law.

### **Rule 13(B)(4) Objections**

The procedure differs significantly from the provision for objections relative to depositions as set forth in division (A). In a Civ. R. 40 proceeding, all objections must be ruled upon in advance of trial and no objections may be made at trial. With all of the evidence recorded, there is no development at trial that is not known upon the completion of the recording of all of the evidence. The videotape record played to the jury must exclude all nonadmissible testimony. The method of editing may be the creation of a second videotape or the suppression of the audio, or audio and video, relating to inadmissible evidence.

### **Rule 13(B)(5) Presence of counsel and trial judge**

The provision clarifies the practice and answers the questions as to the obligations of the judge and counsel during the playing of the testimony.

## **Rule 13(C) Equipment**

### **Rule 13(C)(1) Standard**

Compatibility of equipment is absolutely essential. Thus, the standard is set in the rule using the only existing accepted standard in equipment of less than broadcast quality. A party deviates from the standard at the party's expense.

This provision affirms the obligation of the court to provide facilities for replay of videotape and indicates that the court may own or lease the necessary equipment or may contract with a service company where usage is infrequent. The purpose of the provision is to make clear that the furnishing of playback equipment is no different from the obligation to provide adequate furniture, supplies, and equipment for the conduct of the court. The cost of providing the videotape equipment is indistinguishable from the cost of providing a blackboard in terms of obligation.

It is incumbent upon counsel to determine what equipment the court has or can acquire and conform to that standard. If the proponent does not conform, the proponent has the obligation to provide equipment or pay the cost incurred in providing it.

### **Rule 13(C)(2) Minimum equipment**

The rule specifies minimum facilities, but the specification does not foreclose the court from providing additional or more highly developed equipment utilizing the same standard.

### **Rule 13(C)(3) Maintenance**

Compatibility relates to maintenance as well as to the size of the tape and the specifications for recorders and players. If either the recording equipment or the playback equipment is running at a speed outside the tolerances specified in the standard, the reproduction will be adversely affected. It is essential that the equipment be properly maintained whether leased or owned. The court shall take appropriate steps to maintain the equipment used.

### **Rule 13(D) Costs; videotape depositions**

**Material.** The proponent of a deposition must bear the cost of the videotape used to record the deposition. There is no provision that the amount be charged as costs in the action because, under Rule 13(E), the videotape is returned to the proponent after it has served its purpose.

**Recording and playback expense.** The reasonable expense of recording and playing a videotape deposition is charged as costs in the action pursuant to Civ. R. 54. "Reasonable" is inserted to make it clear that, for example, a color videotape of broadcast quality may not be used to increase the cost burden on a losing party.

**Costs of copies.** Under Civ. R. 30(F)(2), copies of depositions are the responsibility of the requesting party.

**Rule 13(E) Disposition of videotape filed with the court**

**Rule 13(E)(1) Ownership**

The provision as to ownership is essential because the videotape has substantial value and may be reused.

**Rule 13(E)(2) Release of videotape recording**

The provisions are keyed to final disposition of the case except where the testimony is converted to stenographic recording during the presentation of the evidence in the trial, in which case the release may be made following the trial on the basis that the transcript of proceedings will be made up from the stenographic recording. The provision emerged in the early consideration of videotape applications when stenographic recording of the testimony as played at the trial was considered a safety factor. It is unlikely that the duplication would appear in current practice. When the trial is of a criminal matter rather than a civil matter, the finality of disposition of the case may be more difficult to establish. The testimony recorded on videotape may be converted to some other method of recording, audio or stenographic, upon the ostensible closing of the case. The videotape could then be released and reused. Should the testimony be essential to some post-judgment proceeding, it could be used in the converted form. Prudence would dictate the transcription of the stenographic recording into the written form at the time of the release. Release is to be by order, hence the provision for journalization.

**RULE 14. Administration of Courts During Civil Disorder.**

**(A) Authority of Chief Justice.** During a judicial emergency, the Chief Justice or the acting Chief Justice shall have authority to suspend the operation of any local court rule, promulgate temporary rules of court, and do and direct to be done all things necessary to ensure the orderly and efficient administration of justice for the duration of the emergency. In case of the absence or disability of the Chief Justice, the justice, who is not absent or disabled, having the period of longest total service upon the Court shall be the acting Chief Justice within the meaning of this rule.

**(B) Assignment of judges.** The Chief Justice or acting Chief Justice may assign and transfer to emergency judicial duties judges of any court of record in the state, including retired judges within the meaning of Article IV, Section 6(C) of the Ohio Constitution.

**(C) Consultation among Justices.** The Chief Justice or the acting Chief Justice, whenever possible under the circumstances, shall consult with and report to the other justices any actions contemplated or taken in accordance with this rule.

**(D) Assigned judges; remuneration.** Statutes and rules governing payment and reimbursement of expenses of assigned judges in effect at the time of a judicial emergency shall apply to judges assigned under this rule.

**Commentary (July 1, 1997)**

Rule 14 is analogous to former C.P. Sup. R. 14 and M.C. Sup. R. 14.

The rule gives the Chief Justice or acting Chief Justice the power to suspend local court rules and promulgate temporary court rules that are necessary to facilitate the administration of justice for the duration of any judicial emergency caused by disaster or civil disturbance. During the emergency, the temporary rules govern the operation of the courts.

**RULE 15. Arbitration.**

**(A) Arbitration in civil cases.**

(1) The judge or judges of general divisions of courts of common pleas, of municipal courts, or of county courts shall consider, and may adopt, a plan for the mandatory arbitration of civil cases. The plan shall specify the amount in controversy that will require submission of the case to arbitration and arbitration shall be required in cases where the amount in controversy does not exceed that specified sum. Arbitration shall be permitted in cases where the amount in controversy exceeds the sum specified in the plan for mandatory arbitration where all parties to the action agree to arbitration. The court shall determine at an appropriate pre-trial stage whether a case is to be referred to mandatory arbitration.

(2) Every plan for the mandatory arbitration of civil cases adopted pursuant to this rule shall be filed with the Supreme Court and shall include the following basic principles:

**(a) Actions excluded.** Actions involving title to real estate, equitable relief and appeals shall be excluded.

**(b) Arbitrators.** The court shall establish a list of qualified attorneys who have consented to serve as arbitrators. The court shall appoint from the list an arbitrator who has no interest in the determination of the case or relationship with the parties or their counsel that would interfere with an impartial consideration of the case. Upon written request of a party, the court shall appoint a board of three arbitrators in the same manner as a single arbitrator is appointed.

**(c) Report and award.** Within thirty days after the hearing, the board or the single arbitrator shall file a report and award with the clerk of the court and forward copies to all parties or their counsel. The report and award, unless appealed, shall be final and have the legal effect of a verdict upon which judgment shall be entered by the court.

**(d) Appeals.** Any party may appeal the award to the court if, within thirty days after the filing of the award with the clerk of court, the party does both of the following:

(i) Files a notice of appeal with the clerk of courts and serves a copy on the adverse party or parties accompanied by an affidavit that the appeal is not being taken for delay;

(ii) Reimburses the county or municipal corporation for all fees paid to the arbitrator or arbitrators in the case or pays the fees directly to the arbitrator or arbitrators, unless otherwise directed by the court.

All appeals shall be *de novo* proceedings at which members of the deciding board or the single arbitrator are barred as witnesses.

Exceptions to the decision of the board or single arbitrator based on either misconduct or corruption of the board or single arbitrator may also be filed by any party within thirty days after the filing of the report, and, if sustained, the report shall be vacated.

**(B) Arbitration in juvenile and domestic relations cases.**

(1) The judge or judges of a division of a court of common pleas having domestic relations or juvenile jurisdiction may, at the request of all parties, refer a case or a designated issue to arbitration.

(2) The parties shall propose an arbitrator to the court and identify all issues to be resolved by the arbitrator. The arbitrator shall consent to serve and shall have no interest in the determination of the case or relationship with the parties or their counsel that would interfere with the impartial consideration of the case. An arbitrator selected pursuant to this section is not required to be an attorney.

(3) The request for arbitration submitted by the parties shall provide for the manner of payment of the arbitrator.

(4) The arbitrator shall file a report and award pursuant to division (A)(2)(c) of this rule.

(5) Any party may appeal the report and award pursuant to division (A)(2)(d) of this rule.

**Commentary (July 1, 1997)**

The rule establishes guidelines for arbitration procedures. Adoption of a plan for the arbitration of cases is within the discretion of the court. Arbitration has been proven to be an effective method of case disposition.

Two changes are made from the former rule. The rule now permits the appointment of a single arbitrator or a panel of three arbitrators. This change was recommended by the Supreme Court Committee on Dispute Resolution. The amendment brings the rule into conformance with practice in several courts and provides a more cost effective route for litigants who seek arbitration services. Further, the use of a single, trusted, respected neutral should eliminate some advocacy that currently takes place when the three arbitrators engage in the decision-making aspect of the process. Also, as a cost savings measure, the rule provides for the direct payment of fees to the arbitrator or arbitrators.

### **Commentary (November 30, 1992 Amendment to C.P. Sup. R. 15)**

Rule 15 authorizes the general division of a court of common pleas to permit mandatory arbitration, by local rule, in civil cases. The Supreme Court Committee on Dispute Resolution has reviewed this rule in the context of cases in the juvenile and domestic relations divisions of the common pleas courts. In these divisions, the Committee believes that the use of arbitration in appropriate cases would be of benefit to both the parties and the court. The Committee believes that the primary use of arbitration in juvenile and domestic relations cases would occur in cases involving the valuation of real and personal property.

By way of example, the appraisal of real and personal property involved in a divorce proceeding generally requires expert evaluation of the worth. However, in cases where there is a significant dispute or difference of opinion between the experts regarding the worth of the property, the Committee believes that the parties could benefit by having the option to request arbitration of the issue. A court could reserve ruling on issues of spousal support, child support, or custody until the valuation of personal and real property has been arbitrated. This process would free the court to direct its attention to other cases.

Accordingly, the Committee recommends the adoption of division (B). This division would permit the parties, with leave of court, to select an arbitrator for a case or an issue. The parties would select an arbitrator and propose this arbitrator to the court. Under the rule, the judge *may*, but is not required to, grant the parties leave to have the case or issue arbitrated. This permissive rule will allow the judge to intervene when he or she feels that the selection of the arbitrator by the parties is not appropriate under the specific circumstances of a given case. However, the Committee also stresses its strong belief in the fundamental principle that parties should be permitted to freely contract between themselves, unless strong public policy reasons intervene.

Division (B) also provides that the arbitrator need not be an attorney. In some cases, an expert from outside the area of the law may have the expertise necessary to provide a fair and just decision to the parties. The remaining provisions of division (B) mirror the requirements for arbitration in the general division of the court.

**RULE 16. Mediation.**

**(A) General Provisions.** A division of the court of common pleas, municipal court, and county court shall consider, and may adopt, a local rule providing for mediation.

**(B) Content of Mediation Rule.** A local rule providing for mediation shall include the applicable provisions set forth in this division, in addition to such other provisions as the court or division considers necessary and appropriate.

**(1) Required provisions for all mediation rules.** A local mediation rule shall include all of the following provisions:

(a) Procedures for ensuring that parties are allowed to participate in mediation, and if the parties wish, that their attorneys and other individuals they designate are allowed to accompany them and participate in mediation.

(b) Procedures for screening for domestic violence both before and during mediation.

(c) Procedures for encouraging appropriate referrals to legal counsel and other support services for all parties, including victims of and suspected victims of domestic violence.

(d) Procedures for prohibiting the use of mediation in any of the following:

1) As an alternative to the prosecution or adjudication of domestic violence;

2) In determining whether to grant, modify or terminate a protection order;

3) In determining the terms and conditions of a protection order; and

4) In determining the penalty for violation of a protection order.

Nothing in division (B)(1)(d) of this rule shall prohibit the use of mediation in a subsequent divorce or custody case even though that case may result in the termination of the provisions of a protection order.

**(2) Required provisions for domestic relations and juvenile court mediation rules.** A local rule for mediation of allocation of parental rights and responsibilities or the care of, or visitation with, minor children or delinquency or status offense cases shall include the provisions of division (B)(1) of this rule. The mediation rule shall include provisions that allow mediation to proceed, when violence or fear of violence is alleged, suspected, or present, only if the mediator has specialized training set forth in division (C)(2) of this rule and all of the following conditions are satisfied:

(a) The person who is or may be the victim of domestic violence is fully informed, both orally and in writing, about the mediation process, his or her right to decline participation in the mediation process, and his or her option to have a support person present at mediation sessions.

(b) The parties have the capacity to mediate without fear of coercion or control.

(c) Appropriate procedures are in place to provide for the safety of the person who is or may be the victim of domestic violence and all other persons present at the mediation.

(d) Procedures are in place for the mediator to terminate mediation if he or she believes there is continued threat of domestic violence or coercion between the parties.

(e) Procedures are in place for issuing written findings of fact, as required by R.C. 3109.052, to refer certain cases involving domestic violence to mediation.

**(3) Required provisions for child abuse, neglect, or dependency mediation rules.**

A local rule for mediation in child abuse, neglect, or dependency cases shall include the provisions of division (B)(1) and (B)(2) of this rule and all of the following:

(a) A provision that allows mediation to proceed only if the mediator has specialized training set forth in division (C)(1), (C)(2), and (C)(3) of this rule.

(b) Procedures for ensuring that parties who are not represented by counsel attend mediation only if they have waived the right to counsel in open court, and that parties represented by counsel attend mediation without counsel only where the right to have counsel present at the mediation has been specifically waived. Waivers can be rescinded at any time.

(c) Procedures for the selection and referral of a case to mediation at any point after the case is filed.

(d) Procedures for notifying the parties and nonparty participants of the mediation.

**(C) Qualification and Training for Domestic Relations and Juvenile Mediators.**

Each domestic relations and juvenile division of the court of common pleas that adopts a local rule providing for mediation shall include the following applicable provisions for the qualification and training of mediators.

**(1) General qualifications and training.** A mediator employed by the division or to whom the division makes referrals for mediation of allocation of parental rights and responsibilities, the care of, or visitation with, minor children, abuse, neglect, and dependency, or juvenile perpetrated domestic violence cases shall satisfy all of the following:

(a) Possess a bachelor's degree, or equivalent education experience as is satisfactory to the division, and at least two years of professional experience with families. "Professional

experience with families” includes mediation, counseling, casework, legal representation in family law matters, or such other equivalent experience satisfactory to the division.

(b) Complete at least twelve hours of basic mediation training or equivalent experience as a mediator that is satisfactory to the division.

(c) After completing the training required by division (C)(1)(b) of this rule, complete at least forty hours of specialized family or divorce mediation training that is provided by a training program approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

**(2) Specific qualifications and training; domestic abuse.** A mediator employed by the division or to whom the division makes referrals for mediation of any case shall complete at least fourteen hours of specialized training in domestic abuse and mediation through a training program approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution. A mediator who has not completed this specialized training may mediate these cases only if the mediator co-mediate with another mediator who has completed the specialized training.

**(3) Specific qualifications and training; abuse, neglect, and dependency cases.** In addition to satisfying the requirements of division (C)(1) and (C)(2) of this rule, a mediator employed by the division or to whom the division makes referrals for mediation of abuse, neglect, or dependency cases shall satisfy both of the following:

(a) Possess significant experience in mediating family disputes;

(b) Complete at least thirty-two hours of specialized child protection mediation training through either a formal training session or through a mentoring program approved by the Supreme Court Dispute Resolution Section in accordance with standards established by the Commission on Dispute Resolution.

**(D) Aspirational Standards.** Each division that adopts a local rule providing for mediation of family cases shall encourage mediators to comply with the Model Standards of Practice for Family and Divorce Mediation as set forth in Appendix F and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs as set forth in Appendix G to this rule. Wherever a conflict exists between the Model Standards of Practice for Family and Divorce Mediation set forth in Appendix F and the Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs in Appendix G and this rule, this rule shall control.

**RULE 16.01.            Creation of Commission on Dispute Resolution.**

There is hereby created by the Supreme Court the Commission on Dispute Resolution.

**RULE 16.02.            Duties and Authority.**

**(A)    Duties**

The Commission on Dispute Resolution shall advise the Supreme Court and its staff on all of the following:

- (1)    The promotion of statewide rules and uniform standards concerning the use of dispute resolution in Ohio courts;
- (2)    The development and delivery of dispute resolution education and professional development activities for judges, magistrates, court personnel, attorneys, and court-affiliated dispute resolution professionals;
- (3)    The development and delivery of dispute resolution services for disputes arising among state, county, and local public officials throughout Ohio;
- (4)    The consideration of any other issues the commission deems necessary to assist the Supreme Court and its staff regarding the development and delivery of dispute resolution programs and services.

**(B)    Authority**

The commission shall have no independent policy-setting authority.

**RULE 16.03.            Membership.**

**(A)    Appointments**

The Commission on Dispute Resolution shall consist of the following twenty-one members appointed by the Chief Justice and Justices of the Supreme Court:

- (1)    Three members who shall be sitting or retired judges;
- (2)    One member who shall be a judge of a court of appeals nominated by the Chief Justice of the Ohio Court of Appeals Judges Association;

- (3) One member who shall be a judge of a court of common pleas with general jurisdiction nominated by the President of the Ohio Common Pleas Judges Association;
- (4) One member who shall be a judge of a court of common pleas with probate jurisdiction nominated by the President of the Ohio Association of Probate Judges;
- (5) One member who shall be a judge of a court of common pleas with juvenile jurisdiction nominated by the President of the Ohio Association of Juvenile Court Judges;
- (6) One member who shall be a judge of a court of common pleas with domestic relations jurisdiction nominated by the President of the Ohio Association of Domestic Relations Judges;
- (7) One member who shall be a judge of a municipal or county court nominated by the President of the Association of Municipal and County Court Judges of Ohio;
- (8) Two members, each of whom shall be a full-time magistrate with an Ohio court, nominated by the President of the Ohio Association of Magistrates;
- (9) One member nominated by the Superintendent of Public Instruction;
- (10) Two members nominated by the President of the County Commissioners' Association of Ohio;
- (11) Two members, neither of whom shall be a judge or county commissioner, nominated by the President of the Ohio Council of County Officials;
- (12) Two members nominated by the President of the Ohio Municipal League;
- (13) One member nominated by the President of the Ohio State Bar Association;
- (14) One member nominated by the President of the Ohio Mediation Association;
- (15) One at-large member.

**(B) Nominations**

The Administrative Director of the Supreme Court shall solicit a minimum of two nominees from each individual responsible for nominating a member of the commission pursuant to divisions (A)(2) through (14) of this rule.

**(C) Qualifications**

Each commission member shall have an appreciation for the importance of the use of dispute resolution to resolve disputes, which may include education or experience in dispute resolution.

**(D) Composition**

Commission membership should be broad based and multidisciplinary to represent a cross section of interests related to dispute resolution and reflect the gender, racial, ethnic, and geographic diversity of the state.

**RULE 16.04. Terms and Vacancies.**

**(A) Initial terms**

Initial terms for members of the Commission on Dispute Resolution shall be as follows:

(1) One of the members who is a sitting or retired judge, the member who is a judge of a court of common pleas with general jurisdiction nominated by the President of the Ohio Common Pleas Judges Association, the member who is a judge of a court of common pleas with juvenile jurisdiction nominated by the President of the Ohio Association of Juvenile Court Judges, the member who is a judge of a municipal or county court nominated by the President of the Association of Municipal and County Court Judges of Ohio, one of the members nominated by the President of the County Commissioners' Association of Ohio, one of the members nominated by the President of the Ohio Municipal League, and the member nominated by the President of the Ohio Mediation Association shall be appointed to a term that ends on December 31, 2012;

(2) One of the members who is a sitting or retired judge, the member who is a judge of a court of common pleas with probate jurisdiction nominated by the President of the Ohio Association of Probate Judges, the member who is a judge of a court of common pleas with domestic relations jurisdiction nominated by the President of the Ohio Association of Domestic Relations Judges, one of the members who is a full-time magistrate with an Ohio court nominated by the President of the Ohio Association of Magistrates, the member nominated by the Superintendent of Public Instruction, one of the members nominated by the

President of the County Commissioners' Association of Ohio, one of the members nominated by the President of the Ohio Council of County Officials, and the member nominated by the President of the Ohio State Bar Association shall be appointed to a term that ends on December 31, 2013;

(3) One of the members who is a sitting or retired judge, the member who is a judge of a court of appeals nominated by the Chief Justice of the Ohio Court of Appeals Judges Association, one of the members who is a full-time magistrate with an Ohio court nominated by the President of the Ohio Association of Magistrates, one of the members nominated by the president of the Ohio Council of County Officials, one of the members nominated by the President of the Ohio Municipal League, and the at-large member shall be appointed to a term that ends on December 31, 2014.

**(B) Subsequent terms and reappointment**

Except as provided in division (A) of this rule, the term of a commission member shall be for three years. A commission member shall be eligible for reappointment, but shall not serve more than three consecutive full terms. A commission member shall be eligible for reappointment after serving three consecutive full terms, but only upon at least a one-year break in service. Abbreviated initial terms and appointments to fill a vacancy shall not constitute a full term.

**(C) Judge, magistrate, and attorney vacancies**

(1) If a commission member who is a judge involuntarily leaves office by reason other than Article IV, Section 6(C) of the Ohio Constitution, the member shall be disqualified and a vacancy shall occur.

(2) If a commission member who is a magistrate ceases to serve as a full-time magistrate with an Ohio court, the member shall be disqualified and a vacancy shall occur.

(3) If a commission member who is an attorney no longer practices in Ohio, the member shall be disqualified and a vacancy shall occur.

**(D) Filling of vacancies**

Vacancies on the commission shall be filled in the same manner as original appointments. A commission member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold the position for the remainder of that term.

**RULE 16.05. Chairperson and Vice-Chairperson.**

The members of the Commission on Dispute Resolution shall elect one member as chairperson and one member as vice-chairperson. The chairperson and vice-chairperson shall serve for two years and may be reelected to a second two-year term. A commission member shall not serve as chairperson or vice-chairperson for more than two consecutive full terms, provided elections to fill a vacancy in the position of chairperson or vice-chairperson shall not constitute a full term.

**RULE 16.06. Secretary.**

The Administrative Director of the Supreme Court shall assign a Supreme Court employee to serve as secretary to the Commission on Dispute Resolution. The commission secretary shall assist the commission as necessary, but shall at all times be considered a Supreme Court employee.

**RULE 16.07. Meetings.**

**(A) Manner**

The Commission on Dispute Resolution may meet in person or by telephonic or other electronic means available to the Supreme Court.

**(B) Frequency**

The commission shall meet as often as required to complete its work, provided the commission shall meet in person a minimum of two times per year. The commission may meet at the call of the chairperson or at the request of a majority of the commission members.

**(C) Scheduling**

All commission meetings shall be scheduled for a time and place so as to minimize costs to the Supreme Court and to be accessible to commission members, Supreme Court staff, and the public.

**(D) Public attendance and notice**

All commission meetings shall be open to the public. Public notice of all commission meetings shall be provided on the Supreme Court's website.

**(E) Member attendance**

For a fully effective commission, a commission member shall make a good faith effort to attend, in person, each commission meeting. A commission member who is unable to attend a meeting due to an unavoidable conflict may request the chairperson allow the member to participate by telephonic or other electronic means available to the Supreme Court. A commission member participating in this manner shall be considered present for meeting attendance purposes. Should a commission member miss three consecutive meetings, the commission or the commission secretary may recommend to the Chief Justice and Justices of the Supreme Court that the member relinquish the member's position on the commission.

**(F) Minutes**

Minutes shall be kept at every commission meeting and distributed to the commission members for review prior to and approval at the next meeting.

**(G) Quorum**

There shall be a quorum of the commission present when a majority of commission members is present for the meeting, including those members participating by telephonic or other electronic means.

**(H) Actions**

At any commission meeting at which a quorum is present, the commission members may take action by affirmative vote of a majority of the members in attendance.

**RULE 16.08. Subcommittees.**

**(A) Creation**

The Commission on Dispute Resolution may form such subcommittees it believes necessary to complete the work of the commission. A subcommittee should consist of select commission members and such other persons who the chairperson believes will assist in a full exploration of the issue under the review of the subcommittee.

**(B) Size**

A subcommittee should remain relatively small in size, not exceeding eight to twelve members, and have a ratio of commission members to non-commission members not exceeding one to three.

**(C) Application of rules**

Sup. R. 16.06, 16.07(A) through (D), (G), and (H), 16.09, and 16.11 through 16.14 shall also apply to the work of a subcommittee.

**RULE 16.09. Code of Ethics.**

Members of the Commission on Dispute Resolution shall comply with the Supreme Court's "Code of Ethics for Court Appointees." The commission secretary shall provide each commission member with a copy of the code following the member's appointment to the commission and thereafter at the first meeting each year of the commission.

**RULE 16.10. Annual Report.**

By January 31st of each year, the chairperson of the Commission on Dispute Resolution shall issue a report to the Chief Justice and Justices of the Supreme Court detailing the activities and accomplishments of the commission during the previous calendar year. The chairperson shall submit the report to the Administrative Director of the Supreme Court for publication on the Supreme Court's website and distribution to the Chief Justice and Justices.

**RULE 16.11. Work Product.**

The work product of the Commission on Dispute Resolution shall be the property of the Supreme Court.

**RULE 16.12. Budget.**

The budget of the Commission on Dispute Resolution shall be set by the Supreme Court through its internal budget process and as implemented by the Supreme Court Dispute Resolution Section. The commission shall have no authority to set its own budget.

**RULE 16.13. Compensation.**

A member of the Commission on Dispute Resolution shall serve without compensation.

**RULE 16.14. Reimbursement of Expenses.**

A member of the Commission on Dispute Resolution shall be reimbursed for expenses incurred in service to the commission as permitted by the Supreme Court's "Guidelines for Travel by Court Appointees."

**RULE 17. Assignment of Judges--Municipal and County Courts.**

**(A) Definitions**

As used in this rule:

(1) “Retired judge” means a person who left service on the applicable court either voluntarily by reason of resignation or retirement or involuntarily by reason of Article IV, Section 6(C) of the Ohio Constitution. “Retired judge” does not include either of the following:

(a) A person who was removed or suspended without reinstatement from service on any court of the state pursuant to the Rules for the Government of the Judiciary or resigned or retired from service on any court of the state while a complaint was pending against the person under those rules;

(b) A person who is engaged in the practice of law.

(2) “Sitting judge” means a person who currently holds judicial office by reason of election or gubernatorial appointment.

**(B) Assignment**

The Chief Justice or acting Chief Justice of the Supreme Court may assign any of the following persons who consent to temporarily serve as a judge on any municipal or county court:

(1) A sitting judge of a municipal or county court;

(2) A retired judge of a municipal or county court, provided the judge was not defeated in the judge’s final election for new or continued service on a municipal or county court;

(3) A sitting judge of a court of common pleas or court of appeals who formerly served as a judge of a municipal or county court, provided the judge was not defeated in the judge’s final election for new or continued service on a municipal or county court;

(4) A retired judge of a court of common pleas or court of appeals who formerly served as a judge of a municipal or county court, provided the judge was not defeated in the judge’s final election for new or continued service on a municipal or county court;

(5) A sitting judge of a court of common pleas who has not formerly served as a judge of a municipal or county court, but has completed an educational program established by the Supreme Court of Ohio Judicial College;

(6) A retired judge of a court of common pleas who has not formerly served as a judge of a municipal or county court, but has completed an educational program established by the Judicial College.

**(C) Compensation**

(1) While serving on assignment pursuant to this rule, a judge shall receive actual and necessary expenses, in addition to compensation for each day assigned, computed as follows:

(a) If the assigned judge is a sitting full-time judge of a municipal court, thirty dollars.

(b) If the assigned judge is a sitting part-time judge of a municipal court or a sitting judge of a county court, the greater of the following:

(i) Thirty dollars;

(ii) The per diem compensation of a full-time judge of a municipal court, less the per diem compensation of the assigned judge, each calculated on the basis of two hundred fifty working days per year.

(c) If the assigned judge is a retired judge of a municipal or county court or a court of common pleas, the established per diem compensation for a full-time judge of a municipal court calculated on the basis of two hundred fifty working days per year, in addition to any retirement benefits to which the assigned judge may be entitled;

(d) If the assigned judge is a sitting judge of the court of appeals or court of common pleas, fifty dollars.

(2) All compensation and expenses payable to an assigned judge under this rule, other than any compensation payable pursuant to division (A)(5) or (6) of section 141.04 of the Revised Code, shall be paid from the municipal treasury or, in the case of a county-operated municipal court or a county court, from the county treasury. Payment by and reimbursement to the county treasury of any per diem compensation payable pursuant to division (A)(5) or (6) of section 141.04 of the Revised Code shall be made in the manner set forth in section 1901.121 of the Revised Code.

**(D) Construction**

This rule shall not be construed to limit the operation of section 2701.031 of the Revised Code or the assignment of acting judges pursuant to sections 1901.10 or 1901.12 of the Revised Code.

**(E) Waiver**

The Chief Justice may waive compliance with any requirement of this rule to assist the exercise of the Chief Justice's discretion in making temporary assignments of judges pursuant to the Ohio Constitution and the Revised Code.

**Commentary (July 1, 1997)**

**Assignment of sitting and retired municipal and county court judges**

The assignment and compensation of all other sitting and retired judges is addressed in the Ohio Constitution, the Revised Code, and the Guidelines for the Assignment of Judges.

**Compensation**

The language "actual and necessary expenses" in division (C)(1) of this rule does not appear in the Constitution, but reflects *State, ex rel. Winn v. Galvin* (1974), 39 Ohio St.2d 58, which held actual and necessary expenses are a part of the established compensation of a visiting judge as specified in Section 6(C). While *Winn* concerned common pleas judges, *State, ex rel. Graves v. Brown* (1969), 18 Ohio St.2d 61 held Section 6(C) applies to municipal court judges.

**Construction**

Section 1901.10 of the Revised Code provides for the appointment of acting judges in municipal courts in the case of temporary absence, incapacity, or unavailability or because of the volume of caseload and the assignment of visiting judges. Section 1901.12 of the Revised Code provides for the appointment of acting judges during periods of vacation. Section 2701.031 of the Revised Code concerns the assignment of a judge in municipal or county court in the event the sitting judge is disqualified.

**RULE 18. Minor Misdemeanors: Violations Bureau--Municipal and County Courts.**

Each municipal and county court shall establish a violations bureau for minor misdemeanors utilizing the citation system and procedure set forth in Criminal Rule 4.1.

**Commentary (July 1, 1997)**

Only nonsubstantive changes were made to former M.C. Sup. R. 11 in the 1997 amendments to this rule.

A minor misdemeanor is any offense specifically classified as such or any unclassified offense for which the only penalty is a fine not exceeding one hundred dollars. R.C. 2901.02.

Crim. R. 4.1 provides that a court may establish a violations bureau for all or particular minor misdemeanors. Thus, each court, by local rule, must specify that all or particular minor misdemeanors are to be processed by violations bureau.

Crim. R. 4.1 specifies the form of citation to be used and that the citation “\* \* \* shall inform the defendant that, in lieu of appearing at the time and place stated, he may, within that stated time, appear personally at the office of the clerk of court and upon signing a plea of guilty and a waiver of trial pay a stated fine and stated costs, if any.”

Crim. R. 4.1(E) requires the court to establish a fine schedule listing the fines and court costs for each minor misdemeanor. The fine schedule is to be prominently posted at the place violation fines are paid.

**RULE 19. Magistrate – Qualifications**

**(A) Eligibility.** A magistrate shall have been engaged in the practice of law for at least four years and be in good standing with the Supreme Court of Ohio at the time of appointment.

**(B) Qualification; procedure.** A magistrate shall have the qualifications specified in division (A) of Sup. R. 19, Civil Rule 53, and Traffic Rule 14. In civil matters, a magistrate shall act pursuant to Civil Rule 53, and in traffic matters pursuant to Traffic Rule 14.

**RULE 19.1. Magistrate - Municipal Court**

**(A) Mandatory appointment and use.** All municipal courts having more than two judges shall appoint one or more magistrates who may hear the following proceedings:

- (1) Default proceedings under Civil Rule 55;
- (2) Forcible entry and detainer proceedings under Chapter 1923 of the Revised Code in which the right to trial by jury is waived or not demanded;
- (3) Small claims proceedings under Chapter 1925 of the Revised Code;
- (4) Traffic proceedings in which there is a guilty plea or written waiver by the defendant of the right to trial by a judge;
- (5) Other appropriate matters referred by the court for report and recommendation.

**(B) Permissive appointment.** This rule does not preclude the appointment of magistrates by courts having two or fewer judges.

**RULE 20. Appointment of Counsel for Indigent Defendants in Capital Cases.**

**I. Scope of rules**

(A) Rules 20 through 20.05 of the Rules of Superintendence for the Courts of Ohio shall apply in cases where an indigent defendant has been charged with aggravated murder and the indictment includes one or more specifications of aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code. These rules shall apply in cases where a juvenile defendant is indicted for a capital offense, but because of the juvenile's age, cannot be sentenced to death.

(B) The provisions for the appointment of counsel set forth in Sup. R. 20 through 20.05 apply only in cases where the defendant is indigent and counsel is not privately retained by or for the defendant.

(C) If the defendant is entitled to the appointment of counsel, the court shall appoint two attorneys certified pursuant to Sup. R. 20 through 20.05. If the defendant engages one privately retained attorney, the court shall not appoint a second attorney pursuant to this rule.

(D) The provisions of Sup. R. 20 through 20.05 apply in addition to the reporting requirements created by section 2929.021 of the Revised Code.

**II. Appointment of counsel for indigent defendants in capital cases**

**(A) Trial counsel**

At least two attorneys shall be appointed by the court to represent an indigent defendant charged with aggravated murder and the indictment includes one or more specifications of aggravating circumstances listed in R.C. 2929.04(A). At least one of the appointed counsel shall maintain a law office in Ohio and have experience in Ohio criminal trial practice. The counsel appointed shall be designated "lead counsel" and "co-counsel" and must meet the qualifications set forth in Sup. R. 20.01.

**(B) Appellate counsel**

At least two attorneys shall be appointed by the court to appeal cases where the trial court has imposed the death penalty on an indigent defendant. At least one of the appointed counsel shall maintain a law office in Ohio. Appointed counsel shall meet the qualifications for appellate counsel set forth in Sup. R. 20.01.

**(C) Exceptional circumstances**

If an attorney does not satisfy the requirements of divisions (A) or (B) of this section, the attorney may be certified as lead counsel, co-counsel, or appellate counsel if it can be demonstrated to the satisfaction of the Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases that competent representation will be provided to the defendant. In so determining, the committee may consider all of the factors in Sup. R. 20.01 and any other relevant considerations.

**III. Procedures for court appointments of counsel**

**(A) Appointing counsel**

Only counsel who have been certified by the committee shall be appointed to represent indigent defendants charged with aggravated murder and the indictment includes one or more specifications of aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code. Each court may adopt local rules establishing qualifications in addition to and not in conflict with those established by Sup. R. 20.01. Appointments of counsel for these cases should be distributed as widely as possible among the certified attorneys in the jurisdiction of the appointing court.

**(B) Workload of appointed counsel**

(1) In appointing counsel, the court shall consider the nature and volume of the workload of the prospective counsel to ensure that counsel, if appointed, could direct sufficient attention to the defense of the case and provide competent representation to the defendant.

(2) Attorneys accepting appointments shall provide each client with competent representation in accordance with constitutional and professional standards. Appointed counsel shall not accept workloads that, by reason of their excessive size, interfere with the rendering of competent representation or lead to the breach of professional obligations.

**(C) Notice to the committee**

(1) Within two weeks of appointment, the appointing court shall notify the committee secretary of the appointment on a form prescribed by the committee. The notice shall include all of the following:

- (a) The court and the judge assigned to the case;
- (b) The case name and number;

- (c) A copy of the indictment;
  - (d) The names, business addresses, telephone numbers, and certification of all attorneys appointed;
  - (e) Any other information considered relevant by the committee or appointing court.
- (2) Within two weeks of disposition, the trial court shall notify the committee secretary of the disposition of the case on a form prescribed by the committee. The notice shall include all of the following:
- (a) The outcome of the case;
  - (b) The title and section of the Revised Code of any crimes to which the defendant pleaded or was found guilty;
  - (c) The date of dismissal, acquittal, or that sentence was imposed;
  - (d) The sentence, if any;
  - (e) A copy of the judgment entry reflecting the above;
  - (f) If the death penalty was imposed, the name of counsel appointed to represent the defendant on appeal;
  - (g) Any other information considered relevant by the Committee or trial court.

**(D) Support services**

The appointing court shall provide appointed counsel, as required by Ohio law or the federal Constitution, federal statutes, and professional standards, with the investigator, mitigation specialists, mental health professional, and other forensic experts and other support services reasonably necessary or appropriate for counsel to prepare for and present an adequate defense at every stage of the proceedings including, but not limited to, determinations relevant to competency to stand trial, a not guilty by reason of insanity plea, cross-examination of expert witnesses called by the prosecution, disposition following conviction, and preparation for and presentation of mitigating evidence in the sentencing phase of the trial. Lead counsel bears overall responsibility for the performance of the defense team and shall allocate, direct, and supervise the work in accordance with Sup. R. 20 through 20.04 and professional standards. In addition, all counsel bear a

responsibility to comply with Sup. R. 20 through 20.04 and professional standards.

**RULE 20.01. Qualifications Required for Appointment as Counsel for Indigent Defendants in Capital Cases.**

**(A) Generally**

Every attorney representing a capital defendant shall have all of the following:

- (1) Demonstrated commitment to providing high quality legal representation in the defense of capital cases;
- (2) Substantial knowledge and understanding of the relevant state, federal, and international law, both procedural and substantive, governing capital cases;
- (3) Skill in the management and conduct of complex negotiations and litigation;
- (4) Skill in legal research, analysis, and the drafting of litigation documents;
- (5) Skill in oral advocacy;
- (6) Skill in the use of expert witnesses and familiarity with common areas of forensic investigation, including fingerprints, ballistics, arson, forensic pathology, and DNA evidence;
- (7) Skill in the investigation, preparation, and presentation of evidence bearing upon mental status;
- (8) Skill in the investigation, preparation, and presentation of mitigating evidence;
- (9) Skill in the elements of trial advocacy, such as jury selection, cross-examination of witnesses, and opening and closing statements.

**(B) Lead counsel**

Lead counsel shall satisfy all of the following:

- (1) Be admitted to the practice of law in Ohio or admitted to practice *pro hac vice*;
- (2) Have at least five years of civil or criminal litigation or appellate experience;

- (3) Have specialized training, as approved by the committee, on subjects that will assist counsel in the defense of persons accused of capital crimes in the two-year period prior to making application;
- (4) Have at least one of the following qualifications:
  - (a) Experience as “lead counsel” for the defense in the jury trial of at least one capital case;
  - (b) Experience as “co-counsel” for the defense in the jury trial of at least two capital cases.
- (5) Have at least one of the following qualifications:
  - (a) Experience as “lead counsel” in the jury trial of at least one murder or aggravated murder case;
  - (b) Experience as “lead counsel” in ten or more criminal or civil jury trials, at least three of which were felony jury trials;
  - (c) Experience as “lead counsel” in three murder or aggravated murder jury trials; one murder or aggravated murder jury trial and three felony jury trials; or three aggravated or first- or second-degree felony jury trials in a court of common pleas in the three years prior to making application.

**(C) Co-counsel**

Co-counsel shall satisfy all of the following:

- (1) Be admitted to the practice of law in Ohio or admitted to practice *pro hac vice*;
- (2) Have at least three years of civil or criminal litigation or appellate experience;
- (3) Have specialized training, as approved by the committee, on subjects that will assist counsel in the defense of persons accused of capital crimes in the two years prior to making application;
- (4) Have at least one of the following qualifications:
  - (a) Experience as “co-counsel” in one murder or aggravated murder jury trial;
  - (b) Experience as “lead counsel” in one first-degree felony jury trial;

(c) Experience as “lead” or “co-counsel” in at least two felony jury or civil jury trials in a court of common pleas in the three years prior to making application.

**(D) Appellate counsel**

Appellate counsel shall satisfy all of the following qualifications:

- (1) Be admitted to the practice of law in Ohio or admitted to practice *pro hac vice*;
- (2) Have at least three years of civil or criminal litigation or appellate experience in Ohio;
- (3) Have specialized training, as approved by the committee, on subjects that will assist counsel in the appeal of cases in which the death penalty was imposed in the two years prior to making application;
- (4) Have experience as counsel in the appeal of at least three felony convictions in the three years prior to making application.

**(E) Definition**

As used in this rule, "trial" means a case concluded with a judgment of acquittal under Rule 29 of the Ohio Rules of Criminal Procedure or submission to the trial court or jury for decision and verdict.

**RULE 20.02 Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases.**

**(A) Committee creation**

There shall be a Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases.

**(B) Appointment of committee members**

The committee shall be composed of five attorneys. Three members shall be appointed by a majority vote of all members of the Supreme Court of Ohio; one shall be appointed by the Ohio State Bar Association; and one shall be appointed by the Ohio Public Defender Commission.

**(C) Eligibility for appointment to the committee**

Each member of the committee shall satisfy all of the following qualifications:

- (1) Be admitted to the practice of law in Ohio;
- (2) Have represented criminal defendants for not less than five years;
- (3) Demonstrate a knowledge of the law and practice of capital cases;
- (4) Currently not serving as a prosecuting attorney, city director of law, village solicitor, or similar officer or their assistant or employee, or an employee of any court.

**(D) Overall composition**

The overall composition of the committee shall meet both of the following criteria:

- (1) No more than two members shall reside in the same county;
- (2) No more than one shall be a judge.

**(E) Terms; vacancies**

The term of office for each member shall be five years, each term beginning on the first day of January. Members shall be eligible for reappointment. Vacancies shall be filled in the same manner as original appointments. Any member appointed to fill a vacancy occurring prior to the expiration of a term shall hold office for the remainder of the term.

**(F) Election of chairperson**

The committee shall elect a chairperson and such other officers as are necessary. The officers shall serve for two years and may be reelected to additional terms.

**(G) Powers and duties of the committee**

The committee shall do all of the following:

- (1) Prepare and notify attorneys of procedures for applying for certification to be appointed counsel for indigent defendants in capital cases;
- (2) Certify attorneys as qualified to be appointed to represent defendants in capital cases;
- (3) Periodically provide all common pleas and appellate court judges and the Ohio Public Defender with a list of all attorneys who are certified to be appointed counsel for indigent capital defendants;
- (4) Periodically review the list of certified counsel, all court appointments given to attorneys in capital cases, and the result and status of those cases;
- (5) Develop criteria and procedures for retention of certification including, but not limited to, mandatory continuing legal education on the defense and appeal of capital cases;
- (6) Monitor the performance of attorneys providing representation in capital proceedings;
- (7) Investigate and maintain records concerning complaints about the performance of attorneys providing representation in capital cases and take appropriate corrective action pursuant to Rule 20.03 of the Rules of Superintendence;
- (8) Expand, reduce, or otherwise modify the list of certified attorneys as appropriate and necessary;
- (9) Review and approve specialized training programs on subjects that will assist counsel in the defense and appeal of capital cases;
- (10) Recommend to the Supreme Court of Ohio amendments to this rule or any other rule or statute relative to the defense or appeal of capital cases;

(11) Adopt best practices for representation of indigent defendants in capital cases and disseminate those best practices appropriately.

**(H) Meetings**

The committee shall meet at the call of the chairperson, at the request of a majority of the members, or at the request of the Supreme Court of Ohio. A quorum consists of three members. A majority of the committee is necessary for the committee to elect a chairperson and take any other action.

**(I) Compensation**

All members of the committee shall receive equal compensation in an amount to be established by the Supreme Court of Ohio.

### **RULE 20.03. Monitoring of Counsel; Removal.**

#### **(A) Duty of court**

The appointing court shall monitor the performance of all defense counsel to ensure that the client is receiving representation that is consistent with the American Bar Association's "Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases" and referred to herein as "high quality representation." The court, in addition to any other action it may take, shall report an attorney to the Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases who has not provided high quality representation. Where there is a complaint from a judge that an attorney has not provided high quality representation, the committee shall investigate the complaint. The committee will not start an investigation while counsel is still appointed in the matter.

#### **(B) Investigation of complaint**

The chairperson shall appoint a member of the committee or appoint an attorney qualified as lead counsel under this rule, who will investigate complaints made by a judge that defense counsel appointed pursuant to this rule failed to provide high quality representation under this rule.

(1) As part of the investigation of a complaint from a judge, the attorney shall be notified and given an opportunity to respond.

(2) After an investigation and after the attorney has been given an opportunity to respond to the factual allegations, the members of the committee, excluding the investigator and chairperson, will meet and vote whether a violation of rules 20 through 20.05 has occurred and whether the violation requires removal from the list of qualified attorneys.

Before taking action making an attorney ineligible to receive additional appointments, the committee shall provide written notice that such action is being contemplated, and give the attorney an opportunity to respond. If there is no apparent merit to the allegation the complainant will be advised and the matter will be closed.

(3) If an attorney is deemed ineligible to remain on the list of attorneys qualified to accept appointments, the attorney may appeal the decision of the committee to the chairperson. Upon appeal, the chairperson will review all applicable allegations, findings, and responses and determine whether a violation has occurred and whether appropriate action was taken and issue a decision. The decision of the chairperson is final.

**(C) Revocation**

An attorney whose certification has been revoked pursuant to this rule shall be restored to the roster only in exceptional circumstances. The findings made by the committee are not related to or part of the grievance process governing all attorneys in Ohio and the findings made by the committee are only for the purpose of determining continued eligibility for appointment.

**RULE 20.04. Programs for Specialized Training.**

**(A) Programs for specialized training in the defense of persons charged with a capital offense**

(1) Attorneys seeking to qualify to receive appointments shall be required to satisfactorily complete a comprehensive training program, approved by the Committee on the Appointment of Counsel for Indigent Defendants in Capital Cases, in the defense of capital cases. To be approved a program should include, but not be limited to, presentations and training in the following areas:

- (a) Relevant state, federal, and international law;
- (b) Pleading and motion practice;
- (c) Pretrial investigation, preparation, and theory development regarding trial and sentencing;
- (d) Jury selection;
- (e) Trial preparation and presentation, including the use of experts;
- (f) Ethical considerations particular to capital defense representation;
- (g) Preservation of the record and of issues for post-conviction review;
- (h) Counsel's relationship with the client and his family;
- (i) Post-conviction litigation in state and federal courts;
- (j) The presentation and rebuttal of scientific evidence, and developments in mental health fields and other relevant areas of forensic and biological science;
- (k) The unique issues relating to the defense of those charged with committing capital offenses when under the age of eighteen;
- (l) The best practices for representing an indigent capital defendant adopted by the committee pursuant to division (G)(11) of Rule 20.02 of the Rules of Superintendence for the Courts of Ohio;
- (m) Death penalty appellate and post-conviction litigation in state and federal courts.

**(B) Programs for specialized training in the appeal of cases in which the death penalty has been imposed**

- (1) To be approved by the committee, a death penalty appeals seminar shall include instruction devoted to the appeal of a case in which the death penalty has been imposed.
- (2) The curriculum for an approved death penalty appeal seminar should include, but is not limited to, specialized training in the following areas:
  - (a) An overview of current developments in death penalty law;
  - (b) Completion, correction, and supplementation of the record on appeal;
  - (c) Reviewing the record for unique death penalty issues;
  - (d) Motion practice for death penalty appeals;
  - (e) Preservation and presentation of constitutional issues;
  - (f) Preparing and presenting oral argument;
  - (g) Unique aspects of death penalty practice in the courts of appeals, the Supreme Court of Ohio, and the United States Supreme Court;
  - (h) The relationship of counsel with the appellant and the appellant's family during the course of the appeals;
  - (i) Procedure and practice in collateral litigation, extraordinary remedies, state post-conviction litigation, and federal habeas corpus litigation;
  - (j) The best practices for representing an indigent capital defendant adopted by the committee pursuant to Sup. R. 20.02(G)(11).

**(C) Application for training approval**

The sponsor of a program for specialized training under division (A) or (B) of this rule shall apply for approval from the committee at least sixty days before the date of the proposed seminar. An application for approval shall include the curriculum for the seminar and include biographical information of each member of the seminar faculty.

**(D) Verification of attendance**

The committee shall obtain a list of attendees from the Supreme Court Commission on Continuing Legal Education that shall be used to verify attendance and grant credit for each committee-approved seminar. Credit for purposes of this rule shall be granted to

instructors using the same ratio provided in Rule X of the Supreme Court Rules for the Government of the Bar of Ohio.

**(E) Accreditation of other programs**

The committee may accredit programs other than those approved pursuant to divisions (A) and (B) of this rule. To receive accreditation, the program shall include instructions in all areas set forth in divisions (A) and (B) of this rule. Application for accreditation of an in-state program may be made by the program sponsor or a program attendee and shall be made prior to the program. Application for accreditation of an out-of-state program may be submitted by the program sponsor or a program attendee and may be made prior to or after completion of the program. The request for credit from a program sponsor shall include the program curriculum and individual faculty biographical information. The request for credit from a program attendee shall include all of the following:

- (1) Program curriculum;
- (2) Individual faculty biographical information;
- (3) A written breakdown of sessions attended and credit hours received if the seminar held concurrent sessions;
- (4) Proof of attendance.

**(F) Specialized Training for Sup. R. 20 certification**

- (1) To be certified as lead or co-counsel or to retain certification, an attorney shall complete at least twelve hours of committee-approved specialized training every two years. To maintain certification as lead counsel or co-counsel, the twelve hours shall be devoted to instruction in the trial of capital cases.
- (2) To be certified as appellate counsel or to retain certification as appellate counsel, an attorney shall complete at least twelve hours of committee-approved training every two years. At least six of the twelve hours shall be devoted to instruction in the appeal of capital cases.
- (3) On or before the last day of December, each certified counsel shall complete the applicable specialized training requirements of divisions (A) and (B) of this rule. The committee shall review the list of certified counsel for the prior two years and revoke the certification of any attorney who has not complied with the specialized training requirements of this rule. An attorney whose certification has been revoked shall not be eligible to accept future appointment as counsel for an indigent defendant charged with or convicted of an offense for which the death penalty can be or has been imposed.

(4) The committee may accredit an out-of-state program that provides specialized instruction devoted to the investigation, preparation, and presentation of a death penalty trial or specialized instruction devoted to the appeal of a case in which the defendant received the death penalty, or both. Requests for credit for an out-of-state program may be submitted by the seminar sponsor or a seminar attendee. The request for credit from a program sponsor shall include the program curriculum and individual faculty biographical information. The request for credit from a program attendee shall include all of the following:

- (a) Program curriculum;
- (b) Individual faculty biographical information;
- (c) A written breakdown of sessions attended and credit hours received if the seminar held concurrent sessions;
- (d) Proof of attendance.

(5) An attorney who has previously been certified but whose certification has been revoked for failure to comply with the specialized training requirements of this rule must, in order to regain certification, submit a new application that demonstrates that the attorney has completed twelve hours of committee approved specialized training in the two year period prior to making application for recertification.

**RULE 20.05. Effective dates**

(A) The effective date of this rule shall be October 1, 1987.

(B) The amendments to Section II(A)(5)(b), Section III(B)(2), and to the Subcommittee Comments following Section II of this Rule adopted by the Supreme Court of Ohio on June 28, 1989, shall be effective on July 1, 1989.

(C) The amendments to Sections I(A)(2), I(A)(3), I(B), and II, and the addition of Sections I(C) and IV, adopted by the Supreme Court of Ohio on December 11, 1990, shall be effective on January 1, 1991.

(D) The amendments to this rule adopted by the Supreme Court of Ohio on April 19, 1995, shall take effect on July 1, 1995.

(E) The amendment to Sup. R. 20 adopted by the Supreme Court on December 4, 2002, shall take effect on January 6, 2003.

(F) The amendment to Sup. R. 20 adopted by the Supreme Court on February 1, 2005, shall take effect on March 7, 2005.

(G) On January 12, 2010, former Rule 20 and Rule 21 of the Rules of Superintendence for the Courts of Ohio was repealed by the Supreme Court and Rules 20 through 20.05 were adopted. Rules 20 through 20.05 are effective March 1, 2010.

**Commentary (July 1, 1997)**

This rule is identical to former C.P. Sup. R. 65.

**RULE 21. RESERVED**

**RULE 22. Verification of Indigency.**

Where required by law to appoint counsel to represent indigent defendants in cases for which the county will apply to the Ohio Public Defender Commission for reimbursement of costs, the court shall require the applicant to complete the financial disclosure form. The court shall follow rules promulgated by the Commission pursuant to division (B)(1) of section 120.03 of the Revised Code as guidelines to determine indigency and standards of indigency.

**Commentary (July 1, 1997)**

This is a new rule added in the 1997 amendments to the Rules of Superintendence. The rule is intended to facilitate compliance with the statutes and administrative rules relative to the appointment of counsel for indigent defendants in criminal cases.

**RULE 23. Juvenile Court Procedures--Complaint for Abortion without Parental Notification.**

(A) **Complaint--sealing identifying information.** All actions pursuant to section 2151.85 of the Revised Code shall be commenced by filing a complaint on Form 23-A issued by the clerk of the Supreme Court of Ohio. A certified copy of the second page, with the case number noted on it, shall be given to the complainant after she signs it. The original second page shall be removed from the file jacket and filed under seal in a safe or other secure place where access is limited to essential court personnel. All index records shall be under, "In the Matter of Jane Doe."

Minors seeking to file an action under section 2151.85 of the Revised Code shall be given prompt assistance by the clerk in a private, confidential setting. Assistance shall include performing the notary services necessary to file the complaint and affidavits described in Sup. R. 23 and 24.

The complaint shall be filed promptly upon the request of the minor. The complaint and other forms described in these rules shall be provided without cost to the minor. No filing fees or court costs shall be imposed on the minor in connection with these proceedings or any notice of appeal filed in connection with these proceedings.

(B) **Appointment of counsel.** Upon the filing of the complaint, the court shall appoint an attorney to represent the complainant if she is not represented by an attorney. Court-appointed attorneys shall be paid by the court without expense to the complainant.

(C) **Appointment of guardian *ad litem*.** Upon the filing of the complaint the court shall also appoint a guardian *ad litem*. The court may appoint the same individual to serve as both the attorney and the guardian *ad litem*. If the court appoints an individual who volunteers to serve as a guardian for the complainant, that individual need not be paid. Other guardians shall be paid by the court without expense to the complainant.

(D) **Hearing.** A hearing shall be conducted promptly after the filing of the complaint, if possible within twenty-four hours. In no event shall the hearing be held later than five business days after the filing of the complaint. The court shall accommodate school hours if at all possible. The hearing shall be conducted by a judge and shall not be heard by a magistrate. Hearings must be closed to the public and exclude all persons except witnesses on behalf of the complainant, her attorney, her guardian *ad litem*, and essential court personnel. The hearing shall be conducted in a manner that will preserve the anonymity of the complainant. The complainant's name shall not appear on the record.

If both maturity and either abuse or best interest are alleged in the complaint, or if maturity, abuse, and best interest are alleged in the complaint, the court shall rule on the issue of maturity first. If the court finds against the complainant on the issue of maturity, it then shall determine the other issues alleged in the complaint.

**(E) Judgment.** The court shall enter judgment immediately after the conclusion of the hearing and a copy of the judgment shall be immediately provided to the complainant. If the court finds by clear and convincing evidence either that the complainant is sufficiently mature and well enough informed to decide intelligently; or that there is evidence of a pattern of physical, sexual, or emotional abuse by one or both of her parents, guardian, or custodian; or that notification is not in the best interest of the complainant, the court shall issue an order on Form 23-B authorizing the complainant to consent to the performance of an abortion without notice to a parent, guardian, or custodian.

If the court determines that the complainant has not established the allegations of the complaint by clear and convincing evidence, the court shall dismiss the complaint and notify the complainant that she has a right to appeal under section 2505.073 of the Revised Code. In that event the complainant shall be provided with a copy of the notice of appeal, Form 23-C.

**(F) Appeals.**

(1) Immediately after the notice of appeal has been filed by the complainant, the clerk of the juvenile court shall notify the court of appeals. Within four days after the notice of appeal is filed in the juvenile court, the clerk of the juvenile court shall deliver a copy of the notice of appeal and the record, except page two of the complaint, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals.

(2) The juvenile court shall prepare a written transcript if possible. However, if a transcript cannot be prepared timely and if the testimony is on audio tape, the tape may be forwarded as part of the record in the case to the court of appeals without prior transcription and the court of appeals shall accept the audio tape as the transcript in the case without prior transcription. The juvenile court shall ensure that the court of appeals has the necessary equipment to listen to the audio tape.

**(G) General rule of expedition.** If a complainant files her notice of appeal on the same day as the dismissal of her complaint, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the complaint was filed.

**(H) Confidentiality.** The court shall not notify the parents, guardian, or custodian of the complainant that she is pregnant, that she wants to have an abortion, or that the complaint was filed. All court papers and records that pertain to the action shall be kept confidential and are not public records under section 149.43 of the Revised Code.

**(I) Verification notice.** Upon request of the complainant or her attorney, the clerk shall verify on Form 23-D the date the complaint was filed and whether a hearing has been held within five business days after the filing of the complaint. The form shall be filed and included as part of the record and a date-stamped copy shall be provided to the complainant or her attorney.

**Commentary (July 1, 1997)**

This rule and accompanying forms are identical to former C.P. Sup. R. 76.

**FORM 23-A. COMPLAINT FOR AN ORDER AUTHORIZING  
CONSENT TO AN ABORTION WITHOUT NOTIFICATION  
OF A PARENT, GUARDIAN, OR CUSTODIAN**

**JUVENILE COURT**

\_\_\_\_\_ COUNTY, OHIO

In re complaint of Jane Doe

Case No. \_\_\_\_\_

**COMPLAINT**

Promulgated by the Clerk of the Supreme Court  
of Ohio pursuant to R.C. 2151.85(G)

I swear or affirm that:

1. I am pregnant.
2. I am unmarried, under 18 years of age, and unemancipated.
3. I wish to have an abortion without notification of my parent, guardian, or custodian.
4. This complaint is being filed in the juvenile court of the county where I reside or have a legal settlement, in a county bordering the county where I reside or have a legal settlement, or in the county where the abortion will be performed.

[CHECK ONE OR MORE OF THE FOLLOWING STATEMENTS.]

5.     \_\_\_ I am sufficiently mature and well enough informed to intelligently decide whether to have an abortion without the notification of my parent, guardian, or custodian.
- \_\_\_ One or both of my parents, my guardian, or my custodian has engaged in a pattern of physical, sexual, or emotional abuse against me.
- \_\_\_ Notification of my parent, guardian, or custodian of my desire to have an abortion is not in my best interest.

[CHECK ONE OF THE FOLLOWING STATEMENTS.]

6.     \_\_\_ I do not have a lawyer.
- \_\_\_ I have a lawyer. The name, address, and telephone number of my lawyer are:

Lawyer's Name: \_\_\_\_\_  
Lawyer's Address: \_\_\_\_\_  
\_\_\_\_\_  
Lawyer's Phone No: \_\_\_\_\_

THEREFORE, I request that this Court issue an order authorizing me to consent to an abortion without the notification of my parent, guardian, or custodian.

Page 2 of the complaint. Case no. \_\_\_\_\_

THIS PAGE OF THE ORIGINAL MUST BE REMOVED  
AND PLACED UNDER SEAL IN A SAFE OR OTHER  
SECURE PLACE AS REQUIRED BY RULE 23(A) OF THE  
RULES OF SUPERINTENDENCE FOR OHIO COURTS.

I swear or affirm that the information in the attached complaint is true and accurate to the best of my  
knowledge and belief.

\_\_\_\_\_  
Signature

Sworn to or affirmed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public

\*\*\*\*\*

PLEASE NOTE:

If you do not have a lawyer, please provide in the spaces below any address and phone number where the  
Court may contact you until a lawyer is appointed to represent you. You do not need to use your home address and  
phone number.

\_\_\_\_\_  
Address

\_\_\_\_\_

\_\_\_\_\_  
Phone

COMPLAINT FOR AN ORDER AUTHORIZING CONSENT TO  
AN ABORTION WITHOUT NOTIFICATION OF A PARENT,  
GUARDIAN, OR CUSTODIAN

INSTRUCTIONS

If you are pregnant, unmarried, under eighteen years old and unemancipated, and want to have an abortion without telling your parent, guardian, or custodian, you may ask a court for permission. The court will then decide whether your parent, guardian, or custodian must be told before you may have an abortion. The attached form, called a complaint, should be used to ask a court to let you have an abortion without telling your parent, guardian, or custodian.

If you are under 18 and not married, you are “unemancipated” if:

1. You have not entered the armed services of the United States or
2. You do not have a job and support yourself or
3. You are under the care and control of your parent, guardian, or custodian.

By law, you do not have to pay a filing fee or any court costs. If you do not have a lawyer, the court will appoint one for you free of charge.

The court is not allowed to tell your parent, guardian, or custodian that you are pregnant or that you want to have an abortion. The court must keep the complaint and all other papers in your case confidential.

The complaint must be filed in a juvenile court in the county where the abortion would be performed, in the county where you reside or have a legal settlement, or in any county that borders the county where you reside or have a legal settlement.

HOW TO FILL OUT THE FORM

**Completing Statement #5:** Check one or more of the statements. If you check the first statement, the court will first consider if you are mature enough and well enough informed to intelligently decide whether to have an abortion without telling your parent, guardian, or custodian. If the court does not find that you are sufficiently mature and well enough informed to make the decision, and you have checked either or both of the remaining statements, the court will then consider:

- whether there is a pattern of physical, sexual, or emotional abuse of you by your parent, guardian, or custodian, or,
- whether telling your parent, guardian, or custodian is not in your best interest.

**Completing Statement #6:** Check the statement that applies to you. If you have a lawyer, fill in the name, address and telephone number of your lawyer.

**Completing the Top of Page 2:** The law requires that the statements in the complaint be made under oath. This part of the form must be completed in the presence of a person who is allowed to administer oaths, such as a notary public, a lawyer, or a judge. After you sign your name on the signature line, that person should notarize the form.

**Completing the Bottom of Page 2:** Fill out the bottom of Page 2 only if you do not have a lawyer. Provide any address and phone number where you may be contacted about this matter. When the court appoints a lawyer for you, the lawyer will reach you at the address or phone number you provide. You do not have to complete the bottom of Page 2 until after the notary public signs the top of Page 2.

[Revised 11/92]

**FORM 23-B. JUDGMENT**

**JUVENILE COURT**

**\_\_\_\_\_ COUNTY, OHIO**

In re complaint of Jane Doe

Case No. \_\_\_\_\_

**JUDGMENT**

This matter came on for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_. Based upon the testimony and evidence presented, this court finds:

1. The complainant is an unemancipated minor.
2. The complainant is pregnant and she wishes to obtain an abortion.
3. No parent, legal guardian, or custodian of the complainant has been notified that she is seeking an abortion.
4. That clear and convincing evidence has been presented to support the following: [decide maturity issue first if pleaded]

\_\_\_\_\_ Complainant is sufficiently mature and well enough informed to decide intelligently whether to have an abortion without notifying a parent, guardian, or custodian.

\_\_\_\_\_ There is evidence of a pattern of physical, sexual, or emotional abuse of the complainant by one or both of her parents, her guardian, or her custodian.

\_\_\_\_\_ Notification of a parent, guardian, or custodian would not be in complainant's best interest.

\_\_\_\_\_ None of the criteria set forth in paragraph 4 has been established by clear and convincing evidence.

**THEREFORE, IT IS ORDERED:**

\_\_\_\_\_ The complaint is granted and the complainant is hereby authorized to consent to the performance or inducement of an abortion without the notification of a parent, guardian, or custodian.

\_\_\_\_\_ The complaint is dismissed. The Clerk is instructed to provide the complainant with the notice of appeal form and advise her of her right to an expedited appeal.

\_\_\_\_\_, OH

\_\_\_\_\_  
Judge

\_\_\_\_\_, 19\_\_

**JUVENILE COURT**  
**\_\_\_\_\_ COUNTY, OHIO**

In re complaint of Jane Doe Case No. \_\_\_\_\_

**NOTICE OF APPEAL**

Promulgated by the Clerk of the Supreme  
Court of Ohio pursuant to R.C. 2151.85(G)

Notice is hereby given that the complainant appeals to the Court of Appeals for \_\_\_\_\_ County from the final order entered in the above-styled cause on \_\_\_\_\_, 19\_\_, dismissing the complaint seeking an abortion without notification of complainant's parents, guardian or custodian.

\_\_\_\_\_  
Signature of Attorney for Complainant

\_\_\_\_\_  
Attorney Name

\_\_\_\_\_  
Attorney Address

\_\_\_\_\_  
Attorney Phone

[Effective: October 5, 1990.]

**FORM 23-D. VERIFICATION**

**JUVENILE COURT  
\_\_\_\_\_ COUNTY, OHIO**

In re complaint of Jane Doe

Case No. \_\_\_\_\_

**VERIFICATION**

This will verify that on \_\_\_\_\_, 19\_\_, Jane Doe filed her complaint for an order authorizing consent to an abortion without notification of a parent, guardian or custodian and as of \_\_\_\_\_, 19\_\_, which is more than five business days after the filing of the complaint, the court has not held a hearing to consider her complaint.

\_\_\_\_\_  
Clerk

(Seal)

[Effective: October 5, 1990.]

**NOTICE REGARDING THE OCTOBER 15, 2001 AMENDMENTS TO  
SUPERINTENDENCE RULES 23.1 AND 25 AND ACCOMPANYING FORMS**

The October 15, 2001 amendments to Superintendence Rules 23.1 and 25 and the accompanying forms are intended to provide procedures implementing Amended Substitute House Bill 421 of the 122<sup>nd</sup> General Assembly, effective May 6, 1998. The United States District Court for the Southern District of Ohio has enjoined enforcement of this legislative enactment by order dated April 29, 1998. The text of the district court order is as follows:

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

Cincinnati Women's Services, Inc., et al.	:	CIVIL ACTION NO. C-1-98-289 (Beckwith, J.)
Plaintiffs,	:	
vs.	:	AGREED ORDER GRANTING INJUNCTION
George Voinovich, et al.,	:	
Defendants.	:	

This matter came on for a scheduling conference on April 23, 1998. The parties reported to the court that the Ohio Supreme Court has not yet issued rules to guide the juvenile courts under HB 421 and is not expected to have such rules in place before the effective date of the Act on May 6, 1998. For this and other good cause shown, and on agreement of the parties as detailed in the parties' Joint Motion for Agreed Order Maintaining Status Quo of Existing Law, the court hereby preliminarily enjoins defendants and their employees, agents, servants and those acting in concert with them from enforcing House Bill 421. This order shall remain in place until further order of the court following full briefing and hearing pursuant to a schedule to be established by the court in due course.

No bond shall be required of the plaintiffs.

SO ORDERED

/s/  
Sandra S. Beckwith  
United States District Judge

Agreed:

/s/

Alphonse A. Gerhardstein  
Trial Attorney for Plaintiffs

/s/

Roger E. Friedmann  
Trial Attorney for Defendant Deters

/s/

Arthur Marziale, Jr.  
Trial Attorney for Defendants Montgomery and Voinovich

Filed by Kenneth J. Murphy, Clerk  
April 29, 1998 @ 3:29 p.m.

**RULE 23.1. Juvenile Court Procedures—Application for authorization to Consent to an Abortion or for Judicial Consent to an Abortion (R.C. 2919.121).**

**(A) Petition; filing; sealing identifying information.** (1) All actions pursuant to section 2919.121 of the Revised Code shall be commenced by filing a petition on Form 23.1-A issued by the clerk of the Supreme Court of Ohio. A certified copy of the second page, with the case number noted on it, shall be given to the petitioner after the petitioner or next friend signs it. The original second page shall be removed from the file jacket and filed under seal in a safe or other secure place where access is limited to essential court personnel. All index records shall be filed under, “In re the Petition of Jane Doe.”

(2) Minors seeking to file an action under section 2919.121 of the Revised Code shall be given prompt assistance by the clerk in a private, confidential setting. Assistance shall include performing the notary services necessary to file the petition and affidavits described in this rule.

(3) The petition shall be filed promptly upon the request of the petitioner. The petition and other forms described in these rules shall be provided without cost to the petitioner. No filing fees or court costs shall be imposed on the petitioner in connection with these proceedings or any notice of appeal filed in connection with these proceedings.

**(B) Appointment of counsel.** Upon the filing of the petition and at least twenty-four hours before the hearing scheduled pursuant to division (D) of this rule, the court shall appoint an attorney to represent the petitioner if she is not represented by an attorney. Court-appointed attorneys shall be paid by the court without expense to the petitioner.

**(C) Appointment of guardian *ad litem*.** Upon the filing of the petition, the court shall appoint a guardian *ad litem* pursuant to Rule 4 of the Ohio Rules of Juvenile Procedure.

**(D) Hearing.** (1) A hearing shall be conducted promptly after the filing of the petition, if possible within twenty-four hours. In no event shall the hearing be held later than five calendar days after the filing of the petition. The court shall accommodate school hours if at all possible. The hearing shall be conducted by a judge and shall not be heard by a magistrate. Hearings shall be closed to the public and exclude all persons except witnesses on behalf of the petitioner, her attorney, her guardian *ad litem*, her next friend, if any, and essential court personnel. The hearing shall be conducted in a manner that will preserve the anonymity of the petitioner. The petitioner’s name shall not appear on the record.

(2) If maturity and best interest are alleged in the petition, the court shall rule on the issue of maturity first. If the court finds against the petitioner on the issue of maturity, it then shall determine the issue of best interest.

**(E) Judgment.** (1) If the court finds that the petitioner is sufficiently mature and well enough informed to decide intelligently whether to consent to an abortion or that the abortion is in the best interests of the petitioner, the court shall issue an order on Form 23.1-B authorizing the petitioner to consent to the performance of an abortion or giving judicial consent

to the abortion. If the court does not find that the petitioner is sufficiently mature and well enough informed to decide intelligently or that the abortion is in the best interests of the petitioner, or if the court finds that it does not have jurisdiction over the petition, the court shall issue an order on Form 23.1-B denying or dismissing the petition. The court shall enter judgment as soon as possible and no later than twenty-four hours after the conclusion of the hearing.

(2) If the judgment is entered immediately at the conclusion of the hearing, the court shall provide the petitioner and her attorney with a copy of the judgment. If the court denies or dismisses the petition, the court shall notify the petitioner that she has a right to appeal under division (C)(6) of section 2919.121 of the Revised Code and provide the petitioner and her attorney with a copy of the notice of appeal, Form 23.1-C.

(3) If the judgment is not entered immediately at the conclusion of the hearing, the court shall do all of the following:

(a) Inform the petitioner that the judgment will be entered within twenty-four hours;

(b) Inform the petitioner that the court will notify her attorney of the judgment upon its issuance;

(c) Inform the petitioner of the availability of other confidential procedures, which have been established by the court, to notify the petitioner of the court's judgment, including, but not limited to, providing the petitioner with the name of a designated court employee whom the petitioner may contact to obtain the judgment, arranging for the pick-up of the judgment at the court, or arranging for delivery of the judgment to an address designated by the petitioner;

(d) Notify the petitioner that, if the court denies or dismisses the petition, she has the right to appeal under division (D)(6) of section 2919.121 of the Revised Code;

(e) Provide the petitioner and her attorney with a copy of the notice of appeal, Form 23.1-C, and explain to the petitioner that the form may be filed only if the court denies or dismisses the petition.

**(F) Appeals.** (1) Immediately after the notice of appeal has been filed by the petitioner, the clerk of the juvenile court shall notify the court of appeals. Within four calendar days after the notice of appeal is filed in the juvenile court, the clerk of the juvenile court shall deliver a copy of the notice of appeal and the record, except page two of the petition, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals.

(2) The juvenile court shall prepare a written transcript if possible. If a transcript cannot be prepared timely and if the testimony is on audio tape, the tape may be forwarded as part of the record in the case to the court of appeals without prior transcription, and the court of appeals shall accept the audio tape as the transcript in the case without prior transcription. The

juvenile court shall ensure that the court of appeals has the necessary equipment to listen to the audio tape.

**(G) General rule of expedition.** (1) If a petitioner files a notice of appeal on the same day as the denial or dismissal of her petition, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the petition was filed.

(2) If a petitioner files a notice of appeal after the day on which the court denies or dismisses her petition, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the petition was filed, plus the number of calendar days that elapsed between the date on which the court's decision was issued and the date on which the notice of appeal was filed.

**(H) Confidentiality.** The court shall not notify the parents, guardian, or custodian of the petitioner that she is pregnant, that she wants to have an abortion, or that the petition was filed. All court papers and records that pertain to the action shall be kept confidential and are not public records under section 149.43 of the Revised Code.

**(I) Definition.** As used in this rule, Sup. R. 25, and Forms 23.1-A, 23.1-B, 23.1-C, and 25, "petitioner" means the minor female who is seeking consent to have an abortion regardless of whether the minor female or a next friend filed the petition.

[Effective: October 15, 2001.]

**FORM 23.1-A. PETITION FOR AUTHORIZATION TO CONSENT  
TO AN ABORTION OR FOR JUDICIAL CONSENT TO AN  
ABORTION (R.C. 2919.121)**

**JUVENILE DIVISION**

**COURT OF COMMON PLEAS**

\_\_\_\_\_ **COUNTY, OHIO**

In re petition of Jane Doe.

Case No. \_\_\_\_\_

**PETITION**

Promulgated by the Supreme Court  
of Ohio pursuant to R.C. 2919.121

I swear or affirm that:

1. I am pregnant.
2. I am unmarried, \_\_\_\_\_ years of age, and unemancipated.
3. I wish to have an abortion and have been fully informed of the risks and consequences of an abortion.
4. This petition is being filed in the juvenile court of the county where I reside, in a county bordering the county where I reside, or in the county where the abortion will be performed.

[CHECK ONE OR BOTH OF THE FOLLOWING STATEMENTS.]

5.  I am of sound mind and have sufficient intellectual capacity to consent to an abortion.
- The court should find that an abortion is in my best interests and give judicial consent to the abortion.

[CHECK ONE OF THE FOLLOWING STATEMENTS.]

6.  I do not have a lawyer and ask that the court appoint a lawyer free of charge.
- I have a lawyer. The name, address, and telephone number of my lawyer are:

Lawyer's Name: \_\_\_\_\_

Lawyer's Address: \_\_\_\_\_  
\_\_\_\_\_

Lawyer's Phone No: \_\_\_\_\_

THIS PAGE OF THE ORIGINAL MUST BE REMOVED AND PLACED UNDER SEAL IN A SAFE OR OTHER SECURE PLACE AS REQUIRED BY RULE 23.1 OF THE RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO.

7. The following is/are the name(s) and address(es) of my parent(s), guardian(s), custodian(s) or, if my parents are deceased and no guardian(s) is/are appointed, any person standing in place of my parent(s), guardian(s), or custodian(s):

Name(s): \_\_\_\_\_

Address(es): \_\_\_\_\_  
\_\_\_\_\_

THEREFORE, I request that this Court appoint a lawyer if I do not already have one, appoint a guardian *ad litem* to represent my best interests, and issue an order authorizing me to consent or granting judicial consent to an abortion without the consent of my parent, guardian, or custodian.

I swear or affirm that the information in the attached petition is true and accurate to the best of my knowledge and belief.

\_\_\_\_\_  
Signature (Minor or Next Friend)

If this petition is being filed by a next friend on behalf of a minor, the minor's initials are:  
\_\_\_\_\_.

Sworn to or affirmed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

\_\_\_\_\_  
Notary Public

\*\*\*\*\*

PLEASE NOTE:

If you do not have a lawyer, please provide in the spaces below any address and phone number where the Court may contact you until a lawyer is appointed to represent you. You do not need to use your home address and phone number.

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Form 23.1-A

Effective: May 22, 2007

**PETITION FOR CONSENT TO AN ABORTION OR FOR JUDICIAL CONSENT TO AN ABORTION (R.C. 2919.121).**

**INSTRUCTIONS**

If you are pregnant, unmarried, under eighteen years old and unemancipated, and want to have an abortion without the consent of your parents, you may ask a court for permission. The court will then decide whether you are sufficiently mature and well-enough informed to decide intelligently to have an abortion or whether an abortion is in your best interests. The attached form, called a petition, should be used to ask a court to let you have an abortion without the consent of your parents.

If you are under 18 and not married, you are “unemancipated” if:

1. You have not entered the armed services of the United States or
2. You do not have a job and support yourself or
3. You are under the care and control of your parent, guardian, or custodian.

By law, you do not have to pay a filing fee or any court costs. If you do not have a lawyer, the court will appoint one for you free of charge. The court also will appoint a guardian *ad litem*, who is a person responsible for protecting your interests. The court may appoint your lawyer to be your guardian *ad litem*.

The court is not allowed to tell your parent, guardian, or custodian that you are pregnant or that you want to have an abortion. The court must keep the petition and all other papers in your case confidential.

The petition must be filed in a juvenile court in the county where the abortion would be performed, in the county where you reside, or in any county that borders the county where you reside.

**HOW TO FILL OUT THE FORM**

**Completing Statement #5:** Check one or both of the statements. If you check the first statement, the court will first consider if you are mature enough and well enough informed to intelligently decide whether to have an abortion. If the court does not find that you are sufficiently mature and well enough informed to make the decision, and you have checked the second statement, the

court will then consider whether the abortion is in your best interest. If you are not sure which statement to check, you may check both and then discuss this with your lawyer.

**Completing Statement #6:** Check the statement that applies to you. If you have a lawyer, fill in the name, address and telephone number of your lawyer.

**Completing Page 2:** The law requires that the statements in the petition be made under oath. This part of the form must be completed by you or someone who is assisting you (called a “next friend”) in the presence of a person who is allowed to administer oaths, such as a notary public, a lawyer, or a judge. After you or the person assisting you signs the petition, the person who administers oaths should sign the form.

**Completing the Bottom of Page 2:** Fill out the bottom of page 2 only if you do not have a lawyer. Provide any address and phone number where you may be contacted about this matter. When the court appoints a lawyer for you, the lawyer will reach you at the address or phone number you provide. You do not have to complete the bottom of page 2 until after the notary public signs on page 2.

Effective: May 22, 2007

#### **Commentary May 22, 2007**

Form 23.1-A was amended to reflect the decision in *Cincinnati Women’s Services v. Taft*, 468 F.3d 361 (6<sup>th</sup> Cir. 2006) which ruled that the portions of the Ohio Revised Code Section 2919.121 that limit minors to one judicial-bypass petition per pregnancy place an undue burden on minors’ constitutional right to an abortion.

**FORM 23.1-B. JUDGMENT**

**JUVENILE COURT**  
\_\_\_\_\_ **COUNTY, OHIO**

In re petition of Jane Doe

Case No. \_\_\_\_\_

**JUDGMENT**

This matter came on for hearing on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. Based upon the testimony and evidence presented, this court finds:

1. The court:

\_\_\_\_\_ Has jurisdiction over the petition.

\_\_\_\_\_ Does not have jurisdiction over the petition for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

2. \_\_\_\_\_ The petitioner is an unemancipated minor.

3. \_\_\_\_\_ The petitioner is pregnant and she wishes to obtain an abortion.

4. \_\_\_\_\_ The petitioner has been fully informed of the risks and consequences of the abortion.

5. That evidence has been presented to support the following [decide maturity issue first if pleaded]:

a. \_\_\_\_\_ Petitioner is sufficiently mature and well enough informed to decide intelligently whether to have an abortion without obtaining the consent of a parent, guardian, or custodian.

b. \_\_\_\_\_ The abortion would be in petitioner's best interest for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

c. \_\_\_\_\_ Neither 5a. nor 5b. has been established for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

THEREFORE, IT IS ORDERED:

\_\_\_\_\_ The petition is granted and the petitioner is hereby authorized to consent to the performance or inducement of an abortion.

\_\_\_\_\_ The court finds the abortion is in the best interest of the petitioner and judicial consent is hereby authorized.

\_\_\_\_\_ The petition is denied. The Clerk is instructed to provide the petitioner with the notice of appeal form and advise her of her right to an expedited appeal.

\_\_\_\_\_ The petition is dismissed for lack of jurisdiction. The Clerk is instructed to provide the petitioner with the notice of appeal form and advise her of her right to an expedited appeal.

\_\_\_\_\_, Ohio

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Date

**FORM 23.1-C. NOTICE OF APPEAL**

**JUVENILE COURT**

\_\_\_\_\_ **COUNTY, OHIO**

In re petition of Jane Doe

Case No. \_\_\_\_\_

**NOTICE OF APPEAL**

Promulgated by the Supreme Court  
of Ohio pursuant to R.C. 2919.121

Notice is hereby given that the petitioner appeals to the Court of Appeals for \_\_\_\_\_ County from the final order entered in the above-styled cause on \_\_\_\_\_, \_\_\_\_\_, denying or dismissing the petition seeking an abortion.

\_\_\_\_\_  
Signature of Attorney for Petitioner

\_\_\_\_\_  
Attorney Name

\_\_\_\_\_  
Attorney Address

\_\_\_\_\_

\_\_\_\_\_  
Attorney Phone

**RULE 24. Notifying Physicians of Affidavits Alleging Abuse Under 2919.12.**

**(A) Filing affidavits--procedure.** Pursuant to division (B)(1)(b) of section 2919.12 of the Revised Code, a minor may have notice of an intended abortion given to a specified adult instead of one of her parents, guardian, or custodian. Two affidavits must be filed with the clerk of the juvenile court by anyone seeking to invoke the notice provisions of the law. The first affidavit is executed by the minor and should be on Form 24-A. The second affidavit is executed by the specified adult and should be on Form 24-B. Anyone receiving these forms also shall be given the accompanying instruction sheet.

Upon the filing of both affidavits and upon the request of the minor, her attorney, or the person who will perform the abortion, the clerk of the juvenile court shall issue a notice on Form 24-C verifying that the affidavits have been filed with the court.

**(B) Confidentiality.** All affidavits filed and notices issued pursuant to this rule shall be placed under seal in a safe or other secure place where access is limited to essential court personnel.

Persons becoming aware of the contents of any affidavits prepared pursuant to this rule or section 2919.12 of the Revised Code are exempt from reporting such contents under section 2151.421 of the Revised Code. Any reporting by court personnel would breach the duty of confidentiality and is prohibited by section 102.03 of the Revised Code.

**Commentary (July 1, 1997)**

This rule and accompanying forms are identical to former C.P. Sup. R. 77.

**FORM 24-A. AFFIDAVIT OF MINOR**

**JUVENILE COURT**

\_\_\_\_\_ **COUNTY, OHIO**

In re complaint of Jane Doe

Case No. \_\_\_\_\_

**AFFIDAVIT**

R.C. 2919.12(B)(1)(b)(ii)

STATE OF OHIO

)

)

COUNTY OF

)

I, \_\_\_\_\_, being duly sworn, state as follows:

1. I am pregnant, unmarried, under 18 years of age, and unemancipated.
2. I wish to have an abortion without notification of a parent, guardian, or custodian.
3. I request instead that notice of my intention to have the abortion be given to one of the following [Select One]:
  - a. \_\_\_\_\_, a brother or sister twenty-one years of age or older or,  
Name
  - b. \_\_\_\_\_, a stepparent or grandparent.  
Name
4. I am in fear of physical, sexual, or severe emotional abuse from a parent, guardian, or custodian who otherwise would be notified of my intention to have an abortion under section 2919.12 of the Revised Code.
5. My fear is based on a pattern of physical, sexual, or severe emotional abuse exhibited by a parent, guardian, or custodian.

6. I understand that upon the filing of this affidavit and an affidavit from the person specified above with the juvenile court, an officer of that court will prepare a notice verifying that the affidavits have been filed.
  
7. The person who intends to perform or induce my abortion and the address of that person are as follows:

\_\_\_\_\_  
Name of Abortion Provider

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

Before me appeared the above named person who under oath or by affirmation did sign this affidavit this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Notary Public



## **FORMS ALLEGING ABUSE BY PARENT AND REQUESTING THAT NOTIFICATION OF ABORTION BE PROVIDED TO OTHER RELATIVE**

### INSTRUCTIONS FOR FORMS 24-A and 24-B

If you use these forms, the person performing your abortion will not be required to give notice of your abortion to a parent, guardian, or custodian. Instead, you can choose to have notice provided to a brother or sister over twenty-one years of age or a stepparent or grandparent.

These forms are called affidavits. An affidavit is a sworn statement signed before a notary public or other person, such as a judge or attorney, authorized to administer oaths. The clerk's office will provide a notary public if you want to complete the forms in the clerk's office.

These forms may be used if all of the following apply.

You are:

1. pregnant;
2. unmarried;
3. under eighteen years old;
4. unemancipated, which means that:  
you have not entered the armed forces of the United States, or  
you do not have a job and support yourself, or  
you are under the care and control of a parent, guardian, or custodian;
5. you fear, based on events that have happened in the past, physical, sexual, or severe emotional abuse if notice of the abortion is given to a parent, guardian, or custodian.

These forms will be filed with the juvenile court and kept confidential. The clerk of the juvenile court will provide notice to the abortion provider that the forms have been filed and the clerk will inform the abortion provider of the name of the person you have chosen to receive notice of your abortion. The forms will not be released by the juvenile court.

You do not have to pay any filing fee or court costs to the clerk for notarizing these forms, filing these forms, or issuing the notice to the abortion provider.

The affidavit must be filed in a juvenile court in the county where the abortion will be performed, in the county where you reside or have a legal settlement, or in any county that borders the county where you reside or have a legal settlement.

## HOW TO FILL OUT THE FORMS

There are two forms. You complete one of them. The other form is completed by the person you select to receive notice of your abortion. That must be a brother or sister over twenty-one years old or a stepparent or grandparent.

Your form requires that you name the person to receive notice and provide the name and address of the person to perform the abortion.

Both of the forms must be signed in front of a notary public or other person, such as a judge or attorney, authorized to administer oaths.

## WHAT TO DO AFTER FILLING OUT THE FORMS

After the forms are signed and notarized, give them to the juvenile court clerk who will file them in a confidential place within the clerk's office. Then the clerk will issue a notice that you may take to the abortion provider. With that notice the abortion provider will be authorized to provide notice of the abortion to the brother, sister, stepparent, or grandparent that you have selected.

Effective 11/92

**FORM 24-C. NOTICE**

**JUVENILE COURT**  
\_\_\_\_\_ **COUNTY, OHIO**

In re complaint of Jane Doe

Case No. \_\_\_\_\_

**NOTICE**

Notice is hereby given that on \_\_\_\_\_, 19\_\_, (minor's name) filed affidavits pursuant to Section 2919.12(B)(1)(b)(ii) and (iii) of the Revised Code and may therefore proceed to have any notifications required by that statute issued to the following specified adult:  
\_\_\_\_\_.

\_\_\_\_\_  
Clerk

(Seal)

**RULE 25. Procedure on Appeals Under Sections 2151.85, 2919.121, and 2505.073 of the Revised Code.**

(A) **General rule of expedition.** (1) If a complainant or petitioner files her notice of appeal on the same day as the dismissal of her complaint or petition by the juvenile court, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the original complaint or petition was filed.

(2) If a complainant or petitioner files a notice of appeal after the day on which the court denies or dismisses her complaint or petition, the entire court process, including the juvenile court hearing, appeal, and decision, shall be completed in sixteen calendar days from the time the complaint or petition was filed, plus the number of calendar days that elapsed between the date on which the court's decision was issued and the date on which the notice of appeal was filed.

(B) **Processing appeal.** (1) Immediately after the notice of appeal has been filed by the complainant or petitioner, the clerk of the juvenile court shall notify the court of appeals. Within four days after the notice of appeal is filed in juvenile court, the clerk of the juvenile court shall deliver a copy of the notice of appeal and the record, except page two of the complaint or petition, to the clerk of the court of appeals who immediately shall place the appeal on the docket of the court of appeals.

(2) Record of all testimony and other oral proceedings in actions pursuant to section 2151.85 or 2919.121 of the Revised Code may be made by audio recording. If the testimony is on audio tape and a transcript cannot be prepared timely, the court of appeals shall accept the audio tape as the transcript in this case without prior transcription.

(3) The appellant under this section shall file her brief within four days after the appeal is docketed. Unless waived, the oral argument shall be within five days after docketing. Oral arguments must be closed to the public and exclude all persons except the appellant, her attorney, her guardian *ad litem*, and essential court personnel.

(4) Under this rule, "days" means calendar days and includes any intervening Saturday, Sunday, or legal holiday. To provide full effect to the expedition provision of the statute, if the last day on which a judgment is required to be entered falls on a Saturday, Sunday, or legal holiday, the computation of days shall not be extended and judgment shall be made either on the last business day before the Saturday, Sunday, or legal holiday, or on the Saturday, Sunday, or legal holiday.

(C) **Confidentiality.** All proceedings pursuant to division (A) of section 2505.073 or 2919.121 of the Revised Code shall be conducted in a manner that will preserve the anonymity of the appellant on appeal. Except as set forth in division (E) of this rule, all papers and records that pertain to an appeal under section 2505.073 or 2919.121 of the Revised Code shall be kept confidential and are not public records under section 149.43 of the Revised Code.

**(D) Judgment entry.** The court of appeals shall enter judgment immediately after conclusion of oral argument or, if oral argument is waived, within five days after the appeal is docketed.

**(E) Release of records.** The public is entitled to secure all of the following from the records pertaining to each case filed under section 2505.073 or 2919.121 of the Revised Code:

- (1) The docket number;
- (2) The name of the judge;
- (3) The judgment entry and, if appropriate, a properly redacted opinion.

Opinions shall set forth the reasoning in support of the decision in a way that does not directly or indirectly compromise the anonymity of the minor. Opinions written in compliance with this requirement shall be considered public records available upon request. If, in the judgment of the court, it is impossible to release an opinion without compromising the anonymity of the minor, the entry that journalizes the outcome of the case shall include a specific finding that no opinion can be written without disclosing the identity of the minor. Such finding shall be a matter of public record.

It is the obligation of the court to remove any and all information in its opinion that would directly or indirectly disclose the identity of the minor.

**(F) Notice and hearing before release of opinion.** After an opinion is written and before it is available for release to the public, the minor must be notified and be given the option to appear and argue at a hearing if she believes the opinion may disclose her identity. Notice may be provided by including the following language in the opinion:

If appellant believes that this opinion may disclose her identity, appellant has a right to appear and argue at a hearing before this court. Appellant may perfect this right to a hearing by filing a motion for a hearing within fourteen days of the date of this opinion.

The clerk is instructed that this opinion is not to be made available for release until either of the following:

- (1) Twenty-one days have passed since the date of the opinion and appellant has not filed a motion;
- (2) If appellant has filed a motion, after this court has ruled on the motion.

Notice shall be provided by mailing a copy of the opinion to the attorney for the appellant or, if she is not represented, to the address provided by appellant for receipt of notice.

**(G) Constructive order.** Upon request of the appellant or her attorney in proceedings pursuant to section 2151.85 or 2505.073 of the Revised Code, the clerk shall verify on Form 25-A the date the appeal was docketed and whether a judgment has been entered within five days of that date. The completed form shall include the case number from the juvenile court and the court of appeals, and shall be filed and included as part of the record. A date-stamped copy shall be provided to the appellant or her attorney.

[Amended effective: October 15, 2001.]

**COURT OF APPEALS**  
\_\_\_\_\_ **COUNTY, OHIO**

In re complaint of Jane Doe

Case No. \_\_\_\_\_

Juvenile Court No. \_\_\_\_\_

**VERIFICATION**

This will verify that on \_\_\_\_\_, \_\_\_\_\_, the appeal of Jane Doe was docketed in this court under section 2151.85 or 2505.073 of the Revised Code and as of \_\_\_\_\_, \_\_\_\_\_, which is more than five calendar days after the docketing of the appeal, the court has not rendered a judgment in the matter.

\_\_\_\_\_  
Clerk

(Seal)

**RULE 26. Court Records Management and Retention.**

**(A) Applicability.** (1) This rule and Sup. R. 26.01 to 26.05 are intended to provide minimum standards for the maintenance, preservation, and destruction of records within the courts and to authorize alternative electronic methods and techniques. Implementation of this rule and Sup. R. 26.01 to 26.05 is a judicial, governmental function.

(2) This rule and Sup. R. 26.01 to 26.05 shall be interpreted to allow for technological advances that improve the efficiency of the courts and simplify the maintenance, preservation, and destruction of court records.

**(B) Definitions.** As used in this rule and Sup. R. 26.01 to 26.05:

(1) “Administrative record” means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.

(2) “Case file” means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgments of the court on a case by case basis.

(3) “Index” means a reference record used to locate journal, docket, and case file records.

(4) “Journal” means a verbatim record of every order or judgment of a court.

(5) “OHS” means the Ohio Historical Society, State Archives Division.

(6) “Record” means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the court.

**(C) Combined records.** Notwithstanding any other provision of the law, a court may combine indexes, dockets, journals, and case files provided that the combination contains the components of indexes, dockets, journals, and case files as defined in this rule and Sup. R. 26.01 to 26.05. A court may replace any paper bound books with an electronic medium or microfilm in accordance with this rule.

**(D) Allowable record media.** (1) A court may create, maintain, record, copy, or preserve a record on traditional paper media, electronic media, including text or digital images, or microfilm, including computer output to microfilm.

(2) A court may create, maintain, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in

regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with American National Standards Institute (“ANSI”) standards and guidelines or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.

(a) If a court creates, maintains, records, copies, or preserves a record using a records and information management process in accordance with division (D)(2) of this rule and the record is required to be retained in accordance with the schedules set forth in Sup. R. 26.01 to 26.05, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If Sup. R. 26.01 to 26.05 require the record to be retained permanently, the back-up copy shall be stored in a different building than the record it secures.

(b) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, recorded, copied, or preserved by an alternative records and information management process in accordance with division (D)(2) of this rule, shall be provided.

(c) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division (D)(2) of this rule.

(d) Paper media may be destroyed after it is converted to other approved media in accordance with division (D) of this rule.

**(E) Destruction of records.** (1) Subject to the notification and transfer requirements of divisions (E)(2) and (3) of this rule, a record and any back-up copy of a record produced in accordance with division (D)(2) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Sup. R. 26.01 to 26.05.

(2) If Sup. R. 26.01 to 26.05 set forth a retention period greater than ten years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court’s intention to destroy the record at least sixty days prior to the destruction of the record.

(3) After submitting a written notice in accordance with division (E)(2) of this rule, the court shall, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

**(F) Exhibits, depositions, and transcripts.** At the conclusion of litigation, including times for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:

(1) The court notifies the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification;

(2) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty days of the notification;

(3) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;

(4) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification required in division (F)(1) of this rule.

**(G) Local rules.** By local rule, a court may establish retention schedules for any records not listed in Sup. R. 26.01 to 26.05 and may extend, but not limit, the retention schedule for any record listed in Sup. R. 26.01 to 26.05. Any record that is not listed in Sup. R. 26.01 to 26.05 but is listed in a general retention schedule established pursuant to section 149.331 of the Revised Code may be retained for the period of time set by the general retention schedule and then destroyed.

**(H) Extension of retention period for individual case files.** A court may order the retention period for an individual case file extended beyond the period specified in Sup. R. 26.02 to 26.05 for the case file.

### **Commentary (July 1, 2001 Amendments)**

The July 1, 2001 amendments to Sup. R. 26 removed the words “produce” and “production” from division (A) and the words “receive” and “receives” from division (D) for the purpose of restricting the scope of the rule to records management and retention. The word “advances” replaced the word “enhancements” in division (A)(2).

### **Commentary (October 1, 1997)**

The Supreme Court’s Task Force on Records Management recommended the substantive provisions of this rule and Sup. R. 26.01 to 26.05 after studying the records management procedures of Ohio courts for approximately eighteen months. This rule and Sup. R. 26.01 to 26.05 require courts to keep certain records and mandate minimum records retention schedules for administrative and case records of the courts. The rules also authorize the courts to maintain records in forms other than paper provided that when an alternative process is employed, it

conforms to the standards established by the American National Standards Institute (“ANSI”). Courts are not required to use the alternative processes permitted by this rule.

To obtain information concerning ANSI standards, courts may contact the Ohio Historical Society, State Archives Division, 1982 Velma Avenue, Columbus, Ohio 43211-2497, (614) 297-2581.

**RULE 26.01. Retention Schedule for the Administrative Records of the Courts.**

The following retention schedule shall apply for the administrative records of the courts:

(A) **Administrative journal.** Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

(B) **Annual reports.** Two copies of each annual report shall be retained permanently.

(C) **Bank records.** Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(D) **Cash books.** Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(E) **Communication records.** Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

(F) **Correspondence and general office records.** Correspondence and general office records, including all sent and received correspondence, in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

(G) **Drafts and informal notes.** Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the drafts and informal notes.

(H) **Employment applications for posted positions.** Employment applications for posted or advertised positions shall be retained for two years.

(I) **Employee benefit and leave records.** Employee benefit and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(J) **Employee history and discipline records.** Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.

**(K) Fiscal records.** Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**(L) Grant records.** Records of grants made or received by a court shall be retained for three years after expiration of the grant.

**(M) Payroll records.** Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**(N) Publications received.** Publications received by a court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.

**(O) Receipt records.** Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

**(P) Requests for proposals, bids, and resulting contracts.** Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

**RULE 26.02. Courts of Appeals--Records Retention Schedule.**

(A) **Definition of docket.** As used in this rule, “docket” means the record where the clerk of the court of appeals enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

(B) **Required records.**

(1) The court of appeals shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and divisions (A) and (C) of this rule.

(2) Upon the filing of any paper or electronic entry permitted by the court of appeals, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(C) **Content of docket.** The docket of the court of appeals shall be programmed to allow retrieval of orders and judgments of the court in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the court of appeals, and shall include:

(1) Names and addresses of all parties in full;

(2) Names, addresses, and Supreme Court attorney registration numbers of all counsel;

(3) The issuance of documents for service upon a party and the return of service or lack of return;

(4) A brief description of all records and orders filed in the proceeding, the date and time filed, and a cross reference to other records as appropriate;

(5) A schedule of court proceedings for the court of appeals and its officers to use for case management purposes;

(6) All actions taken by the court of appeals to enforce orders or judgments.

(D) **Retention schedule for the index, docket, and journal.** The index, docket, and journal of the court of appeals shall be retained permanently.

(E) **Retention schedule for case files.**

1) Court of appeals case files shall be retained for two years after the final order of the court, except for files of death penalty cases, which shall be retained permanently in their original form.

(2) Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

**RULE 26.03. General, Domestic Relations, and Juvenile Divisions of the Courts of Common Pleas--Records Retention Schedule.**

**(A) Definitions.**

(1) As used in divisions (A) to (D) of this rule, “division” means the general, domestic relations, or juvenile division of the court of common pleas or any combination of the general, domestic relations, or juvenile divisions of the court of common pleas.

(2) As used in this rule, “docket” means the record where the clerk of the division enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

**(B) Required records.**

(1) Each division shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and divisions (A) and (C) of this rule.

(2) Upon the filing of any paper or electronic entry permitted by the division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

**(C) Content of docket.** The docket of a division shall be programmed to allow retrieval of orders and judgments of the division in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the division, and shall include:

- (1) Names and addresses of all parties in full;
- (2) Names, addresses, and Supreme Court attorney registration numbers of all counsel;
- (3) The issuance of documents for service upon a party and the return of service or lack of return;
- (4) A brief description of all records and orders filed in the proceeding, the time and date filed, and a cross reference to other records as appropriate;
- (5) A schedule of court proceedings for the division and its officers to use for case management;
- (6) All actions taken by the division to enforce orders or judgments; and

(7) Any information necessary to document the activity of the clerk of the division regarding the case.

**(D) Retention schedule for the index, docket, and journal.** The index, docket, and journal of a division shall be retained permanently.

**(E) Judge, magistrate, and clerk notes, drafts, and research.** Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

**(F) Retention schedule for case files--general division of the court of common pleas.**

**(1) Death penalty cases.** Death penalty case files shall be retained permanently.

**(2) Real estate.** Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

**(3) Search warrant records.** Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

**(4) Voluntary dismissals.** Case files of matters that are voluntarily dismissed shall be retained for three years after the date of the dismissal.

**(5) Other case files.** Any case file not listed in division (F) of this rule shall be retained for twelve years after the final order of the general division. Documents within a case file admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty years after the final order of the general division.

**(G) Retention schedule for case files--domestic relations division of the court of common pleas.**

**(1) Certified mail receipts in uncontested cases and post-decree motions.** In new cases and cases involving post-decree motions where personal jurisdiction is established by certified mail receipt and the defendant/respondent fails to answer, enter an appearance, or otherwise defend, the certified mail receipt shall be retained for thirty years after the date of issuance and may be retained in a separate file from the case file.

**(2) Divorce or dissolution: Minor children.** Case files of divorce and dissolution that involve minor children shall be retained for twenty-five years after the date of the final order of the domestic relations division.

**(3) Divorce or dissolution: No children.** Case files of divorce and dissolution not involving minor children shall be retained for twelve years after the final order of the domestic relations division.

**(4) Domestic violence petitions.** Case files of petitions for domestic violence protection orders shall be retained for one year after the expiration of any resulting protection order. If the parties to a petition for a domestic violence protection order are also parties to a divorce, the case file of the petition shall be retained for one year after the expiration of any resulting protection order or until the parties are divorced, whichever is later. In case files of petitions for domestic violence protection orders in which no protection order is issued, the case file shall be retained for one year from the date the petition was filed. If post-decree motions have been filed, the case file shall be retained for one year after the adjudication of the post-decree motion or the date specified for case files of petitions for domestic violence protection orders in division (G)(4) of this rule, whichever is later.

**(5) Legal separation.** Case files of legal separation shall be retained until the parties are divorced or for two years after the spousal support terminates, whichever is later, unless otherwise ordered by the court. If post-decree motions have been filed, the case file shall be retained for two years after the adjudication of the post-decree motion or the date specified for case files in division (G)(5) of this rule, whichever is later.

**(6) Real estate.** Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

**(7) Registration or adoption of foreign decree.** Case files of registrations or adoptions of foreign decrees shall be retained for two years after the emancipation of all of the parties' minor children. If post-decree motions have been filed, records shall be retained for two years after the adjudication of the post-decree motion or the date specified for case files in division (G)(7) of this rule, whichever is later.

**(8) Uniform Reciprocal Enforcement of Support Act ("URESAs") filings.** Case files involving URESA filings shall be retained for nineteen years after the final order of the domestic relations division or for one year after transfer of the case to another jurisdiction.

**(H) Retention schedule for case files--juvenile division of the court of common pleas.**

**(1) Delinquency and adult records.** Delinquency and adult records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Documents admissible as evidence of a prior conviction in a criminal proceeding shall be retained for fifty years after the final order of the juvenile division.

**(2) Juvenile by-pass records.** Juvenile by-pass records shall be maintained in two separate and secure files. The first file shall contain the first page of the form complaint and

other relevant documents and the second file shall contain the second page of the form complaint bearing the signature of the complainant. Each file shall be retained for two years after the final order of the juvenile division or, if an appeal is sought, for two years after the filing of the appeal.

**(3) Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency, and URESA records.** Permanent custody, custody, parentage, visitation, support enforcement, abuse, neglect, dependency, and URESA records shall be retained for two years after the child who is the subject of the case obtains the age of majority. If post-decree motions have been filed, records shall be retained for one year after the adjudication of the post-decree motion or the date specified for case files in division (H)(3) of this rule, whichever is later.

**(4) Search warrant records.** Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

**(5) Traffic, unruly, and marriage consent records.** Unruly and marriage consent records shall be retained for two years after the final order of the juvenile division or one year after the issuance of an audit report by the Auditor of State, whichever is later. Minor misdemeanor traffic records shall be retained for five years after the final order of the juvenile division. Misdemeanor traffic records shall be retained for twenty-five years after the final order of the juvenile division. All other traffic records shall be retained for fifty years after the final order of the juvenile division.

**RULE 26.04. Probate Divisions of the Courts of Common Pleas--Records Retention Schedule.**

**(A) Definitions.** As used in this rule:

(1) “Docket” means a reference record that provides the dates and a summary of all hearings, pleadings, filings, orders, and other matters that are essential to an action, proceeding, or other matter in the probate division.

(2) “Probate record” means a record that pertains to the duties of the probate division including, but not limited to, adoptions, marriage licenses, name changes, birth records, orders of civil commitment, the resolution of civil actions, and the appointment and supervision of fiduciaries.

(3) “Record of documents” means a collection of single or several page documents in which each document represents the probate division’s action in a single incident of the same duty of the probate division, such as the issuance of marriage licenses.

**(B) Closed probate record or case file.** For purposes of this rule, a probate record or case file of an estate, trust, or other fiduciary relationship shall be considered closed when a final accounting has been filed and, if required by law at the time of the filing, the account has been approved and settled. All other probate records and case files shall be considered closed when the probate division orders the matter closed or there is a final disposition of the action or proceeding for which the probate record or case file is kept.

**(C) Required records.**

**(1) Dockets.**

(a) The probate division shall maintain all of the following dockets:

(i) An administration docket showing the name of the deceased;

(ii) A guardian’s docket showing the name of each ward and, if the ward is a minor, the ward's age and name of the ward's parents and any limited powers or limited duration of powers;

(iii) A civil docket in which the names of the parties to actions and proceedings shall be noted;

(iv) A testamentary trust docket showing the names of the testator and trustee or trustees;

(v) A change of name docket showing the name of the petitioner and the present and proposed names of the person whose name is to be changed;

(vi) A birth registration and correction docket showing the name of the person whose birth certificate is being registered or corrected;

(vii) A civil commitment docket showing the name of the prospective patient;

(viii) A separate adoption docket, in accordance with section 3107.17 of the Revised Code, showing the name of the child as it would exist after finalization of the adoption and the name or names of the adoptive parent or parents;

(ix) A paternity docket showing the birth name of the child who is the subject of the petition, the name of the father, the name of the mother, and the name of the child after adjudication;

(x) A miscellaneous docket showing the names of parties or petitioners and the nature of the action or proceeding. The miscellaneous docket shall be limited to actions within the probate division's jurisdiction that are not kept in one of the other dockets described in division (C)(1) of this rule. If the number of filings warrants, a miscellaneous docket may be subdivided or grouped into sections containing files or records of similar content.

(b) All dockets of the probate division shall contain the dates of filing or occurrence and a brief description of any bond and surety, letter of authority, and each filing, order, or record of proceeding related to the case or action, with a reference to the file or record where the bond and surety, letter of authority, filing, order, or record of proceeding is to be found, and such other information as the court considers necessary.

**(2) Records of documents.**

(a) The probate division shall maintain both of the following records of documents:

(i) A record of wills, if wills are not copied and permanently retained as part of an estate case file under division (D)(2) of this rule, in which the wills proved in the court shall be recorded with a certificate of the probate of the will, and wills proved elsewhere with the certificate of probate, authenticated copies of which have been admitted to record by the court;

(ii) A marriage record, in which shall be entered licenses, the names of the parties to whom the license is issued, the names of the persons applying for a license, a brief statement of the facts sworn to by the persons applying for a license, and the returns of the person solemnizing the marriage.

(b) Records of documents of the probate division shall contain documents, applications or affidavits, either original or copies, and information pertaining to those documents, as found in division (C)(2)(a) of this rule or as considered necessary by the court.

**(3) Journal.** The probate division shall maintain a journal for orders, entries, or judgments pertaining to the business and administration of the division, and other miscellaneous orders, entries, or judgments which the court may consider necessary to journalize, including all of the following:

(a) Orders of appointment and oaths of office pursuant to section 2101.11 of the Revised Code of court personnel and other nonfiduciary appointees;

(b) Orders of reference to magistrates;

(c) Changes of the local rules of the probate division;

(d) Orders changing the hours for the opening and closing of the probate court.

**(4) Indexes.** The probate division shall maintain an index for each docket, record of documents, and journal described in division (C) of this rule. Each index shall be kept current with names or captions of proceedings in alphabetical order and references to a docket, record or documents, journal, or case file where information pertaining to those names or proceedings may be found.

(5) Upon the filing of any paper or electronic entry permitted by the probate division, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

**(D) Destruction and preservation of probate records.**

(1) The vouchers, proof, or other evidence filed with the probate division in support of the expenditures or distribution slated in an account, after review and reconciliation with the accounting and notation of reconciliation in the record or file, may be returned to the fiduciary or retained in accordance with divisions (D)(2) and (E) of this rule.

(2) All records, vouchers, inventories, accounts, pleadings, applications, petitions, records of adoptions, marriages, and mental health commitments, wills, trusts, journals, indexes, dockets, records or documents related to estate or inheritance taxes, and other papers and filings of the probate division, may be preserved using any nationally accepted records and information management process in accordance with Sup. R. 26(D).

(3) In the probate division's discretion, any nonessential note, notice, letter, form, or other paper, document, or memorandum in a case file that is not essential to providing a record of the case and the judgment of the probate division may be destroyed prior to, or after, the case is closed. For purposes of division (D)(3) of this rule, evidence of service of notice of the initial complaint, petition, or application that establishes the probate division's jurisdiction is essential to providing a record of a probate case.

(4) Judge, magistrate, investigator, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

**(E) Case file and probate record retention schedule.**

(1) **Adoption records.** Adoption records shall be retained permanently.

(2) **Birth and death registrations.** Birth and death registrations dated prior to 1908 shall be retained permanently.

(3) **Civil commitment records.** Civil commitment records shall be retained for three years after the case is closed.

(4) **Dockets, records of documents, journals and indexes.** Dockets, records of documents, journals, and indexes shall be retained permanently.

(5) **Evidence filed in support of expenditures or distributions.** Vouchers, proof, or other evidence filed in support of expenditures or distributions stated in an account shall be retained for three years after the date of filing.

(6) **Marriage license records.** Marriage license records shall be retained permanently.

(7) **Trust accountings.** Trust accountings shall be retained for twelve years after the date the accounting was approved.

(8) **All other records.** All other records shall be retained for twelve years after the date the case, cause, proceeding, or matter is closed or completed.

**(F) Temporary estate tax orders.** Divisions (D) and (E) of this rule do not apply to records of estates in which temporary estate tax orders are pending.

**RULE 26.05. Municipal and County Courts--Records Retention Schedule.**

(A) **Definition of docket.** As used in this rule, "docket" means the record where the clerk of the municipal or county court enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

(B) **Required records.** (1) Municipal and county courts shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and divisions (A) and (C) of this rule.

(2) Upon the filing of any paper or electronic entry permitted by the municipal or county court, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(C) **Content of docket.** (1) The docket shall be programmed to allow retrieval of orders or judgments of the municipal or county court in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the municipal or county court and shall include all of the following:

- (a) Names and addresses of all parties in full;
  - (b) Names, addresses, and Supreme Court attorney registration numbers of all counsel;
  - (c) The issuance of documents for service upon a party and the return of service or lack of return;
  - (d) A brief description of all records and orders filed in the proceeding, the date filed, and a cross reference to other records as appropriate;
  - (e) A schedule of court proceedings for the municipal or county court and its officers to use for case management;
  - (f) All actions taken by the municipal or county court to enforce orders or judgments.
- (2) "Financial record" means a record that is related to the imposition of fines, costs, and other fees in cases and controversies heard in the municipal and county courts.

(D) **Retention schedule for financial records.**

(1) **Auditor reports.** Auditor of State reports shall be retained permanently.

(2) **Monetary records.** Monetary records shall be retained for three years after the issuance of an audit report by the Auditor of State.

(3) **Rental escrow account records.** Rental escrow account records shall be retained for five years after the last date of deposit with the municipal or county court.

(4) **Yearly reports.** Yearly reports shall be retained permanently.

(E) **Retention schedule for the index, docket, and journal.** The index, docket, and journal shall be retained for twenty-five years.

(F) **Judge, magistrate, and clerk notes, drafts, and research.** Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparer.

(G) **Retention schedule for case files.**

(1) **Civil case files.** Civil case files shall be retained for two years after the issuance of an audit report by the Auditor of State.

(2) **DUI case files.** Driving under the influence of alcohol or drug (“DUI”) case files shall be retained for fifty years after the date of the final order of the municipal or county court.

(3) **First through fourth degree misdemeanor traffic and criminal case files.** Except for DUI case files, first through fourth degree misdemeanor traffic files shall be retained for twenty-five years and criminal case files shall be retained for fifty years after the date of the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

(4) **Minor misdemeanor traffic and minor misdemeanor criminal case files.** Minor misdemeanor traffic and minor misdemeanor criminal case files shall be retained for five years after the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

(5) **Parking ticket records.** Parking ticket records shall be retained until the ticket is paid and the Auditor of State issues an audit report.

(6) **Real estate.** Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

(7) **Search warrant records.** Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

## **Rule 27. Approval of Local Rules of Court Relative to Information Technology.**

**Approval of local rules.** Before adopting any local rule of practice that relates to the use of information technology, a court shall submit a copy of the proposed local rule to the Supreme Court Commission on Technology and the Courts for review in accordance with the process established by the Commission. A local rule of practice that relates to the use of information technology shall be considered inconsistent with this rule and of no force and effect unless the Commission determines that the local rule complies with the minimum, uniform standards adopted by the Commission.

### **Commentary (2007 amendments)**

Rule 27 is amended to reflect the creation of the Commission on Technology and the Courts by the Supreme Court of Ohio. The Commission replaces the Advisory Committee on Technology and the Courts and assumes the duties formerly held by the Advisory Committee. The rule continues to require local courts to submit local rules related to information technology to the Commission for its review.

**Rules 28-34 are reserved for future use**

**RULE 35. Case Management Section.**

There shall be a Case Management Section of the Supreme Court. The Case Management Section shall have the authority and responsibility to do all of the following:

- (A) Receive, analyze, maintain, audit, and publish, at the direction of the Chief Justice of the Supreme Court, statistical data from the courts of Ohio, including an annual compilation of the reports required by Sup. R. 37;
- (B) Assist and train judges, court administrators, clerks, and other court personnel in performing the reporting functions required by these rules;
- (C) Monitor statistical reporting by conducting audits of the various courts in accordance with statistical auditing standards and procedures;
- (D) Review audit results with judges and court personnel;
- (E) Prepare and provide an implementation manual that contains commentary and explanatory material pertaining to these rules and the report forms required by these rules;
- (F) Make ongoing recommendations regarding both of the following:
  - (1) Amendments to the Rules of Superintendence in order that the rules remain current with changes in the law;
  - (2) Auditing standards and procedures so that the Case Management Section can effectively accomplish its stated objectives.

**Commentary (July 1, 1997)**

The purpose of creating the Case Management Section is to provide the administrative staff, structure, and procedure to implement the goals set forth in the Preface to these rules. In addition, the Case Management Section assists the administrative judges in resolving docket problems within their courts that the administrative judge has been unable to resolve at the local level.

The intent of conducting audits is to ensure uniform, accurate, and timely reporting of statistical information by all courts. One of the primary responsibilities of the Case Management Section is to provide continuing education and in-depth training for judges and court personnel in the proper preparation of statistical reports.

**RULE 36. Designation of Trial Attorney; Assignment System.**

**(A) Designation of trial attorney.** In civil cases the attorney who is to try the case shall be designated as trial attorney on all pleadings. In criminal cases, except felonies, the attorney who is to try the case, upon being retained or appointed, shall notify the court that he or she is the trial attorney by filing a written statement with the clerk of the court.

**(B)(1) Individual assignment system.** As used in these rules, “individual assignment system” means the system in which, upon the filing in or transfer to the court or a division of the court, a case immediately is assigned by lot to a judge of the division, who becomes primarily responsible for the determination of every issue and proceeding in the case until its termination. All preliminary matters, including requests for continuances, shall be submitted for disposition to the judge to whom the case has been assigned or, if the assigned judge is unavailable, to the administrative judge. The individual assignment system ensures all of the following:

- (a) Judicial accountability for the processing of individual cases;
- (b) Timely processing of cases through prompt judicial control over cases and the pace of litigation;
- (c) Random assignment of cases to judges of the division through an objective and impartial system that ensures the equitable distribution of cases between or among the judges of the division.

(2) Each multi-judge general, domestic relations, and juvenile division of the court of common pleas shall adopt the individual assignment system for the assignment of all cases to judges of the division. Each multi-judge municipal or county court shall adopt the individual assignment system for the assignment of all cases to the judges of that court, except as otherwise provided in division (C) of this rule. Modifications to the individual assignment system may be adopted to provide for the redistribution of cases involving the same criminal defendant, parties, family members, or subject-matter. Any modifications shall satisfy divisions (B)(1)(a) to (c) of this rule and be adopted by local rule of court.

**(C) Assignment system.** In each multi-judge municipal or county court, cases may be assigned to an individual judge or to a particular session of court pursuant to the following system:

**(1) Particular session.** A particular session of court is one in which cases are assigned by subject category rather than by the individual assignment system. The following subject categories shall be disposed of by particular session:

- (a) Civil cases in which a motion for default judgment is made;
- (b) Criminal cases in which a plea of guilty or no contest is entered;
- (c) Initial appearance in criminal cases;

- (d) Preliminary hearings in criminal cases;
- (e) Criminal cases in which an immediate trial is conducted upon initial appearance;
- (f) Small claims cases;
- (g) Forcible entry and detainer cases in which the right to trial by jury is waived or not demanded.
- (h) Cases where a party has made application to, or has been accepted into, a specialized court or docket.

To guarantee a fair and equal distribution of cases, a judge who is assigned a case by subject matter pursuant to Sup. R. 36(B)(2), or by virtue of a specialized court or docket pursuant to Sup. R. 36(C)(1)(h), may request the administrative judge to reassign a similar case by lot to another judge in that multi-judge common pleas, municipal, or county court.

**(2) Assignment.** Cases not subject to assignment in a particular session shall be assigned using the individual assignment system. Civil cases shall be assigned under division (C)(2) of this rule when an answer is filed or when a motion, other than one for default judgment, is filed. Criminal cases shall be assigned under division (C)(2) of this rule when a plea of not guilty is entered.

**(3) Duration of assignment to particular session.** The administrative judge shall equally apportion particular session assignments among all judges. A judge shall not be assigned to a particular session of court for more than two consecutive weeks.

**(D) Assignment of refiled cases.** In any instance where a previously filed and dismissed case is refiled, that case shall be reassigned to the judge originally assigned by lot to hear it unless, for good cause shown, that judge is precluded from hearing the case.

**(E) Assignment--new judicial positions.** After the date of election, but prior to the first day of the term of a new judicial position, the administrative judge of a court or division through a random selection of pending cases shall equitably reassign cases pending in the court or division between or among the judges of the court or division and shall create a docket similar to a representative docket. Reassignment shall be completed in a manner consistent with this rule and may exclude criminal cases and cases scheduled for trial. Any matters arising in cases assigned to the docket for the new judicial position prior to the date on which the judge elected to that position takes office shall be resolved by the administrative judge or assigned to another judge.

**Commentary (November 1, 2006)**

**Rule 36 (C)(1)(h)**

This amendment specifies that if a judge is assigned cases as a result of a specialized docket, that judge may request that the administrative judge of the court assign similar cases to another judge in order to ensure the fair and equitable distribution of cases within a court.

**Commentary (July 1, 1997)**

This rule merges the provisions of former C.P. Sup. R. 4 and M.C. Sup. R. 3 into a single rule governing the assignment of cases pursuant to the individual assignment system.

### **Rule 36(A) Designation of trial attorney**

Rule 36(A) requires attorneys who are to serve as trial counsel in either civil or criminal cases to notify the court of that fact. Notification in civil cases is accomplished by designation of the trial attorney on all pleadings. In criminal cases, immediately upon being retained or appointed, the trial attorney is required to file a written notification of the attorney's retention or appointment with the clerk of court.

### **Rule 36(B)(1) Individual assignment**

The individual assignment system is defined by the rule as a system whereby, upon the filing or transfer of a civil case, or upon arraignment in a criminal case, the case is immediately assigned to a judge of the court. The rule sets forth three purposes of the individual assignment system. All multi-judge divisions of the court of common pleas and all multi-judge municipal and county courts, except as provided in division (C)(2) of the rule, are required to adopt the individual assignment system. Courts or divisions are permitted to deviate from the individual assignment system only if the modifications satisfy the three stated purposes of the system and are adopted by local rule of court pursuant to Rule 5. Permissible modifications include the assignment and consideration of cases involving the same criminal defendant, parties, family members, or subject-matter.

The distinguishing feature of the individual assignment system is that it places responsibility upon one judge for the disposition of cases. Once a case is assigned to a judge under this system, all matters pertaining to the case are to be submitted to that judge for determination. An exception is made where that judge is unavailable. In that instance, the administrative judge may act in the assigned judge's absence.

Under Rule 36(B), the administrative judge is responsible for the assignment of cases to the individual judges of the court. Assignment may be made by the administrative judge personally or by court personnel at the administrative judge's direction. All assignments of cases to individual judges must be made by lot.

The purpose of the random assignment, by lot, of cases is to avoid judge-shopping on the part of counsel and to distribute the cases equitably among the judges. "Lot" mandates an assignment arbitrated by chance; the determination must be fortuitous, wholly uncontrolled.

Assignment to the judges of the division in an established order of rotation does not comply with the rule, even if the order of rotation is altered periodically.

An acceptable method of assignment is a form of drawing from a pool of the names of the judges, using paper, balls, or other objects as lots or counter. The pea pool system or the bingo cage are examples. To be an assignment by lot, the entire base of the number of judges in the division must be utilized in each assignment.

A computer may be used for lot selection as long as random assignment is maintained.

Assignment by lot can be systematized. Judges can be identified by number. Those numbers can then be arranged in random order by chance over any given range of numbers. The greater the range, the greater the validity of the arrangement. The range of numbers might well represent the total of three years or so of filings. Slips of paper are then printed with serial control numbers on the front and a line for writing in a case number upon assignment. The judges' numbers are printed in the order of their lot determination on the back of the serially arranged slips. The slips are then padded so that the judges' numbers may not be seen. The evidence of the selection or printing list shall not be revealed. When a case is to be assigned, a slip is removed, the case number written on it, the code number of an individual judge is revealed, and a control sheet maintained.

The practice of making no assignment until "X" number of cases have accumulated when there are "X" number of judges, merely provides for assignment by lot within a very small control and the operation of chance is minimized. That method is only a modified form of rotation and is not assignment by lot.

Once a case is assigned to an individual judge, by lot, it may be reassigned or transferred to another judge by order of the administrative judge. See the Instructions for Preparation concerning the proper use and reporting of transfers.

Although many ancillary matters, and in fact the entire case, frequently may be handled by a magistrate, the assignment system mandates responsibility for every case be affixed to a judge. The assigned judge's report form will reflect action taken by the magistrate.

See Rule 43(E) and its commentary concerning how the numbering system is geared to the record keeping requirements of the individual assignment system.

### **Rule 36(C) Assignment system**

In multi-judge municipal and county courts, Rule 36(C) establishes a dual system for the assignment of cases. Under this system, certain types of cases are processed in a court session, designated particular session, presided over by a judge or magistrate for a specified period of time. Other types of cases are assigned to an individual judge pursuant to the individual assignment system.

#### **Rule 36(C)(1) and (2) Particular session; assignment**

The types of cases designated in division (C)(1) for disposition in particular sessions of court are high volume cases that may be processed by a judge or magistrate at a single session. The rule does not preclude the processing of types of cases, other than those listed, that are susceptible to disposition in particular sessions.

Cases that may not be processed by particular session are civil cases where an answer is filed or a motion, other than one for default judgment, is filed and criminal cases in which a plea of not guilty is entered. These cases are to be assigned pursuant to the individual assignment system at the time the answer, motion, or plea is filed or made.

### **Rule 36(C)(3) Duration of assignment to particular session**

Assignments to particular session are to be equally divided among the judges of the court and are to be limited to two-week periods. The two week limitation accommodates the individual assignment system, and allows each judge adequate time to work on the cases individually assigned to the judge. Judges should not be assigned to a particular session or a series of particular sessions for more than two consecutive weeks.

### **Rule 36(D) Assignment of refiled cases**

To promote judicial economy and discourage judge-shopping, this division mandates that all dismissed and subsequently refiled cases be reassigned to the originally assigned judge. An exception exists for circumstances in which the original judge is barred from hearing the refiled case.

### **Rule 36(E) Assignment--new judicial positions**

This provision governs the reassignment of pending cases where a new judicial position is added to the court or division. Reassignment of cases must be random, equitable, and accomplished in a manner consistent with the principles set forth in division (B)(1) of the rule. In effect, a random selection system must be used, rather than culling cases from pending dockets. Certain dockets or portions of dockets may be created through the individual assignment system. This method may be particularly useful in assigning criminal cases. The process set forth in division (E) should facilitate the creation of a balanced docket with a minimum disruption of the pending caseload of the court or division.

**RULE 36.1. Notice of Appellate Panels.**

No later than fourteen days prior to the date on which oral argument will be heard, the court of appeals shall make available to the parties the names of the judges assigned to the three-judge panel that will hear the case. If the parties waive oral argument, the court of appeals shall make available to the parties the names of the judges assigned to the three-judge panel that will hear the case no later than fourteen days prior to the date on which the case is submitted to the panel. If the membership of the panel changes after the names of the judges are made available to the parties pursuant to this rule, the court of appeals shall immediately make the new membership of the panel available to the parties.

**Commentary (July 1, 2002)**

Sup. R. 36.1 requires appellate courts to make available to the parties the names of judges who will serve on three-judge appellate panels. This information must be made available at least fourteen days before either the date of oral argument or the date the case is submitted if no oral argument is held. The court may make this information available by notifying the parties, publishing the information on the court's web site, or publishing the information in a legal newspaper serving the most populous county in the district.

**RULE 37. Reports and Information.**

**(A) Report forms; responsibility for submission.** Judges of the courts of appeals, courts of common pleas, municipal courts, and county courts shall submit to the Case Management Section of the Supreme Court the following report forms in the manner specified in this division no later than the fifteenth day after the close of the reporting period.

**(1) Courts of appeal.** The following reports shall be prepared and submitted quarterly:

(a) The presiding or administrative judge in each appellate district shall prepare and submit a Presiding Judge Report of the status of all pending cases in the court.

(b) Each judge of a court of appeals shall prepare and submit an Appellate Judge Report of the judge's work. The report shall be submitted through the presiding or administrative judge and shall contain the signatures of the reporting judge, the presiding or administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report.

**(2) Courts of common pleas.** The following reports shall be prepared and submitted monthly, except that Form C shall be prepared and submitted quarterly:

(a) Each judge of a general, domestic relations, or juvenile division and each judge temporarily assigned to a division by the presiding judge is responsible for a report of the judge's work in that division. In a multi-judge general, domestic relations, or juvenile division, the reports shall be submitted through the administrative judge. In a multi-judge probate division, the judges shall sign and submit one report of the work in that division. The reports shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report.

(b) Each judge sitting by assignment of the Chief Justice of the Supreme Court shall submit a report of the judge's work. The reports shall be submitted through the administrative judge of the division to which the judge is assigned and shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report.

**(3) Municipal and county courts.** The following reports shall be prepared and submitted monthly:

(a) Each administrative judge shall submit a completed Administrative Judge Report which shall be a report of all cases not individually assigned.

(b) Each judge shall submit a completed Individual Judge Report, which shall be a report of all cases assigned to the individual judge. The report shall be submitted through the administrative judge and shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report.

(c) Each judge sitting by assignment of the Chief Justice shall submit a report of the judge's work. The report shall be submitted through the administrative judge of the division to which the judge is assigned and shall contain the signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attesting to the accuracy of the report.

**(4) Reporting Standards.** The following standards shall apply in completing the statistical reports required by these rules:

(a) In domestic relations cases, motions filed prior or subsequent to a final decree of divorce or dissolution shall be considered part of the original case and reported under the original case number;

(b) A motion filed in delinquency and unruly cases shall be considered part of the case in which the motion is filed unless the motion is considered a separate delinquency case under division (B) of section 2151.02 of the Revised Code;

(c) A criminal case and a traffic case arising from the same act, transaction, or series of acts or transactions shall be considered separate cases.

**(B) Capital case reporting.** Each judge assigned a criminal case in which an indictment or a count in an indictment charges the defendant with aggravated murder and contains one or more specifications of aggravating circumstances listed in division (A) of section 2929.04 of the Revised Code shall include with the report submitted pursuant to division (A) of this rule notice, on a form prescribed by the Supreme Court, of any of the following events that occur during the reporting period:

(1) The assignment of the case to the judge;

(2) The defendant pleading guilty or no contest to any offense in the case or the dismissal of the indictment or any count in the indictment;

(3) The final disposition of the charges and specifications in the case. This shall include when the defendant is found guilty of capital charges and specifications, but does not receive the death penalty.

**(C) Reports available for public access when filed.** All reports required by these rules shall be available for public access pursuant to Sup. R 44 through 47 upon filing with the Case Management Section. All judges and clerks shall cooperate with the Case Management Section to ensure the accuracy of the reports.

**(D) Chief Justice; requests for additional information.** The Chief Justice may require additional information concerning the disposition of cases and the management of the courts in order to discharge the Chief Justice's constitutional and statutory duties. All judges, clerks, and other officers of all courts shall furnish the Chief Justice with any information requested by the Chief Justice.

## **Commentary (July 1, 1997)**

The 1997 amendments consolidate in a single rule all requirements for completing and filing court statistical reports. These requirements formerly were contained in C.A. Sup. R. 2, C.P. Sup. R. 5, and M.C. Sup. R. 12. The requirements of an annual physical case inventory and a new judge case inventory have been placed in a new Rule 38.

### **Rule 37(A)(1) Courts of appeal**

The presiding judge of each appellate district is required to prepare and submit a Presiding Judge Report of the status of all pending cases in his or her court and is responsible for the completion of an Appellate Judge Report of the work of all assigned judges. The rule also requires each appellate judge to submit a report of the judge's work. The Appellate Judge Report shall be submitted through the presiding judge. Presiding and Appellate Judge Reports are to be filed on a quarterly basis.

### **Rule 37(A)(2) Courts of common pleas**

In the general division of the court of common pleas, each judge is required to submit a monthly report on Form A. In a domestic relations division, each judge is required to submit a monthly report on Form B. In a probate division, a quarterly report of all work of the division is required using Form C. In a juvenile division, each judge is required to submit a monthly report on Form D.

Judges sitting by assignment of the Chief Justice and judges temporarily assigned from another division of the court shall submit a report of their work in the division to which they have been assigned. The report shall be submitted only to the originally assigned judge and the information shall be included on the originally assigned judge's report, which is sent to the Case Management Section by the administrative judge. An assigned judge may be an active or retired judge.

Under Rule 4(B)(3), the administrative judge may require reports from each judge as are necessary to discharge the overall responsibility for the administration, docket, and calendar of the court.

Certain common pleas court case categories include "benchmark" time guidelines adopted in 1996. The "benchmark" guidelines are not mandatory, but are intended to assist courts and judges in measuring the effectiveness of their case management programs and programs toward compliance with the time guidelines contained on the report forms. "Benchmark" time guidelines are referenced in the Rules of Superintendence Implementation Manual.

### **Rule 37(A)(3) Municipal and county courts**

Under Rule 4(B)(3), the administrative judge may require reports from each judge as are necessary to discharge the overall responsibility for the administration, docket, and calendar of the court. Rule 38 sets out the duties of the administrative judge with respect to the preparation of reports.

The Administrative Judge Report pertains to cases pending on the docket of the court which have not been individually assigned pursuant to Rule 36. The preparation of this report and the review of cases required by Rule 40 are the principal tools that the administrative judge uses to discharge the responsibilities under Rule 4.

The timely and accurate preparation of the Individual Judge Report and the review of cases required by Rule 40 provide the information necessary for the individual judge to discharge the judge's duties.

Rule 37(A)(3) applies to all judges in multi-judge courts. Each judge is responsible for preparing a report on those cases that have been individually assigned pursuant to Rule 36(C). The Individual Judge Report form is submitted through the administrative judge. The administrative judge checks the report for accuracy and signs it. The signatures of the reporting judge, the administrative judge, and the preparer, if other than the reporting judge, attest to the accuracy of the report.

All judges of single judge courts must prepare and submit both the Administrative Judge Report and the Individual Judge Report. The Administrative Judge Report contains those cases that would not be subject to individual assignment pursuant to Rule 36(C) in a multi-judge court. The Individual Judge Report will contain cases that satisfy the individual assignment criteria of Rule 36(C).

In a single judge court, separation of the cases for report purposes is necessary to make the statistics reflect the nature of the court's work. Without this separation the court could not effectively use the information generated by the report and decisions relating to the need for additional judicial resources could not be intelligently made.

Each assigned judge must submit a report of his or her work. The report is submitted through the administrative judge to assist the administrative judge in fulfilling the administrative judge's responsibility for case and docket control.

For purposes of this reporting requirement, an assigned judge may be an active or retired judge. Additionally, assigned judges, as well as acting judges, report their work in accordance with the instructions regarding the Visiting Judge column.

### **Rule 37(B) Reports public record when filed.**

All statistical report forms are public record and are compiled in the annual Ohio Court Summary published by the Supreme Court.

**Rule 37(C) Reports available for public access when filed.**

All statistical report forms specified under this rule are available for public access pursuant to Sup. R. 44 through 47 after filing with the Case Management Section and are compiled in the annual Ohio Court Summary published by the Supreme Court.

**Rule 37(D) Chief Justice; requests for additional information.**

Under Article IV, Section 5(A)(1) of the Ohio Constitution, the Chief Justice exercises general superintendence power over all courts of the state. In order to facilitate the exercise of this constitutional authority, each judge, clerk, and other court officers shall provide the Chief Justice with any information requested concerning the disposition of cases and the management of the courts.

**RULE 38. Annual Physical Case Inventory; New Judge Inventory.**

(A) Except as provided in division (B) of this rule, each judge, on or before the first day of October, shall complete an annual physical inventory of all cases reported as pending on the applicable statistical report forms filed by the judge.

(B) A judge, when initially elected or appointed to the court of appeals, court of common pleas, municipal court, or county court shall complete a physical case inventory within three months of the date on which the judge first takes office. Subsequent annual physical inventories shall be completed on or before the first day of October of each ensuing year.

(C) Completion of the physical inventory required by this rule shall be documented in the appropriate space on the applicable statistical report forms.

**Commentary (July 1, 1997)**

Rule 38 is identical to the provisions of former C.A. Sup. R. 2(E), C.P. Sup. R. 5(E), and M.C. Sup. R. 12(E), except that the date by which the inventory must be completed is changed from September 1 to October 1.

Each judge is required annually to physically verify the case statistics he or she is reporting. Additionally, a judge recently appointed or elected is required to conduct a physical inventory within three months of taking office.

A physical inventory involves actually reviewing case files to ensure an accurate count of pending cases. A judge decides whether physically checking closed or inactive cases is necessary; however, pending cases must be reviewed.

A computer-generated list of pending cases or other case lists may be used to begin the process of verifying pending cases; however, a physical review of case files must be conducted.

Documentation of the physical inventory will require reporting the date of the most recent physical inventory in the box provided on the statistical report forms.

For discussion on how to make corrections necessary as a result of a physical inventory, refer to the instructions for the preparation of the report forms.

**RULE 39. Case Time Limits.**

**(A) Appellate and civil case time limits.** The time limits for disposition of appellate and civil cases shall be as indicated on the Supreme Court report forms.

**(B) Criminal case time limits.** (1) In common pleas court, all criminal cases shall be tried within six months of the date of arraignment on an indictment or information. In municipal and county court, all criminal cases shall be tried within the time provided in Chapter 2945. of the Revised Code. Whenever a hearing or trial time is extended or shortened pursuant to section 2945.72 of the Revised Code or Criminal Rule 5 or 45, the judge shall state the reason for the change in an order and journalize the order.

**(2) Grand jury proceedings.** When an accused has been bound over to a grand jury and no final action is taken by the grand jury within sixty days after the date of the bindover, the court or the administrative judge of the court shall dismiss the charge unless for good cause shown the prosecuting attorney is granted a continuance for a definite period of time.

**(3) Felony preliminary hearing.** A preliminary hearing in a felony case shall be held within one month of the date of arrest or the date of issuance of the summons.

**(4) Sentencing.** Provided the defendant in a criminal case is available, the court shall impose sentence or hold a sentencing hearing with all parties present within fifteen days of the verdict or finding of guilt or receipt of a completed pre-sentence investigation report. Any failure to meet this time standard shall be reported to the administrative judge, who shall take the necessary corrective action. In a single judge division, the failure shall be reported by the judge to the Case Management Section, which shall refer the matter to the Chief Justice of the Supreme Court for corrective action.

**(5) Post-conviction relief petitions; death penalty cases.** All post-conviction relief petitions filed in death penalty cases shall be ruled upon within one hundred eighty days of the date of filing. In any month where a post-conviction relief petition in a death penalty case is filed, pending, or terminated, the administrative judge shall submit the Post-Conviction Relief Petition Report detailing the status of the petition.

**(C) Reporting.** Any failure to comply with the time limits specified in this rule, and the reason for the failure, shall be reported immediately to the administrative judge, who shall take the necessary corrective action. In a single-judge court or division, the failure shall be reported by the judge to the Case Management Section. The Case Management Section shall report to the Chief Justice, who may take such action as may be necessary to cause the delinquent case to be tried forthwith.

## **Commentary (July 1, 1997)**

Rule 39 consolidates the time limits contained in former C.P. Sup. R. 8 and 8.01 and M.C. Sup. R. 5. The provisions of C.P. Sup. R. 8.01(B) have been moved to Rule 42. Division (B)(5) is a new time guideline and reporting requirement.

The time limits applicable to criminal cases are for the purpose of facilitating the prompt disposition of criminal cases. These time limits in no way affect the statutorily mandated limits contained in R.C. 2945.71. However, the failure to dispose of cases within these time guidelines may result in intervention by the Chief Justice. While the administrative guidelines set out in Rule 8(B) are keyed to the date of arraignment, the requirement of R.C. 2945.71 begins to run from the date of arrest.

Although criminal cases are not reported as filed on Common Pleas Form A until the accused is arraigned on an indictment or information, the responsibility of the court of common pleas for the processing of the case begins upon receipt of the papers in the case pursuant to Crim. R. 5 (B)(7). When no final action has been taken by a grand jury within sixty days after bindover, the court or administrative judge should dismiss the charge unless the prosecutor is, for good cause, granted a continuance. The key date for purposes of division (B)(2) is the date of bindover. Thus, the summoning of a grand jury under Crim. R. 8 should not be unduly delayed. Although R.C. 2945.71 does not mandate a time limit for completion of the grand jury process, the statutory time limit runs from the date of arrest, including time taken in the grand jury process.

The dismissal contemplated by division (B)(2) is not a dismissal with prejudice.

Crim. R. 5(B)(1) provides time guidelines for preliminary hearings only. Crim. R. 5(A)(2) and 5(B)(1) each contain provisions pertaining to the extension of preliminary hearing time limits. Crim. R. 45(A) explains the method to be used in computing time. Crim. R. 45(B) provides for the enlargement or reduction of time provisions.

Division (B)(1) provides for the journalization of all actions taken pursuant to section 2945.72 of the Revised Code, Crim. R. 5(A)(2), 5(B)(1) or 45(B), which either extend or shorten the time periods provided in section 2945.71 of the Revised Code or Crim. R. 5. The journal entry must include the fact of the extension or shortening of time and a statement of the reasons therefor to provide a record should any question arise concerning compliance with section 2945.71 of the Revised Code.

### **Rule 39(B)(4) Sentencing**

If the defendant is available, the court must take action within fifteen days of the verdict or finding of guilty or within fifteen days of the receipt of a completed presentence investigation report. This action may be to impose sentence, to place on probation, or to hold a hearing on the report.

Although R.C. 2945.71 is satisfied if the accused is brought to trial within the appropriate period from arrest, the Form A report keys termination to the sentencing or granting of probation. Thus, the six month guidelines contained on the report form includes any period of time between the commencement of trial and the imposition of sentence.

Failure to meet the time standard of this section must be reported to the administrative judge for corrective action. In a single judge division, any failure is to be reported to the Case Management Section.

The fifteen day time limit of division (B)(4) of this rule should not be confused with the requirement of Sup. R. 7 that the journal entry be made within thirty days of the judgment.

### **Rule 39(B)(5) Post-conviction relief petitions; death penalty cases**

Prior to July 1997, no reporting requirements existed for post-conviction relief petitions, and these petitions were treated as motions in previously terminated cases. In view of the public policies reflected by the November 1994 constitutional amendment abolishing intermediate appeals in death penalty cases and legislation affecting post-conviction relief actions (Am. Sub. S.B. 4 of the 121st General Assembly, effective September 21, 1995), it is imperative that courts provide timely consideration of death penalty cases and ensuing post-conviction relief petitions in those cases. To assist in the management of post-conviction relief petitions in death penalty cases, division (B)(5) of this rule establishes a one hundred eighty day time guideline for the disposition of these petitions and provides for the monthly reporting of the status of the petitions. The one hundred eighty day time guideline is identical to the guideline contained in Rule 35 of the Ohio Rules of Criminal Procedure, effective July 1, 1997.

Although the assigned judge is ultimately responsible for the termination of the case and is so designated on the report form, the administrative judge is responsible for tracking and reporting the status of these petitions.

### **Rule 39(C) Reporting**

The time limits imposed by this rule are for administrative purposes only. Failure to comply with these time limits does not give rise to the sanctions imposed by R.C. 2945.71. However, failure to dispose of cases within these times limits may result in the intervention of the administrative judge and the Chief Justice.

The reports required by this rule should be submitted monthly to the administrative judge or the Case Management Section. A case should be listed on this report for each month during which it is delinquent.

Although no specific form is prescribed for this report, it should contain, at a minimum, the style of the case, the offense charged, the date of its filing, an explanation of the delay in disposition, and the date on which it is anticipated that the case will be completed.

Failure to meet the time standard of this section must be reported to the administrative judge for corrective action. In a single-judge division, any failure is to be reported to the Case Management Section.

## **RULE 40. Review of Cases; Dismissal; Rulings on Motions and Submitted Cases.**

### **(A) Review; dismissal; rulings.**

(1) Each trial judge shall review, or cause to be reviewed, all cases assigned to the judge. Cases that have been on the docket for six months without any proceedings taken in the case, except cases awaiting trial assignment, shall be dismissed, after notice to counsel of record, for want of prosecution, unless good cause be shown to the contrary.

(2) All cases submitted for determination after a court trial shall be decided within ninety days from the date the case was submitted.

(3) All motions shall be ruled upon within one hundred twenty days from the date the motion was filed, except as otherwise noted on the report forms.

(4) All child support hearings involving an obligor or obligee called to active military service in the uniformed services, as defined in section 3119.77 of the Revised Code, shall be heard within thirty days from the date the court receives notice that the obligor or obligee has requested a hearing.

### **(B) Reporting.**

(1) Each judge shall report to the administrative judge decisions that have not been ruled upon within the applicable time period. The administrative judge shall confer with the judge who has motions pending beyond the applicable time period and shall determine the reasons for the delay on the rulings. If the administrative judge determines that there is no just cause for the delay, the administrative judge shall seek to rectify the delay within sixty days. If the delay is not rectified within sixty days, the administrative judge shall report the delay to the Case Management Section of the Supreme Court.

(2) In a single-judge court, if the judge has not rectified the delay, the judge shall report the delay in the rulings to the Case Management Section within one hundred eighty days from the date of the filing of the overtime motion or the submission of the case.

(3) All reports submitted to the administrative judge and the Case Management Section under this rule shall be available for public access pursuant to Sup. R. 44 through 47.

**(C) Assigned judges.** The provisions of this rule apply to judges sitting by assignment of the Chief Justice of the Supreme Court.

### **Commentary (July 1, 1997)**

Rule 40 is identical to former C.P. Sup. R. 6 and M.C. Sup. R. 6.

## **Rule 40(A) Review; dismissal; rulings**

Each trial judge is required to periodically review all cases assigned to the judge. This requirement applies to civil and criminal cases. The dismissal sanction does not apply in criminal cases because it is overridden by Rule 39 and by R.C. 2945.73, which contain specific provisions as to criminal cases. The review may be conducted personally or be done under the direction of the judge.

The purpose of the review of assigned cases is to: (1) identify and dismiss those cases that have been on the docket for six months without any activity or action being taken; (2) dismiss those inactive cases for want of prosecution; and (3) bring to the attention of each judge those matters which are pending and require decision.

“Been on the Docket” as used in the rule means pending, that is, being on the appearance docket. It does not refer to being on the trial docket for six months.

“Except cases awaiting trial assignment” does not refer to cases that are not yet placed on the trial docket by reason of the issues not being made up or that are awaiting the next establishment of the trial docket. It refers to those cases that are ready for trial but have not been tried because of the volume of cases in the court. The exception exists to prevent the dismissal of those cases where the delay is not the responsibility of the parties or their counsel.

“Without any proceedings taken in the case” means a case that has been totally inactive as revealed by the appearance docket and the case file. The absence of appearance docket entries over a six-month period indicates a case either is ready for trial or is an inactive case.

Dismissal is not summary; notice to the parties or counsel is a condition precedent. The notice is not limited to plaintiff’s counsel, but must go to the counsel of record for all parties. Ordinary mail notice suffices under the rule. The return of ordinary mail notice should not be permitted to frustrate the action of the court.

Counsel is required to provide counsel’s address with all pleadings and motions; Civ. R. 11. The address must be kept current so that the notice requirements of the Civil Rules function throughout the litigation. The requirement of notice to counsel is not a requirement for an oral hearing on the matter of dismissal. Such a requirement does not appear in the rule and does not appear in Civ. R. 41(B)(1) (dismissal for failure to prosecute). An oral hearing may be conducted. The notice issued by the court may set a time period within which counsel can show cause as to why the action should not be dismissed.

The control and supervision of the docket is the responsibility of the administrative judge. The administrative judge must rely on the individual judges in implementing this assignment. The review, with its sanction of dismissal, is a powerful tool in keeping cases moving and dockets current.

“For want of prosecution”, as used in the rule, does not limit the dismissal of cases to those situations where the inactivity is directly attributable to the plaintiff. When a defendant fails to take a required step, the plaintiff, under the Civil Rules, has an available remedy. If the plaintiff files a complaint and the defendant does not answer, and the court finds no proceedings taken for six months, the court may dismiss the case for want of prosecution because the plaintiff could have prosecuted the case by seeking a default judgment. The rule is an example of the intent of the rules of superintendence to expedite the disposition of cases.

Each trial judge is required by the rule to review, or cause to be reviewed, all pending motions and cases that have been submitted to the judge for determination following court trial.

As to motions, the applicable time period begins to run on the day the motion is filed or made. As to cases submitted, the ninety days runs from the day the trial is ended or, if applicable, the day all post-trial pleadings have been filed.

#### **Rule 40 (B) Reporting**

Each trial judge is required to report to the administrative judge motions and submitted cases pending beyond the applicable time period. If the administrative judge is unable to resolve the delay, or, in a single judge court, the matter is referred to the Case Management Section for reporting to the Chief Justice for corrective action.

#### **Rule 40(C) Assigned judges**

Visiting judges and retired judges sitting by assignment of the Chief Justice are subject to the applicable time periods for disposition of motions and submitted cases, and to the reporting requirements of this rule.

#### **Commentary (July 4, 2005)**

The 2005 amendment to Rule 40(A) added an expedited process for hearings regarding child support orders for those called to active military service pursuant to Amended Substitute House Bill 149 (eff. 06/02/04).

**RULE 41. Conflict of Trial Court Assignment Dates, Continuances and Engaged Counsel.**

(A) **Continuances; granting of.** The continuance of a scheduled trial or hearing is a matter within the sound discretion of the trial court for good cause shown.

No party shall be granted a continuance of a trial or hearing without a written motion from the party or counsel stating the reason for the continuance, endorsed in writing by the party as well as counsel, provided that the trial judge may waive this requirement upon a showing of good cause. No court shall grant a continuance to any party at any time without first setting a definite date for the trial or hearing.

When a continuance is requested by reason of the unavailability of a witness at the time scheduled for trial or hearing, the court shall consider the feasibility of resorting to the several methods of recording testimony permitted by Civil Rule 30(B) and authorized for use by Civil Rule 32(A)(3).

**(B) Conflict of Trial Date Assignments**

(1) When a continuance is requested for the reasons that counsel is scheduled to appear in another case assigned for trial on the same date in the same or another trial court of this state, the case which was first set for trial shall have priority and shall be tried on the date assigned. Criminal cases assigned for trial have priority over civil cases assigned for trial. The court should not consider any motion for a continuance due to a conflict of trial assignment dates unless a copy of the conflicting assignment is attached to the motion and the motion is filed not less than thirty days prior to trial.

(2) Except as provided in division (B)(3) of this rule, a continuance shall be granted, upon request, under either of the following circumstances:

(a) A party, counsel, or witness under subpoena is scheduled to appear on the same date at a hearing before the Board of Commissioners on Grievances and Discipline of the Supreme Court as a member of the Board, as a party, as counsel for a party, or as a witness under subpoena for the hearing;

(b) Counsel requesting the continuance will be unavailable to participate in the judicial proceeding because counsel is a member of the General Assembly whose attendance is required at a scheduled voting session or committee meeting of the General Assembly.

(3) In considering a continuance requested pursuant to division (B)(2)(b) of this rule, the court may require counsel to obtain the consent of the client and provide notice to all other parties to the action. The court may deny the requested continuance if either or both of the following apply:

(a) Counsel has been granted prior continuances in the same case based on attendance at scheduled voting sessions or committee meetings of the General Assembly;

(b) The court determines that further delay in the proceeding would result in substantial prejudice to a party.

(C) **Engaged counsel.** If a designated trial attorney has such a number of cases assigned for trial in courts of this state so as to cause undue delay in the disposition of such cases, the administrative judge may summon such trial attorney who persistently requests continuances and extensions to warn the attorney of the possibility of sanctions and to encourage the attorney to make necessary adjustments in the management of his or her practice. Where such measures fail, restrictions may properly be imposed by the administrative judge on the number of cases in which the attorney may participate at any one time.

(D) **Continuances; reporting.** Trial continuances shall be reported on a monthly basis to the administrative judge. Where a judge is persistently and unreasonably indulgent in granting continuances or extensions, the administrative judge shall investigate the reasons for the excessive continuances and take appropriate corrective action at the local level. If corrective action at the local level is unsuccessful, the administrative judge shall report that fact to the Case Management Section of the Supreme Court. If it comes to the attention of the Case Management Section that the judge of a single-judge division is persistently and unreasonably indulgent in granting continuances, it shall report the information to the Chief Justice, who shall take appropriate corrective action.

### **Commentary (July 1, 1997)**

Rule 41 consolidates the provisions of former C.P. Sup. R. 7 and M.C. Sup. R. 16.

#### **Rule 41(A) Continuances; granting of**

Division (A) provides that the granting of a continuance is within the sound discretion of the court, and only upon a showing of good cause.

Written motion must be filed specifying the reason for the continuance. The motion must be signed by the party requesting the continuance, as well as their counsel. The requirement that the motion be signed by the party may be waived by the trial judge, for good cause. If a continuance is granted, the court shall, at that time, reset the trial or hearing for a definite date.

If a continuance is requested because of the unavailability of a witness, the court is required to consider the feasibility of recording testimony as permitted by Civ. R. 30(B).

The standards relating to court delay reduction adopted by the American Bar Association focus, to a great extent, upon the limitation of continuances as a means of expediting case dispositions.

#### **Rule 41(B) Conflict of trial assignment dates**

Division (B) sets priorities among all trial courts for resolution of conflicts when counsel is assigned for trial in more than one court on the same date.

When a continuance is requested by reason of conflict, the case first set for trial is to be given priority and tried on the date assigned. Priority is dependent on firm assignment for trial. Thus, a general policy of early assignment to achieve priority would be inconsistent with the purpose of this rule. Within this general system, criminal cases assigned for trial are to be accorded priority over civil cases.

Attached to the motion for a continuance should be a copy of the conflicting assignment, and the motion should be filed not less than thirty days prior to the trial sought to be continued. These provisions are not mandatory, and there may be situations where compliance with one or both is not possible.

#### **Rule 41(C) Engaged counsel**

Division (C) gives the administrative judge authority to restrict the number of cases that an attorney may handle at one time if trial counsel has so many cases assigned for trial that undue delay is caused in the disposition of those cases.

#### **Rule 41(D) Continuances; reporting**

Division (D) of this rule requires the administrative judge to take action if it appears that a judge grants an inappropriate number of continuances. The administrative judge shall first take corrective action at the local level. If that action is not successful, the administrative judge has the duty to refer the matter to the Case Management Section. The Case Management Section also has the responsibility to refer any matter to the Chief Justice for corrective action if it is brought to its attention that the judge of a single-judge division or court appears to be granting an inappropriate number of continuances.

**RULE 42. Complex Litigation--Court of Common Pleas.**

**(A) Complex litigation determination.** An attorney representing a party to an action filed in the general division of the court of common pleas may request that the case be designated as complex litigation. The attorney filing the request shall certify that the attorney has approval from his or her client to file the request. In determining whether a case shall be designated as complex litigation, the judge to whom the case is assigned shall consider all of the following:

- (1) Number of parties involved;
- (2) Whether a class action is involved;
- (3) Whether it is a products liability case;
- (4) Whether there are other related cases involving unusual multiplicity or complexity of factual or legal issues;
- (5) Extent of discovery necessary to prepare the case for trial;
- (6) Number or availability of parties and witnesses for trial;
- (7) Any endorsement of or objections to the request from an opposing party or counsel for an opposing party.

**(B) Complex litigation determination--judicial.** The judge to whom the case is assigned may designate a case as complex litigation without a request from an attorney representing a party to the action. The designation shall be made after the judge considers the factors set forth in divisions (A)(1) to (7) of this rule.

**(C) Time; reporting.** A designation of a case as complex litigation pursuant to division (A) of this rule shall be made within six months of the date on which the case was filed. If a case is designated as complex litigation, the judge shall submit to the Case Management Section of the Supreme Court a report specifying the reasons for the designation of the case as complex litigation. The case shall be reported on Supreme Court Report Form A in the category of complex litigation and given thirty-six months from the date of filing to be terminated.

**(D) Authority of the Chief Justice.** The Case Management Section shall periodically report the designation of cases as complex litigation to the Chief Justice of the Supreme Court, who may decide that a case should not be classified as complex litigation. If the Chief Justice determines that a case should not be classified as complex litigation, the Case Management Section shall notify the judge who shall remove the case from the complex litigation docket and notify the parties.

### **Commentary (July 1, 1997)**

This rule is analogous to former C.P. Sup. R. 8.01(B). No changes were made in the 1997 amendments to the Rules of Superintendence.

### **Commentary (January 1, 1996 Amendment)**

Two significant changes have been made to this rule pertaining to complex litigation. First, counsel and the trial judge are in the best position to assess the factors set forth in division (A)(1) to (7) of the rule and determine whether the case merits designation as complex litigation. Accordingly, the process of designating a case as complex litigation is revised to allow an attorney, with the consent of his or her client, to make a request and to have the designation made by the trial judge. The trial judge also may designate a case as complex litigation without a request from counsel. Through Sup. R. 4 and by reviewing and signing Common Pleas Report Form A, the administrative judge of the general division will continue to monitor complex litigation determinations and ensure uniform application of the criteria throughout the division. If the trial judge is considering the designation of a case as complex litigation without a request from counsel, he or she should inform the parties of that fact and the significance of the designation. Once a determination has been made, the judge should notify the parties.

The second revision extends the time for making a complex litigation determination from ninety days to six months. Under the former rule, the complexities of a case often were not apparent within three months of filing, and the additional three months provided by this rule will allow for a more complete and accurate assessment and designation.

**RULE 43. Case Numbering--Municipal and County Court.**

(A) **Method.** When filed in the clerk's office, cases shall be categorized as civil, criminal, or traffic and serially numbered within each category on an annual basis beginning on the first day of January of each year. Cases shall be identified by year and by reference to the case type designator on the administrative judge report form. Additional identifiers may be added by local court rule.

(B) **Multiple defendants or charges in criminal cases.** (1) In criminal cases, including traffic cases, all defendants shall be assigned separate case numbers.

(2) Where a defendant is charged with a misdemeanor and a traffic offense, the defendant shall be assigned separate case numbers pursuant to Sup. R. 37(A)(4)(c). The category selected for the case number and its case type designator shall be that of the offense having the greatest potential penalty.

(3) Where as a result of the same act, transaction, or series of acts or transactions, a defendant is charged with a felony or felonies and a misdemeanor or misdemeanors, including traffic offenses, the defendant shall be assigned separate case numbers, one for the felony or felonies and one for each other type of offense pursuant to Sup. R. 37(A)(4)(c). The category selected for the case number and its case type designator shall be that of the offense having the greatest potential penalty.

**Commentary (July 1, 1997)**

Rule 43 is analogous to former M.C. Sup. R. 12(E).

**Rule 43(A) Method**

This division provides the basis for the case numbering system to be used by all courts to which these rules are applicable. The rule states the following minimum requirements:

- (a) All cases must be categorized as civil, criminal, or traffic;
- (b) All cases must be serially numbered within one of the three categories listed above on an annual basis;
- (c) All cases must be identified by year;
- (d) All cases must be identified with the appropriate alphabetic case type designator from the Administrative Judge Report.

The civil case category is used for Personal Injury and Property Damage cases, Contracts cases, F.E.D. cases, Other Civil cases and Small Claims cases. The criminal case category is used for Felony cases and non-traffic Misdemeanor cases. The traffic case category is used for O.M.V.I. cases and for all Other Traffic cases. Definitions of these case types are contained in the comment concerning preparation of the Administrative Judge Report.

The numbering system can be explained by example. If the first case filed in 2000 is a felony, its case number would be 00-CR-A-00001. The "00" is the year reference. The "CR" is the criminal case category reference. The "A" is the reference to the case type column on the Administrative Judge Report. The "00001" is the serial number for 2000 within the criminal case category. If the second case filed is a non-traffic misdemeanor, it would be numbered 00-CR-B-00002. If the third case filed is a driving under the influence case, it would be numbered 00-TR-C-00001.

(Note that this is the first serial number for 2000 in the traffic category.) If the fourth case filed is an Other Traffic case, it would be numbered 00-TR-D-00002. If the fifth case filed is a Personal Injury or Property Damage case, it would be numbered 00-CV-E-00001.

There are certain circumstances in which a case has been reported in one column on the Administrative Judge Report and the need subsequently arises for the case to be moved to another column.

Since the case designation on the Administrative Judge Report corresponds to the alphabetic designator segment of the case number, the alphabetic designator in the case number must be changed to reflect the change made on the Administrative Judge Report. This is the only segment of the case number which should ever be altered once a number is assigned. The combination of the year, category, and serial number form a unique number to identify a particular case. No matter what the alphabetic designator is, there should never be more than one case which has the same combination of year, category, and serial number. Thus, the alteration of the alphabetic designator segment cannot effect the uniqueness of the number.

The changes in the report and case number can be illustrated by the following example: Assume that a Small Claims case is filed. It is assigned the number 00-CV-I-00006. It is reported as filed on the Administrative Judge Report and is shown as pending at the end of the report period. After the close of the report period the defendant files a counterclaim on a contract which exceeds the jurisdiction of the small claims division. The following action would be taken pursuant to the case numbering rule and the monthly report form requirements:

- (a) The case would be listed as terminated by transfer on line 7 of Column I, Administrative Judge Report;
- (b) The case would be shown as transferred in on line 3 of Column F, Administrative Judge Report;
- (c) The case number would be changed from 00-CV-I-00006 to 00-CV-F-00006;

(d) The case would be shown as terminated by transfer to an individual judge on line 7, Column F, Administrative Judge Report; and,

(e) The case would be shown as a new case filed on line 2, Column F, Individual Judge Report.

The last sentence of Rule 43(A) provides that courts may add additional identifiers to suit their needs. For example, an identifier for the judge to whom the case is assigned, or an identifier for the degree of misdemeanor charged, may be added.

### **Rule 43(B) Multiple defendants or charges in criminal cases**

Under division (B), each criminal defendant is assigned at least one case number.

Multiple defendants charged with the same offense arising out of the same act or transaction or series of acts or transactions receive separate case numbers. Where there are multiple defendants, they may be charged in a single complaint or each may be charged by separate complaints. In any event, each defendant is assigned a separate case number and a copy of the complaint is placed in the defendant's file.

Where one defendant is charged with more than one offense arising from the same act or transaction or series of acts or transactions, the defendant will be assigned separate case numbers pursuant to Rule 37(A)(4)(c). If the offenses charged fall in more than one category, *e.g.*, both criminal and traffic, the case number assigned will correspond to the category. If the offenses charged fall into one category, *e.g.*, traffic, but could be listed in more than one column on the Administrative Judge Report, then the case number assigned will be that of the offense which has the greatest potential penalty. For example, a defendant charged with O.M.V.I. and with a traffic offense other than O.M.V.I. would be assigned the case number of the offense having the greatest potential penalty.

Where a defendant is charged with more than one offense arising out of the same act or transaction or series of acts or transactions and one or more but not all of the offenses charged are felonies, case numbers for each offense type are assigned. One number is for the felony or felonies, and the other numbers are for each of the non-felony offense types. For example, a multi-count indictment that includes two felonies, two misdemeanors, and two traffic offenses would result in the assignment of three case numbers. In determining what number to assign to the non-felony offenses, the normal rule described above in this Comment is applied.

The criminal case numbering rule is illustrated by the following example. Assume that a defendant is charged with aggravated assault under section 2903.12(A)(2) of the Revised Code, disorderly conduct under section 2917.11(B)(2) of the Revised Code, menacing under section 2903.22(A) of the Revised Code, and driving under the influence of alcohol under section 4511.19 of the Revised Code. Three case numbers are assigned to this defendant as follows:

00-CR-A-00895.

Charge: Aggravated assault, R.C. 2903.12(A)(2)

00-CR-B-000896.

Charge: Disorderly conduct, R.C. 2917.11(B)(2),  
Menacing, R.C. 2903.22(A)

00-TR-C-001334.

Charges: Operating a motor vehicle under the influence of alcohol, R.C. 4511.19

The first case number is for the offense of aggravated assault, which is a felony. The rule states that a felony charged against a defendant will always receive a case number separate from any non-felony offenses charged which occur from the same act or transaction or series of acts or transactions. The "CR" indicates that the case is in the criminal category and the "A" indicates that the case is reported in the Felonies column of the Administrative judge Report.

The second case number is for all the other criminal offenses. The third case number is for all the traffic offenses. The case number assigned is determined by comparing the potential penalties for the offenses charged. The case number is assigned based upon the offenses charged. In the example given, the offenses are as follows:

Driving under the influence of alcohol - imprisonment for six months. R.C. 2929.21(B)(1)

Disorderly conduct - fine of not more than \$100. R.C. 22929.21(D)

Menacing - imprisonment for thirty days. R.C. 2929.21(B)(4)

In the example, the case number assigned is 00-TRC-001334 and 00-CR-B-000896. The "TR" represents the Traffic category and the "C" represents the O.M.V.I. column on the Administrative Judge Report. The "CR" represents the Criminal category and the "B" represents the misdemeanor column on the Administrative Judge Report. Regardless of the number of offenses, there will never be more than three case numbers for a defendant stemming from one incident.

Rule 43(B) is designed to make the case numbering system consistent with the reporting requirements established by Rule 37(A)(3). If this rule is utilized properly, less bookkeeping will be needed to complete the review of pending cases required by Rule 40, and the record keeping necessary under the individual assignment system will be simplified.

**RULE 44. Court Records - Definitions.**

In addition to the applicability of these rules as described in Sup. R. 1, Sup. R. 44 through 47 apply to the Supreme Court.

As used in Sup. R. 44 through 47:

(A) “Actual cost” means the cost of depleted supplies; records storage media costs; actual mailing and alternative delivery costs, or other transmitting costs; and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

(B) “Court record” means both a case document and an administrative document, regardless of physical form or characteristic, manner of creation, or method of storage.

(C)(1) “Case document” means a document and information in a document submitted to a court or filed with a clerk of court in a judicial action or proceeding, including exhibits, pleadings, motions, orders, and judgments, and any documentation prepared by the court or clerk in the judicial action or proceeding, such as journals, dockets, and indices, subject to the exclusions in division (C)(2) of this rule.

(2) The term “case document” does not include the following:

(a) A document or information in a document exempt from disclosure under state, federal, or the common law;

(b) Personal identifiers, as defined in division (H) of this rule;

(c) A document or information in a document to which public access has been restricted pursuant to division (E) of Sup. R. 45;

(d) Except as relevant to the juvenile’s prosecution later as an adult, a juvenile’s previous disposition in abuse, neglect, and dependency cases, juvenile civil commitment files, post-adjudicatory residential treatment facility reports, and post-adjudicatory releases of a juvenile’s social history;

(e) Notes, drafts, recommendations, advice, and research of judicial officers and court staff;

(f) Forms containing personal identifiers, as defined in division (H) of this rule, submitted or filed pursuant to division (D)(2) of Sup. R. 45;

(g) Information on or obtained from the Ohio Courts Network, except that the information shall be available at the originating source if not otherwise exempt from public access.

(D) “Case file” means the compendium of case documents in a judicial action or proceeding.

(E) “File” means to deposit a document with a clerk of court, upon the occurrence of which the clerk time or date stamps and docket the document.

(F) “Submit” means to deliver a document to the custody of a court for consideration by the court.

(G)(1) “Administrative document” means a document and information in a document created, received, or maintained by a court that serves to record the administrative, fiscal, personnel, or management functions, policies, decisions, procedures, operations, organization, or other activities of the court, subject to the exclusions in division (G)(2) of this rule.

(2) The term “administrative document” does not include the following:

(a) A document or information in a document exempt from disclosure under state, federal, or the common law, or as set forth in the Rules for the Government of the Bar;

(b) Personal identifiers, as defined in division (H) of this rule;

(c) A document or information in a document describing the type or level of security in a court facility, including a court security plan and a court security review conducted by a local court, the local court’s designee, or the Supreme Court;

(d) An administrative or technical security record-keeping document or information;

(e) Test questions, scoring keys, and licensing, certification, or court-employment examination documents before the examination is administered or if the same examination is to be administered again;

(f) Computer programs, computer codes, computer filing systems, and other software owned by a court or entrusted to it;

(g) Information on or obtained from the Ohio Courts Network, except that the information shall be available at the originating source if not otherwise exempt from public access;

(h) Data feeds by and between courts when using the Ohio Courts Network.

(H) “Personal identifiers” means social security numbers, except for the last four digits; financial account numbers, including but not limited to debit card, charge card, and credit card numbers; employer and employee identification numbers; and a juvenile’s name in an abuse, neglect, or dependency case, except for the juvenile’s initials or a generic abbreviation such as “CV” for “child victim.”

(I) “Public access” means both direct access and remote access.

(J) “Direct access” means the ability of any person to inspect and obtain a copy of a court record at all reasonable times during regular business hours at the place where the record is made available.

(K) “Remote access” means the ability of any person to electronically search, inspect, and copy a court record at a location other than the place where the record is made available.

(L) “Bulk distribution” means the distribution of a compilation of information from more than one court record.

(M)(1) “New compilation” means a collection of information obtained through the selection, aggregation, or reformulation of information from more than one court record.

(2) The term “new compilation” does not include a collection of information produced by a computer system that is already programmed to provide the requested output.

**RULE 45. Court Records – Public Access.**

**(A) Presumption of public access**

Court records are presumed open to public access.

**(B) Direct access**

(1) A court or clerk of court shall make a court record available by direct access, promptly acknowledge any person's request for direct access, and respond to the request within a reasonable amount of time.

(2) Except for a request for bulk distribution pursuant to Sup. R. 46, a court or clerk of court shall permit a requestor to have a court record duplicated upon paper, upon the same medium upon which the court or clerk keeps it, or upon any other medium the court or clerk determines it can be reasonably duplicated as an integral part of its normal operations.

(3) A court or clerk of court shall mail, transmit, or deliver copies of a requested court record to the requestor within a reasonable time from the request, provided the court or clerk may adopt a policy allowing it to limit the number of court records it will mail, transmit, or deliver per month, unless the requestor certifies in writing that the requestor does not intend to use or forward the records, or the information contained in them, for commercial purposes. For purposes of this division, "commercial" shall be narrowly construed and does not include news reporting, the gathering of information to assist citizens in the understanding of court activities, or nonprofit educational research.

(4) A court or clerk of court may charge its actual costs incurred in responding to a request for direct access to a court record. The court or clerk may require a deposit of the estimated actual costs.

**(C) Remote access**

(1) A court or clerk of court may offer remote access to a court record. If a court or clerk offers remote access to a court record and the record is also available by direct access, the version of the record available through remote access shall be identical to the version of the record available by direct access, provided the court or clerk may exclude an exhibit or attachment that is part of the record if the court or clerk includes notice that the exhibit or attachment exists and is available by direct access.

(2) Nothing in division (C)(1) of this rule shall be interpreted as requiring a court or clerk of court offering remote access to a case document in a case file to offer remote access to other case documents in that case file.

(3) Nothing in division (C)(1) of this rule shall be interpreted as prohibiting a court or clerk of court from making available on a website any court record that exists only in electronic form, including an on-line journal or register of actions.

**(D) Omission of personal identifiers prior to submission or filing**

(1) When submitting a case document to a court or filing a case document with a clerk of court, a party to a judicial action or proceeding shall omit personal identifiers from the document.

(2) When personal identifiers are omitted from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule, the party shall submit or file that information on a separate form. The court or clerk may provide a standard form for parties to use. Redacted or omitted personal identifiers shall be provided to the court or clerk upon request or a party to the judicial action or proceeding upon motion.

(3) The responsibility for omitting personal identifiers from a case document submitted to a court or filed with a clerk of court pursuant to division (D)(1) of this rule shall rest solely with the party. The court or clerk is not required to review the case document to confirm that the party has omitted personal identifiers, and shall not refuse to accept or file the document on that basis.

**(E) Restricting public access to a case document**

(1) Any party to a judicial action or proceeding or other person who is the subject of information in a case document may, by written motion to the court, request that the court restrict public access to the information or, if necessary, the entire document. Additionally, the court may restrict public access to the information in the case document or, if necessary, the entire document upon its own order. The court shall give notice of the motion or order to all parties in the case. The court may schedule a hearing on the motion.

(2) A court shall restrict public access to information in a case document or, if necessary, the entire document, if it finds by clear and convincing evidence that the presumption of allowing public access is outweighed by a higher interest after considering each of the following:

(a) Whether public policy is served by restricting public access;

(b) Whether any state, federal, or common law exempts the document or information from public access;

(c) Whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

(3) When restricting public access to a case document or information in a case document pursuant to this division, the court shall use the least restrictive means available, including but not limited to the following:

- (a) Redacting the information rather than limiting public access to the entire document;
- (b) Restricting remote access to either the document or the information while maintaining its direct access;
- (c) Restricting public access to either the document or the information for a specific period of time;
- (d) Using a generic title or description for the document or the information in a case management system or register of actions;
- (e) Using initials or other identifier for the parties' proper names.

(4) If a court orders the redaction of information in a case document pursuant to this division, a redacted version of the document shall be filed in the case file along with a copy of the court's order. If a court orders that the entire case document be restricted from public access, a copy of the court's order shall be filed in the case file. A journal entry shall reflect the court's order. Case documents ordered restricted from public access or information in documents ordered redacted shall not be available for public access and shall be maintained separately in the case file.

**(F) Obtaining access to a case document that has been granted restricted public access**

(1) Any person, by written motion to the court, may request access to a case document or information in a case document that has been granted restricted public access pursuant to division (E) of this rule. The court shall give notice of the motion to all parties in the case and, where possible, to the non-party person who requested that public access be restricted. The court may schedule a hearing on the motion.

(2) A court may permit public access to a case document or information in a case document if it finds by clear and convincing evidence that the presumption of allowing public access is no longer outweighed by a higher interest. When making this determination, the court shall consider whether the original reason for the restriction of public access to the case document or information in the case document pursuant to division (E) of this rule no longer exists or is no longer applicable and whether any new circumstances, as set forth in that division, have arisen which would require the restriction of public access.

**RULE 46. Court Records - Bulk Distribution.**

**(A) Requests for bulk distribution and new compilations**

(1) Bulk distribution

(a) Any person, upon request, shall receive bulk distribution of information in court records, provided that the bulk distribution does not require creation of a new compilation. The court or clerk of court shall permit the requestor to choose that the bulk distribution be provided upon paper, upon the same medium upon which the court or clerk keeps the information, or upon any other medium the court or clerk determines it can be reasonably duplicated as an integral part of its normal operations, unless the choice requires a new compilation.

(b) The bulk distribution shall include a time or date stamp indicating the compilation date. A person who receives a bulk distribution of information in court records for redistribution shall keep the information current and delete inaccurate, sealed, or expunged information in accordance with Sup. R. 26.

(2) New compilation

(a) A court or clerk of court may create a new compilation customized for the convenience of a person who requests a bulk distribution of information in court records.

(b) In determining whether to create a new compilation, a court or clerk of court may consider if creating the new compilation is an appropriate use of its available resources and is consistent with the principles of public access.

(c) If a court or clerk of court chooses to create a new compilation, it may require personnel costs in addition to actual costs. The court or the clerk may require a deposit of the estimated actual and personnel costs to create the new compilation.

(d) A court or clerk of court shall maintain a copy and provide public access to any new compilation. After recouping the personnel costs to create the new compilation from the original requestor, the court or clerk may later assess only actual costs.

**(B) Contracts with providers of information technology support**

A court or clerk of court that contracts with a provider of information technology support to gather, store, or make accessible court records shall require the provider to comply with requirements of Sup. R. 44 through 47, agree to protect the confidentiality of the

records, notify the court or clerk of court of all bulk distribution and new compilation requests, including its own, and acknowledge that it has no ownership or proprietary rights to the records.

**RULE 47. Court Records – Application, Remedies, and Liability.**

**(A) Application**

(1) The provisions of Sup. R. 44 through 47 requiring redaction or omission of information in case documents or restricting public access to case documents shall apply only to case documents in actions commenced on or after the effective date of this rule. Access to case documents in actions commenced prior to the effective date of Sup. R. 44 through 47 shall be governed by federal and state law.

(2) The provisions of Sup. R. 44 through 47 requiring omission of information in administrative documents or restricting public access to administrative documents shall apply to all documents regardless of when created.

**(B) Denial of public access - remedy**

A person aggrieved by the failure of a court or clerk of court to comply with the requirements of Sup. R. 44 through 47 may pursue an action in mandamus pursuant to Chapter 2731. of the Revised Code.

**(C) Liability and immunity**

Sup. R. 44 through 47 do not affect any immunity or defense to which a court, court agency, clerk of court, or their employees may be entitled under section 9.86 or Chapter 2744. of the Revised Code.

**(D) Review**

Sup. R. 44 through 47 shall be subject to periodic review by the Commission on the Rules of Superintendence.

## **Rule 48. Guardians ad litem**

### **(A) Applicability**

This rule shall apply in all domestic relations and juvenile cases in the courts of common pleas where a court appoints a guardian ad litem to protect and act in the best interest of a child.

### **(B) Definitions**

For purposes of this rule:

(1) “Guardian ad litem” means an individual appointed to assist a court in its determination of a child’s best interest.

(2) “Child” means:

(a) A person under eighteen years of age, or

(b) A person who is older than eighteen years of age who is deemed a child until the person attains twenty-one years of age under section 2151.011(B)(5) or section 2152.02(C) of the Revised Code.

(c) A child under R.C. 3109.04 or a disabled child under R.C.3119.86 who falls under the jurisdiction of a domestic relations court or of a juvenile court with a paternity docket.

### **(C) Appointment of guardian ad litem**

(1) Each court appointing a guardian ad litem under this rule shall enter an Order of Appointment which shall include:

(a) A statement regarding whether a person is being appointed as a guardian ad litem only or as a guardian ad litem and attorney for the child.

(b) A statement that the appointment shall remain in effect until discharged by order of the court, by the court filing a final order in the case or by court rule.

(c) A statement that the guardian ad litem shall be given notice of all hearings and proceedings and shall be provided a copy of all pleadings, motions, notices and other documents filed in the case.

(2) Whenever feasible, the same guardian ad litem shall be reappointed for a specific child in any subsequent case in any court relating to the best interest of the child.

(3) The court shall make provisions for fees and expenses in the Order.

#### **(D) Responsibilities of a guardian ad litem**

In order to provide the court with relevant information and an informed recommendation regarding the child's best interest, a guardian ad litem shall perform, at a minimum, the responsibilities stated in this division, unless impracticable or inadvisable to do so.

(1) A guardian ad litem shall represent the best interest of the child for whom the guardian is appointed. Representation of best interest may be inconsistent with the wishes of the child whose interest the guardian ad litem represents.

(2) A guardian ad litem shall maintain independence, objectivity and fairness as well as the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom and shall have no ex parte communications with the court regarding the merits of the case.

(3) A guardian ad litem is an officer of the court and shall act with respect and courtesy to the parties at all times.

(4) A guardian ad litem shall appear and participate in any hearing for which the duties of a guardian ad litem or any issues substantially within a guardian ad litem's duties and scope of appointment are to be addressed.

(5) A non-attorney guardian ad litem must avoid engaging in conduct that constitutes the unauthorized practice of law, be vigilant in performing the guardian ad litem's duties and request that the court appoint legal counsel, or otherwise employ the services of an attorney, to undertake appropriate legal actions on behalf of the guardian ad litem in the case.

(6) A guardian ad litem who is an attorney may file pleadings, motions and other documents as appropriate under the applicable rules of procedure.

(7) When a court appoints an attorney to serve as both the guardian ad litem and attorney for a child, the attorney shall advocate for the child's best interest and the child's wishes in accord with the Rules of Professional Conduct. Attorneys who are to serve as both guardian ad litem and attorney should be aware of Rule 3.7 of the Rules of Professional Conduct and act accordingly.

(8) When a guardian ad litem determines that a conflict exists between the child's best interest and the child's wishes, the guardian ad litem shall, at the earliest practical time, request in writing that the court promptly resolve the conflict by entering appropriate orders.

(9) A guardian ad litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity including, but not limited to, those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem shall avoid self-dealing or associations from which the guardian ad litem might benefit, directly or indirectly, except from compensation for services as a guardian ad litem.

(10) Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem shall immediately take action to resolve the conflict, shall advise the court and the parties of the action taken and may resign from the matter with leave of court, or seek court direction as necessary. Because a conflict of interest may arise at any time, a guardian ad litem has an ongoing duty to comply with this division.

(11) Unless excepted by statute, by court rule consistent with this rule, or by order of court pursuant to this rule, a guardian ad litem shall meet the qualifications and satisfy all training and continuing education requirements under this rule and under any local court rules governing guardians ad litem. A guardian ad litem shall meet the qualifications for guardians ad litem for each county where the guardian ad litem serves and shall promptly advise each court of any grounds for disqualification or unavailability to serve.

(12) A guardian ad litem shall be responsible for providing the court or its designee with a statement indicating compliance with all initial and continuing educational and training requirements so the court may maintain the files required in division (G) of this rule. The compliance statement shall include information detailing the date, location, contents and credit hours received for any relevant training course.

(13) A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. In order to provide the court with relevant information and an informed recommendation as to the child's best interest, a guardian ad litem shall, at a minimum, do the following, unless impracticable or inadvisable because of the age of the child or the specific circumstances of a particular case:

(a) Meet with and interview the child and observe the child with each parent, foster parent, guardian or physical custodian and conduct at least one interview with the child where none of these individuals is present;

(b) Visit the child at his or her residence in accordance with any standards established by the court in which the guardian ad litem is appointed;

(c) Ascertain the wishes of the child;

(d) Meet with and interview the parties, foster parents and other significant individuals who may have relevant knowledge regarding the issues of the case;

(e) Review pleadings and other relevant court documents in the case in which the guardian ad litem is appointed;

(f) Review criminal, civil, educational and administrative records pertaining to the child and, if appropriate, to the child's family or to other parties in the case;

- (g) Interview school personnel, medical and mental health providers, child protective services workers and relevant court personnel and obtain copies of relevant records;
- (h) Recommend that the court order psychological evaluations, mental health and/or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court; and
- (i) Perform any other investigation necessary to make an informed recommendation regarding the best interest of the child.

(14) A guardian ad litem shall immediately identify himself or herself as a guardian ad litem when contacting individuals in the course of a particular case and shall inform these individuals about the guardian ad litem's role and that documents and information obtained may become part of court proceedings.

(15) As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of personal identifiers, as defined in Rule 44 of the Rules of Superintendence, or addresses where there are allegations of domestic violence or risk to a party's or child's safety. A guardian ad litem may recommend that the court restrict access to the report or a portion of the report, after trial, to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed in accordance with Rule 45 of the Rules of Superintendence. The court may, upon application, and under such conditions as may be necessary to protect the witnesses from potential harm, order disclosure of or access to the information that addresses the need to challenge the truth of the information received from the confidential source.

(16) A guardian ad litem shall perform responsibilities in a prompt and timely manner, and, if necessary, an attorney guardian ad litem may request timely court reviews and judicial intervention in writing with notice to parties or affected agencies.

(17) A guardian ad litem who is to be paid by the court or a party, shall keep accurate records of the time spent, services rendered, and expenses incurred in each case and file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment.

### **(E) Training requirements**

In order to serve as a guardian ad litem, an applicant shall have, at a minimum, the following training:

(1) Successful completion of a pre-service training course to qualify for appointment and thereafter, successful completion of continuing education training in each succeeding calendar year to qualify for continued appointment.

(2) The pre-service training course must be the six hour guardian ad litem pre-service course provided by the Supreme Court of Ohio, the Ohio CASA/GAL Association's pre-service training program, or with prior approval of the appointing court, be a course at least six hours in length that covers the topic areas in division (E) (3).

(3) To meet the requirements of this rule, the pre-service course shall include training on all the following topics:

(a) Human needs and child development including, but not limited to, stages of child development;

(b) Communication and diversity including, but not limited to, communication skills with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of the child, sensitivity, building trust, multicultural awareness, and confidentiality;

(c) Preventing child abuse and neglect including, but not limited to, assessing risk and safety;

(d) Family and child issues including, but not limited to, family dynamics, substance abuse and its effects, basic psychopathology for adults and children, domestic violence and its effects;

(e) Legal framework including, but not limited to, records checks, accessing, assessing and appropriate protocol, a guardian ad litem's role in court, local resources and service practice, report content, mediation and other types of dispute resolution.

(4) The continuing education course must be at least three hours in length and be provided by the Supreme Court of Ohio or by the Ohio CASA/GAL Association, or with prior approval of the appointing court, be a training that complies with division (5) of this rule.

(5) To meet the requirements of this rule, the three hour continuing education course shall:

(a) Be specifically designed for continuing education of guardians ad litem and not pre-service education; and

(b) Consist of advanced education related to topics identified in division (E)(3) (a)–(e) of this rule.

(6) If a guardian ad litem fails to complete a three hour continuing education course within any calendar year, that person shall not be eligible to serve as a guardian ad litem until this continuing education requirement is satisfied. If the person's gap in continuing education is three calendar years or less, the person shall qualify to serve after completing a three hour continuing education course offered under this rule. If the gap in continuing education is more than three

calendar years that person must complete a six hour pre-service education course to qualify to serve.

(7) An individual who is currently serving as a guardian ad litem on the effective date of this rule, or who has served during the five years immediately preceding the effective date, shall have one year from the effective date to obtain the required six hour pre-service training in order to avoid removal from the court's list of approved guardians ad litem.

(8) Attendance at an Ohio Guardian ad Litem Training Program approved by the Supreme Court of Ohio or at an Ohio CASA/Guardian Association pre-service training program at any time prior to the effective date of this rule shall be deemed compliance with the pre-service training requirement.

### **(F) Reports of guardians ad litem**

A guardian ad litem shall prepare a written final report, including recommendations to the court, within the times set forth in this division. The report shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted and all other relevant information considered by the guardian ad litem in reaching the guardian ad litem's recommendations and in accomplishing the duties required by statute, by court rule, and in the court's Order of Appointment. In addition, the following provisions shall apply to guardian ad litem reports in the juvenile and domestic relations divisions of Courts of Common Pleas:

(1) In juvenile abuse, neglect, and dependency cases and actions to terminate parental rights:

(a) All reports, written or oral, shall be used by the court to ensure that the guardian ad litem has performed those responsibilities required by section 2151.281 of the Revised Code.

(b) Oral and written reports may address the substantive allegations before the court, but shall not be considered as conclusive on the issues.

(c) Unless waived by all parties or unless the due date is extended by the court, the final report shall be filed with the court and made available to the parties for inspection no less than seven days before the dispositional hearing. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy shall be provided to the court at the hearing.

(d) A guardian ad litem shall be available to testify at the dispositional hearing and may orally supplement the final report at the conclusion of the hearing.

(e) A guardian ad litem also may file an interim report, written or oral, any time prior to the dispositional hearing and prior to hearings on actions to terminate parental rights.

Written reports may be accessed in person or by phone by the parties or their legal representatives.

(f) Any written interim report shall be filed with the court and made available to the parties for inspection no less than seven days before a hearing, unless the due date is extended by the court. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy of the interim report shall be provided to the court at the hearing.

(2) In domestic relations proceedings involving the allocation of parental rights and responsibilities, the final report shall be filed with the court and made available to the parties for inspection no less than seven days before the final hearing unless the due date is extended by the court. Written reports may be accessed in person or by phone by the parties or their legal representatives. A copy of the final report shall be provided to the court at the hearing. The court shall consider the recommendation of the guardian ad litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.

### **(G) Responsibilities of the court**

In order to ensure that only qualified individuals perform the duties of guardians ad litem and that the requirements of this rule are met, each court appointing guardians ad litem shall do all of the following:

(1) Maintain a public list of approved guardians ad litem while maintaining individual privacy under Rules 44 through 47 of the Rules of Superintendence.

(2) Establish criteria, which include all requirements of this rule, for appointment and removal of guardians ad litem and procedures to ensure an equitable distribution of the work load among the guardians ad litem on the list.

(3) Appoint or contract with a person to coordinate the application and appointment process, keep the files and records required by this rule, maintain information regarding training opportunities, receive written comments and complaints regarding the performance of guardians ad litem practicing before that court and perform other duties as assigned by the court.

(4) Maintain files for all applicants and for individuals approved for appointment as guardians ad litem with the court. The files shall contain all records and information required by this rule, and by local rules, for the selection and service of guardians ad litem including a certificate or other satisfactory proof of compliance with training requirements.

(5) Require all applicants to submit a resume or information sheet stating the applicant's training, experience and expertise demonstrating the person's ability to successfully perform the responsibilities of a guardian ad litem.

(6) Conduct, or cause to be conducted, a criminal and civil background check and investigation of information relevant to the applicant's fitness to serve as a guardian ad litem.

(7) Conduct, at least annually, a review of its list to determine that all individuals are in compliance with the training and education requirements of this rule and local rules, that they have performed satisfactorily on all assigned cases during the preceding calendar year and are otherwise qualified to serve.

(8) Require all individuals on its list to certify annually they are unaware of any circumstances that would disqualify them from serving and to report the training they have attended to comply with division (E) of this rule.

(9) Each court shall develop a process or local rule and appoint a person for accepting and considering written comments and complaints regarding the performance of guardians ad litem practicing before that court. A copy of comments and complaints submitted to the court shall be provided to the guardian ad litem who is the subject of the complaint or comment. The person appointed may forward any comments and complaints to the administrative judge of the court for consideration and appropriate action. Dispositions by the court shall be made promptly. The court shall maintain a written record in the guardian ad litem's file regarding the nature and disposition of any comment or complaint and shall notify the person making the comment or complaint and the subject guardian ad litem of the disposition.

**Rule 49 is reserved for future use**

**RULE 50. Definitions.**

As used in Sup. R. 50 to 82 “case” means any of the following when filed in the probate division of the court of common pleas:

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

(B) A decedent’s estate; a testamentary, inter vivos or wrongful death trust; a guardianship, conservatorship or request for emergency orders pursuant to division (B)(3) of 2111.02 of the Revised Code; an adoption or name change. Each beneficiary of a wrongful death trust, each ward or conservatee, each adoptee and each individual requesting a change of name in those proceedings with multiple interested parties, shall be considered a separate “case.”

(C) Any other proceeding for which a case number is assigned including but not limited to the following: tax filings, filings of wills for probate or record, real estate transfers, and filings of foreign records where an estate is not opened; release from administration; minor’s settlements; birth corrections; delayed birth registrations; mental retardation or tuberculosis commitments; petition for protective services; petition to compel HIV testing; an application to appoint a guardian, trustee, protector, or conservator of a mentally retarded or developmentally disabled person; acknowledgment of paternity; a petition for release of adoption information; powers of attorney including those for health care; declarations concerning life-sustaining treatment; proceedings to designate heir; applications to disinter or to oppose disinterment; and voluntary assignment for the benefit of creditors.

**Commentary (July 1, 1997)**

Rule 50 is a new rule that defines “case” as used in the rules applicable to the probate division of the court of common pleas.

**Commentary (March 25, 2002)**

The March 25, 2002 amendment deleted an obsolete reference to the recording of chiropractic licenses in the probate division of the court of common pleas. See former R.C. 4734.08, repealed in H.B. 506 of the 123<sup>rd</sup> General Assembly.

**RULE 51. Standard Probate Forms.**

**(A) Applicability.** This rule prescribes the format, content, and use of standard forms for designated applications, pleadings, waivers, notices, entries, and other filings in certain proceedings in the probate division of the courts of common pleas.

Where a standard form has not been prescribed by this rule, the form used shall be that required by the Civil Rules, or prescribed or permitted by the probate division of the court of common pleas in which it is being filed.

**(B) Effective date; use of standard and nonstandard forms.**

(1) This rule takes effect July 1, 1977 and applies to proceedings had on and after that date, including proceedings in pending cases.

(2) The standard forms shall be used on and after January 1, 1978, and nonstandard forms shall be rejected for filing.

**(C) Modification of standard forms; pleadings and filings prepared for particular cases.**

(1) A printed, blank standard form may be modified by deletion or interlineation to meet the circumstances of a particular case or proceeding, if the modification can be accomplished neatly and conveniently. No court shall require the modification of a standard form as a routine matter. If any allegation, statement, data, information, pleading, or filing is required by an appropriate local rule of court and a standard form does not make provision therefor, it shall be provided in a separate or supplemental filing.

(2) Even though a standard form is prescribed, an original instrument may be prepared for filing. Any such instrument shall be typed on eight and one-half by eleven inch paper. The caption prescribed in Sup. R. 52 shall be used, and the instrument shall follow the format prescribed for the standard forms. Any such instrument may modify the language of the standard form, omit inapplicable matter required by the standard form, and add matter not included in the standard form to the extent required by the circumstances of the particular case or proceeding.

**(D) Standard probate forms.** The standard forms prescribed for use in the probate division of the courts of common pleas are as follows.

**Commentary (October 1, 1997)**

This rule is identical to former C.P. Sup. R. 16.

This rule was amended effective December 13, 1989, to add a temporary provision suspending the use of Standard Probate Forms 15.0 through 17.5, the guardianship forms. This

was necessitated by the revisions to the guardianship laws embodied in Substitute Senate Bill 46 of the 118th General Assembly, effective January 1, 1990. New guardianship forms were adopted effective September 1, 1991 and the temporary provision was repealed. In addition, additional estate forms were adopted as the result of Amended Substitute House Bill 346 of the 118th General Assembly, effective May 31, 1990. See R.C. 2113.03 and 2113.533.

The December 1989 amendment to this rule also added new Standard Probate Forms 18.0 through 19.1, which are used for adoptions.

**RULE 52. Specifications for Printing Probate Forms.**

**(A) Applicability.**

(1) The specifications in this rule govern the reproduction of blank forms intended for, or used in, the administration of decedents' estates, guardianships, and adoptions in this state, including:

(a) Standard forms prescribed in Sup. R. 51;

(b) Commercially prepared blank forms, including standard and nonstandard forms, designed for use in any aspect of the administration of decedents' estates, guardianships, and adoptions;

(c) Blank forms prescribed by local rule of court for use in situations for which no standard form is prescribed.

(2) This rule does not apply to any of the following:

(a) Any pleading, application, entry, waiver, notice, or other filing that is prepared ad hoc for use in a particular case or proceeding, or that is not reproduced in any manner for use as a blank form;

(b) Any routing slip, memorandum index, cost bill, or other form designed solely for internal administrative or clerical use;

(c) Forms intended for use in matters other than the administration of decedents' estates, guardianships, or adoptions;

(d) Estate tax returns, reports, and other forms prescribed by the Department of Taxation.

**(B) Size of forms; stock.** All forms shall be on paper size eight and one-half by eleven inches, printed on twenty-four pound bond or heavier stock.

**(C) Margins.** Right and left margins shall be approximately one-half to three-quarters of one inch, and shall be justified. The top margin shall be approximately seven-eighths to one and one-eighth inches, measured from the top edge of the paper to the top of the first line of the caption. The distance between the bottom of the repeat of the main heading at the foot of the first page shall be as required by division (K) of this rule.

**(D) Type styles.**

(1) All type shall be sans serif. Bold face type shall be used only as required or permitted by division (D)(2) of this rule. Italics shall not be used. Except as provided in division (D)(3) of this rule, all type shall be upper and lower case.

(2) Bold face type shall be used for the main heading immediately following the caption, and for the form number and repeat of the main heading at the foot of the first page. In addition bold face type may be used for:

(a) The caption;

(b) Subheadings;

(c) Directions enclosed in brackets;

(d) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer;

(e) Column headings;

(f) Any matter not covered in division (D)(2)(a) to (e) of this rule, for which the use of bold face type is expressly indicated on a standard form in Sup. R. 51.

(3) The following shall be printed in all capital letters:

(a) The first two lines of the caption;

(b) The main heading immediately following the caption;

(c) All subheadings;

(d) The form number and repeat of the main heading at the foot of the first page;

(e) Any matter not covered in division (D)(3)(a) to (d) of this rule, for which the use of all capital letters is expressly indicated on a standard form in Sup. R. 51.

**(E) Type sizes.**

(1) The following type sizes shall be used:

(a) Main headings immediately following the caption shall use sixteen-point or larger type;

(b) The first line of the caption, and all subheadings, shall use not smaller than twelve-point nor larger than sixteen-point type;

(c) The last two lines of the caption, the body, and the form number and repeat of the main heading at the foot of the first page, shall use not smaller than eight-point nor larger than twelve-point type;

(d) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer, shall use not larger than eight-point type.

(2) Whatever type size is used with the limitations of division (E)(1) of this rule:

(a) The first line of the caption and all subheadings shall use type at least two points smaller than the main heading immediately following the caption;

(b) The last two lines of the caption, the body, and the form number and repeat of the main heading at the foot of the first page, shall use type at least two points smaller than the subheadings;

(c) Instructions or identification under a blank line, indicating what is to be inserted in the line or identifying the office or status of a signer, shall use type at least two points smaller than the body.

**(F) Vertical spacing.**

(1) The vertical spacing on all forms shall be in units of one pica, to conform to standard typewriter vertical spacing.

(2) In order to permit optimum placement and promote visual appeal, the main heading and any subheading may be moved up or down within the available area without regard to the vertical spacing of the rest of the form, provided the rest of the form from head to foot maintains vertical spacing in units of one pica.

**(G) Centering.** The first line of the caption, the main heading, any explanatory information supplementing the main heading and appearing directly below it, subheadings, and the form number and repeat of the main heading at the foot of the first page of a form, shall be centered.

**(H) Blank lines; length; vertical spacing in series.**

(1) Blanks to be filled in shall be indicated by a printed solid line. Wherever possible, such lines shall be of sufficient length to accommodate comfortably all characters included in any word, phrase, name, date, or other information that might reasonably be expected to be placed in the blank. Spaces and punctuation shall be included in counting characters. It shall be assumed that six pica will accommodate ten characters in calculating the length of a line.

- (2) Wherever possible, blank lines shall be a minimum length of:
  - (a) Eight pica, when the name of a county is to be inserted;
  - (b) Eighteen pica, when a date is to be inserted;
  - (c) Twenty pica, when a name or signature is to be inserted;
  - (d) Eight pica, not counting the dollar sign, when a dollar amount is to be inserted.
- (3) One, or two or more blank lines may be used for the insertion of an address. Wherever possible, such lines shall be a minimum length of:

- (a) Forty pica when a single line is used;
- (b) Twenty pica per line when two or more lines are used.

(4) When a series of signature lines, lines for tabulating particular information, or other blank lines in vertical series are called for in a form, then except where expressly indicated on a standard form in Sup. R. 51, the vertical spacing between lines shall be two pica. This spacing shall be maintained without regard to instructions or identification printed below a line.

**(I) Boxes to be checked.**

(1) Where a form calls for a “check” or “X” to be inserted, a box shall be used for the purpose. The box shall precede the information to which it refers.

(2) When a series of “checks” or “X’s” are called for in the same sentence or paragraph, each box and the information to which it refers shall be set apart visually from the preceding and following information in the same sentence or paragraph. Any device that provides visual separation and minimizes possible confusion may be used, including without limitation space-hyphen-space or a double or triple space, as in the following example:

“[check one of the following] - - [ ]Decedent’s will has been admitted to probate in this court - [ ]To applicant’s knowledge decedent did not leave a will.”

**(J) Caption.**

(1) Except as provided in division (J)(3) of this rule, the following captions shall be used, respectively, on all forms for the administration of decedents’ estates, guardianships, and adoptions:

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

ESTATE OF \_\_\_\_\_ DECEASED

Case No. \_\_\_\_\_;

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

GUARDIANSHIP OF \_\_\_\_\_

Case No. \_\_\_\_\_;

PROBATE COURT OF \_\_\_\_\_ COUNTY, OHIO

ADOPTION OF \_\_\_\_\_  
(Name after adoption)

Case No. \_\_\_\_\_.

(2) The first line of the caption shall be centered. The second and third lines shall begin at the left margin and end at the right margin. The vertical space between the first and second lines may be two or three pica. The vertical space between the second and third lines shall be two pica.

(3) The following variations from the caption prescribed in division (J)(1) and (2) of this rule are permitted:

(a) The blank line in the first line of the caption may be replaced by the imprinted name of a particular county.

(b) The caption may be expanded to include the address of a particular court, using type of any suitable size. In such case, the blank lines intended for the court's address in the body of any form and introductory material for the address such as, "the court is located at \_\_\_\_\_," shall be omitted.

(c) In Standard Decedents' Estates Form 5.5, and in any other decedents' estates form dealing with two or more estates, the last two lines of the caption shall be omitted.

**(K) Form number and repeat of main heading.**

(1) The main heading of a form, which appears immediately below the caption on the first page of a form, shall be repeated at the foot of the first page. If the form is a standard form, the repeat of the main heading shall be preceded on the same line by the form number.

(2) The form number and repeat of the main heading shall be centered, and located not higher than three-eighths inch above the bottom edge of the form.

**(L) Printing front and back.** When a standard probate form consists of more than one page, each page shall contain the case number in the upper portion of the page.

**(M) Standard forms to govern; variations.**

(1) Matters not specifically covered in this rule are governed by the standard forms prescribed in Sup. R. 51. Overall, the format of all printed blank forms, whether standard or nonstandard, shall conform substantially to the standard forms. Except as provided in division (M)(2) of this rule, no additions to, deletions from, or changes in the form, content, or language of the standard forms are permitted when printing blank standard forms.

(2) The following variations from the standard forms in Sup. R. 51 are permitted:

(a) In any form calling for a court's address, the blank lines intended for the insertion of such information may be replaced by the imprinted information itself. If the court's address is imprinted in the caption, the blank lines in the body of the form for the address and introductory material for the address shall be omitted as provided in division (J)(3) of this rule.

(b) The name as well as the title of the probate judge may be imprinted below a judge's signature line on any form.

(c) In any form calling for the attorney's typed or printed name, address, telephone number, and attorney identification number, the blank lines intended for the insertion of that information may be replaced by the imprinted information itself. The signature line for the attorney shall be retained.

(d) In Standard Decedents' Estates Form 4.2, the portion of the form below the date line and principal's signature line, and above the repeat at the foot of the page, may be replaced by the imprinted name and address of a corporate surety, identified in some appropriate manner as the surety on the particular bond, and including a signature line for the attorney in fact. The last paragraph of the body of the form, relating to justification of personal sureties, shall be omitted.

(e) When standard forms are generated by computer, they shall conform to all specifications for standard forms stated in this rule. A court may accept for filing nonstandard computer generated forms for the receipts and disbursements attached to a standard account form or the schedule of assets attached to a standard inventory and appraisal form.

(f) All forms may include suitable coding for optical or magnetic scanning, or similar system designed to aid docketing, indexing, cost accounting, or other administrative or clerical activities.

(g) On all forms, the publisher may add its name, logotype, or other suitable identification. The size, style, and placement shall be such as not to detract from, interfere with, or overpower any part of the form.

(h) Wherever a form contains “19\_\_” or “199\_\_”, a blank line shall be substituted to accommodate the correct year.

**(N) Effective date.**

(1) This rule takes effect July 1, 1977.

(2) On and after January 1, 1978, any pleading, application, entry, waiver, notice, or other filing, prepared using a blank form to which this rule applies, shall not be accepted for filing by the probate division of a court of common pleas of this state unless such blank form complies with the specifications in this rule.

(3) The amendment to division M(2)(h) shall take effect on November 16, 1999.

**Commentary (November 16, 1999)**

This amendment permits the change of preprinted dates on existing standard probate forms.

**Commentary (October 1, 1997)**

This rule is unchanged substantively from former C.P. Sup. R. 17.

**RULE 53. Hours of the Court.**

Each court shall establish hours for the transaction of business.

**Commentary (October 1, 1997)**

This rule is unchanged from former C.P. Sup. R. 18.

**RULE 54. Conduct in the Court.**

(A) Proper decorum in the court is necessary to the administration of the court's function. Any conduct that interferes or tends to interfere with the proper administration of the court's business is prohibited.

(B) No radio or television transmission, voice recording device, other than a device used by a court reporter making a record in a proceeding, or the making or taking of pictures shall be permitted without the express consent of the court in advance and pursuant to Sup. R. 12.

**Commentary (October 1, 1997)**

This rule is identical to former C.P. Sup. R. 19.

**RULE 55. Examination of Probate Records.**

(A) Records shall not be removed from the court, except when approved by the judge. Violation of this rule may result in the issuance of a citation for contempt.

(B) Copies of records may be obtained at a cost per page as authorized by the judge.

(C) Adoption, mental illness, and mental retardation proceedings are confidential. Records of those proceedings, and other records that are confidential by statute, may be accessed as authorized by the judge.

(D) A citation for contempt of court may be issued against anyone who divulges or receives information from confidential records without authorization of the judge.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 20 and summarizes local practice and current law. In general, see R.C. 2101.11(A)(1), 2101.12, 2101.13, 3107.17, 5122.31, 5122.34.

Sup. R. 55 has been amended to make the rule grammatically correct and to make the rule applicable to all confidential records as opposed to specific enumerated confidential records.

**RULE 56. Continuances.**

(A) Motions for continuance shall be submitted in writing with the proper caption and case number.

(B) Except on motion of the court, no continuance shall be granted in the absence of proof of reasonable notice to, or consent by, the adverse party or the party's counsel. Failure to object to the continuance within a reasonable time after receiving notice shall be considered consent to the continuance.

(C) A proposed entry shall be filed with a motion for continuance, leaving the time and date blank for the court to set a new date.

**Commentary (October 1, 1997)**

Sup. R. 56 is analogous to former C.P. Sup. R. 23 and is the basic continuance rule within Sup. R. 50 through Sup. R. 78.

Sup. R. 56 has been amended to be gender neutral and to require a "proposed" entry as opposed to a "judgment" entry to be submitted to the court with all motions for a continuance.

**RULE 57. Filings and Judgment Entries.**

(A) All filings, except wills, shall be on eight and one-half by eleven inch paper, without backings, of stock that can be microfilmed.

(B) All filings shall contain the name, address, telephone number, and attorney registration number of the individual counsel representing the fiduciary and, in the absence of counsel, the name, address, and telephone number of the fiduciary. Any filing not containing the above requirements may be refused.

(C) Failure of the fiduciary to notify the court of the fiduciary's current address shall be grounds for removal. Not less than ten days written notice of the hearing to remove shall be given to the fiduciary by regular mail at the last address contained in the case file or by other method of service as the court may direct.

(D) Filings containing partially or wholly illegible signatures of counsel, parties or officers administering oaths may be refused, or, if filed, may be stricken, unless the typewritten or printed name of the person whose signature is purported to appear is clearly indicated on the filing.

(E) All pleadings, motions, or other filings are to be typed or printed in ink and correctly captioned.

(F) Unless the court otherwise directs, counsel for the party in whose favor a judgment is rendered, shall prepare the proposed judgment entry and submit the original to the court with a copy to counsel for the opposing party. The proposed judgment entry shall be submitted within seven days after the judgment is rendered. Counsel for the opposing party shall have seven days to object to the court. If the party in whose favor a judgment is rendered fails to comply with this division, the matter may be dismissed or the court may prepare and file the appropriate entry.

(G) When a pleading, motion, judgment entry or other filing consists of more than one page, each page shall contain the case number in the upper portion of the page.

**Commentary (October 1, 1997)**

Sup. R. 57 is analogous to former C.P. Sup. R. 24.

Sup. R. 57(A) is unchanged.

Sup. R. 57(B) has been amended to require the attorney's Supreme Court Registration Number on all filings in addition to the name, address and telephone number of the attorney.

Sup. R. 57 (B) and (D) have been amended to substitute the term "filings" for "papers" as being more descriptive of the documents received by the court.

Sup. R. 57(C) has been amended to provide for removal of a fiduciary who fails to keep the court apprised of a current address. Sup. R. 57(C) has also been amended to reflect the notice requirements of R.C. 2109.24 requiring ten days notice upon the removal of the fiduciary. Sup. R. 57(C) has been amended to allow for service of notice to be by regular mail at the fiduciary's last known address instead of pursuant to Civil Rule 73(E). The amendment is to expedite the removal of dilatory fiduciaries and to timely complete the administration of estates by avoiding the eventual requirement of publication pursuant to Civil Rule 73(E)(6) and the requirement for certified mail notice when such notice is being given by the court.

See, generally R.C. 2109.02, 2109.06, 2109.18, 2109.19, 2109.24, 2109.31, 2109.53.

Sup. R. 57(E) has been amended to reflect recent case law that has noted a distinction between motions, pleadings and filings. The rule now requires all filings to be in ink.

Former C.P. Sup. R. 24(F) and (G) have been combined into new Sup. R. 57(F) since both matters were interrelated. There were no substantive changes made.

**RULE 58. Deposit for Court Costs.**

(A) Deposits in the amount set forth in a local rule shall be required upon the filing of any action or proceeding and additional deposits may be required.

(B) The deposit may be applied as filings occur.

**Commentary (October 1, 1997)**

Sup. R. 58 summarizes local practice and is analogous to former C.P. Sup. R. 25.

The reference to R.C. 2101.16 has been deleted as unnecessary in that the statute delegates the amount of the deposit to local rule.

**RULE 59. Wills.**

(A) Before an application is made to admit the will to probate, to appoint an estate fiduciary, or to relieve an estate from administration, each applicant or the applicant's attorney shall examine the index of wills deposited pursuant to section 2107.07 of the Revised Code. Wills deposited pursuant to section 2107.07 of the Revised Code previous to the will offered for probate shall be filed in the estate proceedings for record purposes only.

(B) Fiduciaries appointed to administer testate estates shall file a Certificate of Service of Notice of Probate of Will (Standard Probate Form 2.4) within two months of their appointment or be subject to removal proceedings. If required by the court, proof of service shall consist of either waivers of notice of the probate of will or certified mail return receipt cards as provided under Civil Rule 73(E)(3), or if necessary, under Civil Rule 73(E)(4) and (5). A waiver of notice may not be signed by any minor, or on behalf of a minor sixteen or seventeen years of age. See Civil Rule 4.2.

**Commentary (October 1, 1997)**

This rule substantially revises former C.P. Sup. R. 26. The title of Sup. R. 59 has been amended because the subject matter of the rule is more inclusive.

The provisions of former C.P. Sup. R. 26(A) and (D) have been deleted to reflect the repeal of R.C. 2107.13 and 2107.14 and reflect the revised method of admitting a will to probate effective May 31, 1990.

Sup. R. 59(A) has been amended to reflect wills in safekeeping pursuant to R.C. 2107.07. Sup. R. 59(A) imposes a duty upon the applicant or his or her attorney to ascertain before applying to administer an estate if a will is in safekeeping. The purpose of this division is to: (1) make certain that an estate is not administered intestate when a will in safekeeping does exist, (2) make certain the decedent's last will and testament has been offered for probate, and (3) remove all prior wills of a decedent from safekeeping.

Sup. R. 59(B) is amended to require a timely filing of the "Certificate of Service of Notice of Probate of Will" so that the will contest period will expire prior to the time for the filing of the account. The amended rule also confirms that waivers of notice of probate of wills shall conform to Civil Rule 4(D).

Former C.P. Sup. R. 26(C) has been entirely deleted. The requirement of R.C. 109.26 and 109.29 are adequately provided for in Standard Probate Form 2.0.

**RULE 60. Application for Letters of Authority to Administer Estate and Notice of Appointment.**

(A) Notice of an application for appointment of administrator shall be served at least seven days prior to the date set for hearing. If there is no known surviving spouse or next of kin resident of the state, the notice shall be served upon persons designated by the court.

(B) The administrator shall give notice of the appointment within seven days after the appointment to all persons entitled to inherit, including persons entitled to an allowance for support, unless those persons have been provided notice of the hearing on the appointment or have waived notice.

(C) The probate court shall serve by certified mail the spousal citation and summary of rights required by R.C. 2106.02 to the surviving spouse within 7 days of the initial appointment of the administrator or executor, unless a different time is established by local court rule.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 27. The title to Sup. R. 60 has been amended to be more descriptive of the rule's requirements.

Former C.P. Sup. R. 27(A) and (B) have been joined and incorporated under amended Sup. R. 60(A). Any language changes were merely grammatical and not substantive.

Amended Sup. R. 60(B) is a new division that deals with notice of the appointment of a fiduciary. Sup. R. 60(B) reflects local practice requiring that notice of the appointment be given to all persons interested in the decedent's estate, so that they may properly monitor their particular interests.

**RULE 61. Appraisers.**

(A) Without special application to the court, a fiduciary may allow to the appraiser as compensation for services a reasonable amount agreed upon between the fiduciary and the appraiser, provided the compensation does not exceed the amount allowed by local court rule. If no local court rule exists, the compensation shall be subject to court approval.

(B) If, by reason of the special and unusual character of the property to be appraised, the fiduciary is of the opinion that the appraisal requires the services of persons qualified in the evaluation of that property, a qualified appraiser may be appointed and allowed compensation as provided in division (A) of this rule.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 28. The title to Sup. R. 61 has been amended to be more inclusive and applies to appraisers in all probate matters. The term “appointment” in the title has been deleted since the rule no longer deals with this issue.

Former law required three disinterested appraisers. Former C.P. Sup. R. 28(A) was intended to clarify the transition from three appraisers to one appraiser. The rule is no longer needed and has been deleted.

Former divisions (B), (C), (D), and (F) attempted to set guidelines for appraiser fees when the court did not set forth a local rule. Division (A) now permits the compensation to be set by agreement of the fiduciary and appraiser unless set by local rule. All disputes shall be settled by the probate court.

Former C.P. Sup. R. 28(A), (B), (C), (D), and (F) are unnecessary since the appraiser’s compensation is adequately addressed by R.C. 2115.06.

Former C.P. Sup. R. 28(E) has been redesignated as Sup. R. 61(B) without substantive changes.

**RULE 62. Claims Against Estate.**

(A) When a claim has been filed with the court pursuant to section 2117.06 of the Revised Code, the fiduciary shall file a copy of any rejection of the claim with the court.

(B) If the court requires a hearing on claims or the fiduciary requests a hearing on claims or insolvency, the fiduciary shall file a schedule of all claims against the estate with the court. The schedule of claims shall be filed with the fiduciary's application for hearing or within ten days after the court notifies the fiduciary of a court-initiated hearing.

**Commentary (October 1, 1997)**

The rule is analogous to former C.P. Sup. R. 30. The title of Sup. R. 62 has been amended to be more inclusive and descriptive. R.C. 2117.06 neither limits nor requires that claims be filed with the court. Filing with the court is merely one alternative pursuant to R.C. 2117.06(A)(2).

The last sentence of former C.P. Sup. R. 30(A) has been deleted because the issue is adequately addressed by R.C. 2117.06(I).

The statutory reference in Sup. R. 62(B) has been deleted as limiting the former rule. Insolvency hearings have been added to the requirement of Sup. R. 62(B). There is no statutory provisions regarding advising the court of the specific claims in an insolvent estate. The court requires this information and the rule supplements this void.

**RULE 63. Application to Sell Personalty.**

An application to sell personal property shall include an adequate description of the property. Except for good cause shown, an order of sale shall not be granted prior to the filing of the inventory.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 31. Sup. R. 63 has been amended to delete requirements that are currently required by statute. See, R.C. 2109.45.

The first and last sentences of former C.P. Sup. R. 31 have been deleted as they duplicate the requirements of the statute. The second sentence has been amended to permit an order of sale to issue upon the filing of the inventory as opposed to the previous version, which permitted the order to be granted upon the approval of the inventory. This would expedite the administration by permitting the order to be granted at an earlier date.

**RULE 64. Accounts.**

(A) The vouchers or other proofs required by section 2109.302 and 2109.303 of the Revised Code and receipts filed or exhibited pursuant to section 2109.32(B)(1)(b) of the Revised Code, shall be referenced to the account by number, letter, or date.

(B) If land has been sold during the accounting period, the account shall show the gross amount of the proceeds and include a copy of the closing statement itemizing all of the disbursements.

(C) Receipts for distributive shares signed by persons holding power of attorney may be accepted, provided the power of attorney is recorded in the county in which the estate is being administered and a copy of the recorded power is attached to the account.

**(D) Exhibiting assets.**

(1) The court may require that all assets be exhibited at the time of filing a partial account.

(2) Cash balances may be verified by exhibiting a financial institution statement, passbook, or a current letter from the financial institution in which the funds are deposited certifying the amount of funds on deposit to the credit of the fiduciary. Assets held in a safe deposit box of a fiduciary or by a surety company on fiduciary's bond may be exhibited by filing a current inventory of the assets. The inventory shall be certified by the manager of the safe deposit box department of the financial institution leasing the safe deposit box or by a qualified officer of the surety company if the assets are held by a surety. If the assets are held by a bank, trust company, brokerage firm, or other financial institution, exhibition may be made by proper certification as to the assets so held. For good cause shown, the court may designate a deputy clerk of the court to make an examination of the assets located in the county, not physically exhibited to the court or may appoint a commissioner for that purpose if the assets are located outside the county. The commissioner appointed shall make a written report of findings to the court.

(E) A final or distributive account shall not be approved until all court costs have been paid.

**Commentary (October 1, 1997)**

This rule revises former C.P. Sup. R. 32.

Former C.P. Sup. R. 32(A) and (B) have been deleted. This subject matter is more appropriately addressed in proposed Sup. R. 78, the case management rule.

Former C.P. Sup. R. 32(C) has been changed grammatically and relettered as division (A). The substance has remained the same in that it requires the vouchers to be cross referenced to the

account entries. Former divisions (A)(1) to (4) have been deleted in that they describe the parameters of the probate forms created under Sup. R. 52(D) and are therefore superfluous.

Former C.P. Sup. R. 32(D) has been relettered as division (B). The rule has been amended to require a closing statement to be submitted in lieu of the reporting requirements under the former rule.

Former C.P. Sup. R. 32(E) has been deleted to reflect local practice where each guardianship of a minor's estate is administered in a separate case file and a separate corresponding case number.

Former C.P. Sup. R. 32(F) has been relettered as division (C) and amended to require that when a power of attorney is used for the receipt of assets, the instrument must be recorded in the county of the court accepting the account. The previous rule required the instrument to be recorded in the State of Ohio.

Former C.P. Sup. R. 32(G) has been relettered as division (D). The term "safety deposit box" has been amended to "safe deposit box" to parallel Revised Code references. The term "financial institution" has been substituted for "bank" in order to be consistent with the terminology of Title XI of the Revised Code and to be more inclusive.

Former C.P. Sup. R. 32(H) has been relettered as division (E), and no amendments or language changes have been made.

### **Commentary (April 8, 2004)**

This Rule Amendment is necessary because of the adoption of Sub. H.B. 85, effective October 31, 2001.

**RULE 65. Land Sales - R.C. Chapter 2127.**

(A) In all land sale proceedings, the plaintiff, prior to the issuance of an order finding the sale necessary, shall file with the court evidence of title showing the record condition of the title to the premises described in the complaint and prepared by a title company licensed by the state of Ohio, an attorney's certificate, or other evidence of title satisfactory to the court. Evidence of title shall be to a date subsequent to the date on which the complaint was filed.

(B) The plaintiff shall give notice of the time and place of sale by regular mail at least three weeks prior to the date of a public sale to all defendants at their last known addresses. Prior to the public sale, the plaintiff shall file a certificate stating that the required notice was given to the defendants and the sale was advertised pursuant to section 2127.32 of the Revised Code.

(C) In all private land sale proceedings by civil action, the judgment entry confirming sale, ordering issuance of deed, and ordering distribution shall show the gross amount of the proceeds and include a copy of the proposed closing statement itemizing all of the proposed disbursements.

(D) The court may appoint a disinterested person, answerable to the court, who shall investigate the circumstances surrounding the proposed transaction, view the property, ascertain whether the proposed sale is justified and report findings in writing. The report shall be a part of the record. The compensation for the person performing these services shall be fixed by the court, according to the circumstances of each case, and shall be taxed as costs.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 33 and has been amended to be inclusive and to apply to all land sale proceedings. Former C.P. Sup. R. 33(A) only applied to public land sale, and not private land sale proceedings. The rule has been amended to require that evidence of title prepared by a title company must be prepared by a title company that is licensed in the State of Ohio.

Former C.P. Sup R. 33(B) has been amended to delete the requirement of giving notice by posting the notice of sale upon the premises. This appeared unnecessary since actual notice of the sale must be given to all defendants, and R.C. 2127.32 requires notice by publication to the general public.

Reference to the filing of an affidavit has been amended to refer to a "certificate," to reflect Civil Rule 73(H), which does not require certificates and pleadings to be under oath. An affidavit, by definition, is under oath. The content of the "certificate" has been amended to comply with the amended notice requirements of division (B).

Former C.P. Sup. R. 33(C) has been deleted in that the requirements are unnecessary and adequately covered by R.C. 2127.23 and 2127.35.

Amended division (C) requires that a proposed closing statement be attached to the order of confirmation of sale issued pursuant to R.C. 2127.35. The inclusion of the proposed closing statement provides the court with the details of the costs associated with the land sale proceedings.

Division (D) has been amended in order to be made gender neutral. No substantive changes have been made.

**RULE 66. Guardianships.**

(A) All applications for the appointment of a guardian on the grounds of mental incompetency shall be accompanied by either a statement of a physician or clinical psychologist or a statement that the prospective ward has refused to submit to an examination.

(B) An Application for Authority to Expend Funds (Standard Probate Form 15.7) shall not be approved until an Inventory (Standard Probate Form 15.5) has been filed.

(C) An application for allowance of care and support of a minor shall allege, if such is the fact, that the father and mother are financially unable to provide the items for which the amount is sought.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 34, and the title has been amended to be more inclusive in that the rule does not only apply to the guardian but also to all issues affecting the guardianship.

Division (A) has been deleted in that it described the parameters of the probate forms created under Sup. R. 51(D) and is therefore superfluous.

Former C.P. Sup. R. 34(B) has been relettered as division (A). The rule required the submission of a statement of a physician upon the filing of an application for guardianship or an application for dismissal of a guardianship or a declaration of competency. The rule has been amended to permit a clinical psychologist to complete the expert evaluation. This amendment recognizes that a psychologist's report is often more thorough than that of the physician and recognizes that the psychologist may complete the expert evaluation for the biennial report. The rule has not been expanded to permit the initial evaluation to be completed by a licensed clinical social worker.

The requirement for an expert evaluation for the dismissal or termination of a guardianship has been deleted due to statutory changes under R.C. 2111.49(C).

Former C.P. Sup. R. 34(C) has been deleted and incorporated in part in amended division (B), which continues the requirement to file an inventory prior to the authorization of any expenditure required in former C.P. Sup. R. 34(C).

Former C.P. Sup. R. 34(D) has been relettered as division (C). Division (C) has been amended to delete the term "parent-guardian" from the rule and to allow the application to be filed by the appointed guardian, who is not in all cases also the parent of the minor ward. With an application to expend funds for support of a minor ward, the rule formerly required a parent-guardian to state whether the parents had the ability to provide the support. The amendment expands the rule to require any guardian to state whether the parents can provide the support when requesting expenditure of the ward's funds for support.

**RULE 67. Estates of Minors of Not More than Ten Thousand Dollars.**

(A) Each application relating to a minor shall be submitted by the parent or parents or by the person having custody of the minor and shall be captioned in the name of the minor.

(B) Each application shall indicate the amount of money or property to which the minor is entitled and to whom such money or property shall be paid or delivered. Unless the court otherwise orders, if no guardian has been appointed for either the receipt of an estate of a minor or the receipt of a settlement for injury to a minor, the attorney representing the interests of the minor shall prepare an entry that orders all of the following:

- (1) The deposit of the funds in a financial institution in the name of the minor;
- (2) Impounding the principal and interest;
- (3) Releasing the funds only upon an order of the court or to the minor at the age of majority.

(C) The entry shall be presented at the time the entry dispensing with appointment of a guardian or approving settlement is approved. The attorney shall be responsible for depositing the funds and for providing the financial institution with a copy of the entry. The attorney shall obtain a Verification of Receipt and Deposit (Standard Probate Form 22.3) from the financial institution and file the form with the court within seven days from the issuance of the entry.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 35. The title of the rule has been amended to include only the estates of minor wards, since the substantive rules even under former C.P. Sup. R. 35 only spoke of minors. The amended title is more descriptive of the subject matter covered by the rule.

Division (A) has been amended to delete any reference to one application being permitted to be filed on behalf of all minors of the same parent. This amendment is to reflect local practice whereby a separate application and corresponding case number is required for each minor ward. The rationale for the amendment is that the amount of funds received and the dates of majority are rarely the same for each ward. The remainder of the amendments to this division are grammatical and not substantive.

Divisions (B) and (C) set forth the requirements of the judgment entry counsel presents to the court for estates of minors less than \$10,000. The words “unless the court otherwise orders” has been added in division (B) to alert counsel to the fact that specific circumstances or local court rule may alter these requirements. In addition, the former version of the rule required the attorney to deposit all funds within seven days of the approval of the entry and to obtain a receipt from the financial institution. As amended the rule requires the receipt to be filed with the court within

seven days of the issuance of the entry and references the uniform form number of the receipt. The term “bank” has been changed to “financial institution” to reflect the term utilized in Title XI of the Revised Code and to recognize that funds are invested in institutions other than banks.

**RULE 68. Settlement of Injury Claims of Minors.**

(A) An application for settlement of a minor's claim shall be brought by the guardian of the estate. If there is no guardian appointed and the court dispenses with the need for a guardian, the application shall be brought by the parents of the child or the parent or other individual having custody of the child. The noncustodial parent or parents shall be entitled to seven days notice of the application to settle the minor's claim which notice may be waived. The application shall be captioned in the name of the minor.

(B) The application shall be accompanied by a current statement of an examining physician in respect to the injuries sustained, the extent of recovery, and the permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the minor as a result of the incident causing the injury to the minor. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

(C) The injured minor and the applicant shall be present at the hearing.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 36 and 37. Former C.P. Sup. R. 36 and 37 dealt with claims to minors and bifurcated the claims into claims brought by the guardian and claims of less than \$10,000 where there was no guardian. The former rules were virtually identical and thus the issues relating to minors have been consolidated into Sup. R. 68 to avoid duplication.

Division (A) has been amended to incorporate the provisions of former C.P. Sup. R. 37(A). In addition, the rule has been amended to require notice to the parents of the minor regardless of their county of residence and to increase the notice time requirement to the parents from three days to seven days in order that the notice is more meaningful.

Division (B) has been amended to provide that the statement of the examining physician is mandatory as opposed to discretionary. Former C.P. Sup. R. 36(D) and (E) have been consolidated into division (B)

Division (C) has been amended to make the applicant's and the minor's appearance at the hearing mandatory. This is to comply with prevailing local practice where the court wishes to view the minor in order to evaluate the nature of the injuries. Pursuant to Sup. R. 76, the court has the ability to waive the appearance of the minor for good cause.

**RULE 69. Settlement of Claims of or Against Adult Wards.**

(A) An application for settlement of a claim in favor of or against an adult ward shall be brought by the guardian of the estate. Notice of the hearing on the application shall be given to all persons who are interested parties to the proposed settlement, as determined by the court. The court may authorize or direct the guardian of the ward's estate to compromise and settle claims as the court considers to be in the best interest of the ward. The court may dispense with notice of hearing.

(B) The application for settlement of an injury claim shall be accompanied by a current statement of an examining physician describing the injuries sustained, the extent of recovery from those injuries, and permanency of any injuries. The application shall state what additional consideration, if any, is being paid to persons other than the ward as a result of the incident causing the injury to the ward. The application shall state what arrangement, if any, has been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

**Commentary (October 1, 1997)**

This rule is not analogous to former C.P. Sup. R. 37, which has been incorporated in Sup. R. 68.

Sup. R. 69 is basically a new rule as it applies to all claims of incompetent adult wards. The purpose for the amended rule is to provide the court with information necessary to make an informed decision regarding a proposed settlement.

Division (A) provides for the application to settle a claim to be brought by the ward's guardian. Absent a guardianship, the "ward" is competent to settle the claim without court approval. Division (A) further gives the court discretion to require notice to interested parties or to dispense with notice with court approval.

Division (B) is similar to Sup. R. 68(B), which provides the court with adequate information to make an informed decision. Division (C) is similar to the last sentence of Sup. R. 68 (B) and requires disclosure to the court and approval of the court of counsel fees in pursuing the adult ward's claim.

**RULE 70. Settlement of Wrongful Death and Survival Claims.**

(A) An application to approve settlement and Distribution of Wrongful Death and Survival Claims (Standard Probate Form 14.0) shall contain a statement of facts, including the amount to be allocated to the settlement of the claim and the amount, if any, to be allocated to the settlement of the survival claim. The application shall include the proposed distribution of the net proceeds allocated to the wrongful death claim.

(B) The fiduciary shall give written notice of the hearing and a copy of the application to all interested persons who have not waived notice of the hearing. Notwithstanding the waivers and consents of the interested persons, the court shall retain jurisdiction over the settlement, allocation, and distribution of the claims.

(C) The application shall state what arrangements, if any, have been made with respect to counsel fees. Counsel fees shall be subject to approval by the court.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 38. The title has been amended to stress the existence and recognition of survival claims in a decedent's estate and to be in compliance with Standard Probate Forms Series 14.

Division (A) has been amended to incorporate the title of the uniform form as the description of the application to which the rule applies. The phrase "right of action for conscious pain and suffering" has been changed to "survival claim" as being a more complete description of the personal claim of the decedent. The remaining changes are grammatical and intended to stress the need for an allocation between the survival claim and the wrongful death claim.

Division (A) now requires a copy of the proposed distribution in addition to the notice of hearing to be served upon all interested persons who have not waived notice of the hearing. Those who have waived notice are required to receive a copy of the proposed distribution by the requirements of Form 14.1. The amended paragraph contains instructional language to remind interested persons and counsel that the court retains jurisdiction over the settlement notwithstanding an agreement by the parties as to the distribution.

Division (C) has been amended grammatically. There are no substantive changes.

**RULE 71. Counsel Fees.**

(A) Attorney fees in all matters shall be governed by Rule 1.5 of the Ohio Rules of Professional Conduct.

(B) Attorney fees for the administration of estates shall not be paid until the final account is prepared for filing unless otherwise approved by the court upon application and for good cause shown.

(C) Attorney fees may be allowed if there is a written application that sets forth the amount requested and will be awarded only after proper hearing, unless otherwise modified by local rule.

(D) The court may set a hearing on any application for allowance of attorney fees regardless of the fact that the required consents of the beneficiaries have been given.

(E) Except for good cause shown, attorney fees shall not be allowed to attorneys representing fiduciaries who are delinquent in filing the accounts required by section 2109.30 of the Revised Code.

(F) If a hearing is scheduled on an application for the allowance of attorney fees, notice shall be given to all parties affected by the payment of fees, unless otherwise ordered by the court.

(G) An application shall be filed for the allowance of counsel fees for services rendered to a guardian, trustee, or other fiduciary. The application may be filed by the fiduciary or attorney. The application shall set forth a statement of the services rendered and the amount claimed in conformity with division (A) of this rule.

(H) There shall be no minimum or maximum fees that automatically will be approved by the court.

(I) Prior to a fiduciary entering into a contingent fee contract with an attorney for services, an application for authority to enter into the fee contract shall be filed with the court, unless otherwise ordered by local court rule. The contingent fee on the amount obtained shall be subject to approval by the court.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 40. Divisions (A), (B), (C), (D), (E), (F), and (G) have not been amended substantively.

The second sentence of division (H), pertaining to contingent fee contracts, has been transferred to a new division (I) where it has been combined with former C.P. Sup. R. 39.

Division (I) recognizes that unless a governing instrument has given the power to the fiduciary, the fiduciary has no inherent authority to enter into a contingent fee contract on behalf of the trust. Authority must be granted by the court. The rule as amended adopts the previous rule which required the fiduciary to file an application to enter into a contingent fee contract prior to the contract becoming enforceable. The rule has been amended to permit courts to establish their own procedure in the contingent fee approval process. The second sentence of division (I) was a portion of former C.P. Sup. R. 39 and restates the court's authority to review the contingent fee contract to ascertain whether it meets with the additional standards of this rule.

**RULE 72. Executor's and Administrator's Commissions.**

(A) Additional compensation for extraordinary services may be allowed upon an application setting forth an itemized statement of the services rendered and the amount of compensation requested. The court may require the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73(E).

(B) The court may deny or reduce commissions if there is a delinquency in the filing of an inventory or an account, or if, after hearing, the court finds that the executor or administrator has not faithfully discharged the duties of the office.

(C) The commissions of co-executors or co-administrators in the aggregate shall not exceed the commissions that would have been allowed to one executor or administrator acting alone, except where the instrument under which the co-executors serve provides otherwise.

(D) Where counsel fees have been awarded for services to the estate that normally would have been performed by the executor or administrator, the executor or administrator commission, except for good cause shown, shall be reduced by the amount awarded to counsel for those services.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 41. Division (A) has primarily been amended for grammatical purposes. The term "parties" has been replaced with the more descriptive term "interested person". The manner of service pursuant to Civil Rule 4.1 has been replaced with the more appropriate reference to Civil Rule 73(E), which incorporates by reference Civil Rule 4.1.

Division (B) has been amended to parallel R.C. 2113.35. The rule defines the delinquent filing of inventories and accounts as acts that are included within the phrase "not faithfully discharged the duties of the office".

Division (D) has been amended to be more inclusive and to apply to all counsel fees and not only extraordinary fees. The rule continues to allow the probate court discretion to reduce fiduciary fees by the amount of attorney fees charged in performing fiduciary services. The remaining language changes in the division are grammatical and not substantive.

**RULE 73. Guardian's Compensation.**

(A) Guardian's compensation shall be set by local rule.

(B) Additional compensation for extraordinary services, reimbursement for expenses incurred and compensation of a guardian of a person only may be allowed upon an application setting forth an itemized statement of the services rendered and expenses incurred and the amount for which compensation is applied. The court may require the application to be set for hearing with notice given to interested persons in accordance with Civil Rule 73(E).

(C) The compensation of co-guardians in the aggregate shall not exceed the compensation that would have been allowed to one guardian acting alone.

(D) The court may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds the guardian has not faithfully discharged the duties of the office.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 42. Division (A) has been amended to delete reference to Sup. R. 75.

Division (B) has been amended to clarify the requirements and procedure for extraordinary compensation of a guardian of the estate and for compensation of a guardian of a person who is not also the guardian of the estate. The procedure parallels the procedure that previously was in place for extraordinary compensation to an executor or administrator. Division (B) incorporates the requirements of former C.P. Sup. R. 42(C), which has been deleted. The reference to service in accordance with Civil Rule 4.1 has been deleted, since service is controlled by Civil Rule 73.

Division (C) has been relettered and amended grammatically.

Division (D) has been relettered. The first sentence, requiring a computation of the guardian fee to be attached to the account has been deleted in that the computation has often been previously filed thus causing a duplicity of filings. The second sentence has been deleted in that the compensation is set by local rule as required in division (A). The statement requiring the filing of the local rule with the Supreme Court has been deleted in that the filing is required by Sup. R. 5(A) and Sup. R. 75.

**RULE 74. Trustee's Compensation.**

(A) Trustee's compensation shall be set by local rule.

(B) Additional compensation for extraordinary services may be allowed upon application setting forth an itemized statement of the services rendered and the amount of compensation requested. The court may require that the application be set for hearing with notice given to interested parties in accordance with Civil Rule 73(E).

(C) The compensation of co-trustees in the aggregate shall not exceed the compensation that would have been allowed to one trustee acting alone, except where the instrument under which the co-trustees are acting provides otherwise.

(D) Except for good cause shown, neither compensation for a trustee nor fees to counsel representing the trustee shall be allowed while the trustee is delinquent in the filing of an account.

(E) The court may deny or reduce compensation if there is a delinquency in the filing of an inventory or account, or after hearing, the court finds the trustee has not faithfully discharged other duties of the office.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 43. The statement requiring the filing of the local rule with the Supreme Court has been deleted from division (A) in that the filing is required by Sup. R. 5(A) and Sup. R. 75.

Former C.P. Sup. R. 43(C) has been deleted as being unnecessary.

Former C.P. Sup. R. 43(D) has been relettered division (C) and amended to clarify the requirements and procedure for extraordinary compensation for the trustee. The procedure parallels the procedure that was previously in place for extraordinary compensation to an executor or administrator. Division (C) incorporates the requirements of former C.P. Sup. R. 43(C), which has been deleted. The reference to service in accordance with Civil Rule 4.1 has been revised, since service is controlled by Civil Rule 73.

Former C.P. Sup. R. 43(E) has been relettered as division (D) and has been amended grammatically without substantive changes.

Division (E) is new and parallels R.C. 2113.35. It defines the delinquent filing of inventories and accounts as acts that are included within the phrase "not faithfully discharged other duties of the office."

**RULE 75. Local Rules.**

Local rules of the court shall be numbered to correspond with the numbering of these rules and shall incorporate the number of the rule it is intended to supplement. For example, a local rule that supplements Sup. R. 61 shall be designated County Local Rule 61.1.

**Commentary (October 1, 1997)**

This rule is analogous to former C.P. Sup. R. 44. Former C.P. Sup. R. 44(A) has been deleted entirely as its provisions are addressed adequately by Sup. R. 5.

**RULE 76. Exception to the Rules.**

Upon application, and for good cause shown, the probate division of the court of common pleas may grant exception to Sup. R. 53 to 79.

**Commentary (October 1, 1997)**

This rule is identical to former C.P. Sup. R. 45.

**RULE 77. Compliance.**

Failure to comply with these rules may result in sanctions as the court may direct.

**Commentary (October 1, 1997)**

This rule is identical to former C.P. Sup. R. 46.

**RULE 78. Probate Division of the Court of Common Pleas -- Case Management in Decedent's Estates, Guardianship, and Trusts.**

(A) Each fiduciary shall adhere to the statutory or court-ordered time period for filing the inventory, account, and, if applicable, guardian's report. The citation process set forth in section 2109.31 of the Revised Code shall be utilized to ensure compliance. The attorney of record and the fiduciary shall be subject to the citation process. The court may modify or deny fiduciary commissions or attorney fees, or both, to enforce adherence to the filing time periods.

(B)(1) If a decedent's estate must remain open more than six months pursuant to R.C. 2109.301(B)(1), the fiduciary shall file an application to extend administration (Standard Probate Form 13.8).

(2) An application to extend the time for filing an inventory, account, or guardian's report, shall not be granted unless the fiduciary has signed the application.

(C) The fiduciary and the attorney shall prepare, sign, and file a written status report with the court in all decedent's estates that remain open after a period of thirteen months from the date of the appointment of the fiduciary and annually thereafter. At the court's discretion, the fiduciary and the attorney shall appear for a status review.

(D) The court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory, account, or guardian's report to show cause why the attorney should not be barred from being appointed in any new proceeding before the court or serving as attorney of record in any new estate, guardianship, or trust until all of the delinquent pleadings are filed.

(E) Upon filing of the exceptions to an inventory or to an account, the exceptor shall cause the exceptions to be set for a pretrial within thirty days. The attorneys and their clients, or individuals if not represented by an attorney, shall appear at the pretrial. The trial shall be set as soon as practical after pretrial. The court may dispense with the pretrial and proceed directly to trial.

**Commentary (October 1, 1997)**

This rule imposes case management standards for actions filed in the probate division of the court of common pleas. In addition to establishing time periods for filing of documents and conducting pretrials and trials, the rule requires that an application for a continuance must be signed by the fiduciary and that written status reports be filed in estates that are open for more than one year. The rule also contains a citation procedure that may be employed to bar an attorney who is delinquent in the filing of an inventory, account, or guardian's report from being appointed or serving as attorney of record in any new proceeding until all delinquent pleadings have been filed.

**Rule 79 is reserved for future use**

**RULE 80. Definitions.**

As used in Rules 80 through 87 of the Rules of Superintendence for the Courts of Ohio:

- (A) “Consecutive interpretation” means interpretation in which a foreign language interpreter waits until the speaker finishes an entire message rendered in a source language before rendering the message in a target language.
- (B) “Consortium for Language Access in the Courts” means the multi-state partnership dedicated to developing foreign language interpreter proficiency tests, making tests available to member states, and regulating the use of the tests.
- (C) “Foreign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a limited English proficient or non-English speaking party or witness through consecutive interpretation, simultaneous interpretation, or sight translation.
- (D) “Limited English proficient” means an individual who does not speak English as a primary language or who has a limited ability to read, speak, write, or understand English and requires the assistance of a foreign language interpreter to effectively communicate.
- (E) “Program” means the Supreme Court Interpreter Services Program.
- (F) “Provisionally qualified foreign language interpreter” means a foreign language interpreter who has received provisional certification from the Program pursuant to Sup. R. 81(G)(3).
- (G) “Sight translation” means interpretation in which a foreign language interpreter reads aloud in a target language a written document composed in a source language.
- (H) “Sign language interpreter” means an individual who, as part of any case or court function, facilitates communication between or among legal professionals and a deaf, hard of hearing, or deaf blind party, witness, or juror through the use of sign language or other manual or oral representation of a spoken language.
- (I) “Simultaneous interpretation” means interpretation in which, after a brief pause to listen for or view key grammatical information, a foreign language interpreter or sign language interpreter renders in a target language the message of a person rendered in a source language as the person continues to communicate.
- (J) “Supreme Court certified foreign language interpreter” means a foreign language interpreter who has received certification from the Program pursuant to Sup. R. 81.

(K) “Supreme Court certified sign language interpreter” means a sign language interpreter who has received certification from the Program pursuant to Sup. R. 82.

(L) “Translator” means an individual who, as part of any case or court function, takes written text composed in a source language and renders it into an equivalent written text of a target language.

**RULE 81. Certification for Foreign Language Interpreters.**

**(A) Certification**

A foreign language interpreter may receive certification from the Program and be styled a “Supreme Court certified foreign language interpreter” pursuant to the requirements of this rule.

**(B) General requirements for certification**

An applicant for certification as a Supreme Court certified foreign language interpreter shall satisfy each of the following requirements:

- (1) Be at least eighteen years old;
- (2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;
- (3) Have not been convicted of any crime involving moral turpitude.

**(C) Application for certification**

An applicant for certification as a Supreme Court certified foreign language interpreter shall file an application with the Program. The application shall include each of the following:

- (1) Verification the applicant is at least eighteen years old;
- (2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;
- (3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;
- (4) A nonrefundable application fee in an amount as determined by the Program.

**(D) Orientation training**

An applicant shall attend an orientation training session conducted or sponsored by the Program providing an introductory course to interpreting and addressing ethics, legal procedure and terminology, modes of interpretation, and other substantive topics. The Program may waive this requirement upon demonstration by the applicant of equivalent experience or training. The Program shall charge the applicant a nonrefundable fee in an

amount as determined by the Program for attendance at a Program-sponsored training session.

**(E) Written examination**

(1) An applicant for certification as a Supreme Court certified foreign language interpreter shall take the written examination of the Consortium for Language Access in the Courts. The examination shall be administered by the Program in accordance with the standards described in the test administration manuals of the Consortium.

(2) To pass the written examination of the Consortium for Language Access in the Courts, an applicant shall receive an overall score of eighty percent or better in the English language and grammar, court-related terms and usage, and professional conduct sections of the examination.

(3) An applicant who fails the written examination of the Consortium for Language Access in the Courts shall wait one year before retaking the examination.

(4) An applicant who has taken the written examination of the Consortium for Language Access in the Courts in another Consortium member state within the past twenty-four months may apply to the Program for recognition of the score. The Program shall recognize the score if it is substantially comparable to the score required under division (E)(2) of this rule.

**(F) Post-written examination training course**

Upon compliance with the written examination requirements of division (E) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall attend a training course sponsored by the Program focusing on simultaneous, consecutive, and sight translation modes of interpretation in English and the target language of the applicant. The Program may charge the applicant a nonrefundable fee in an amount as determined by the Program for attendance at the training course.

**(G) Oral examination**

(1) After attending the post-written examination training course pursuant to division (F) of this rule, an applicant for certification as a Supreme Court certified foreign language interpreter shall take the oral examination of the Consortium for Language Access in the Courts. The examination shall be administered by the Program in accordance with the standards described in the test administration manuals of the Consortium.

(2) To pass oral examination of the Consortium for Language Access in the Courts, an applicant shall receive a score of seventy percent or better in each of the sections of the examination.

(3) An applicant who receives a score of less than seventy percent but at least sixty percent in each of the sections of the oral examination of the Consortium for Language Access in the Courts shall receive provisional certification from the Program and be styled a “provisionally qualified foreign language interpreter.” The applicant may maintain provisional certification for up to twenty-four months following the examination. If the applicant fails to receive an overall score of at least seventy percent in the sections of the examination within this time frame, the provisional certification of the applicant shall cease.

(4) An applicant who receives a score of at least seventy percent in two of the sections of the oral examination of the Consortium for Language Access in the Courts may carry forward the passing scores for up to twenty-four months or two testing cycles, whichever occurs last. If the applicant fails to successfully pass any previously failed sections of the examination during the time period which passing scores may be carried forward, the applicant shall complete all sections of the examination at a subsequent examination. An applicant may not carry forward passing scores from an examination taken in another Consortium member state.

**(H) Written and oral examination preparation**

The Program shall provide materials to assist applicants for certification as Supreme Court certified foreign language interpreters in preparing for the written and oral examinations of the Consortium for Language Access in the Courts, including overviews of each examination. The Program also shall provide and coordinate training for applicants.

**(I) Reciprocity**

An applicant for certification as a Supreme Court certified foreign language interpreter who has previously received certification as a foreign language interpreter may apply to the Program for certification without fulfilling the training and examination requirements of division (D) through (G) of this rule as follows:

(1) An applicant who has received certification from the federal courts shall provide proof of certification and be in good standing with the certifying body.

(2) An applicant who has received certification from another member state of the Consortium for Language Access in the Courts shall provide proof of having passed the oral examination of Consortium. The Program may verify the test score information and testing history before approving certification.

(3) An applicant who has received certification from the National Association of Judiciary Interpreters and Translators shall provide proof of having received a score on the examination of the Association substantially comparable to the scores

required under divisions (E)(2) and (G)(2) of this rule. The Program may verify the test score information and testing history before approving reciprocal certification.

(4) Requests for reciprocal certification from all other applicants shall be reviewed by the Program on a case-by-case basis, taking into consideration testing criteria, reliability, and validity of the examination procedure of the certifying body. The Program shall verify the test score of the applicant after accepting the certification criteria of the certifying body.

**(J) Oath or affirmation**

Each Supreme Court certified foreign language interpreter and provisionally qualified foreign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule.

**RULE 82. Certification for Sign Language Interpreters.**

**(A) Certification**

A sign language interpreter who has received a passing score on the “Specialist Certification: Legal” examination of the Registry of Interpreters for the Deaf may receive certification from the Program and be styled a “Supreme Court certified sign language interpreter” pursuant to the requirements of this rule.

**(B) General requirements for certification**

An applicant for certification as a Supreme Court certified sign language interpreter shall satisfy each of the following requirements:

- (1) Be at least eighteen years old;
- (2) Be a citizen or legal resident of the United States or have the legal right to remain and work in the United States;
- (3) Have not been convicted of any crime involving moral turpitude.

**(C) Application for certification**

An applicant for certification as a Supreme Court certified sign language interpreter shall file an application with the Program. The application shall include each of the following:

- (1) Verification the applicant is at least eighteen years old;
- (2) Verification the applicant is a legal resident or citizen of the United States or has the legal right to remain and work in the United States;
- (3) A copy of a completed criminal background check showing no conviction of a crime involving moral turpitude;
- (4) Proof of having received a passing score on the “Specialist Certification: Legal” examination;
- (5) A nonrefundable application fee in an amount as determined by the Program.

**(D) Oath or affirmation**

Each Supreme Court certified sign language interpreter shall take an oath or affirmation under which the interpreter affirms to know, understand, and act according to the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule.

**RULE 83. Revocation of Certification.**

The Program may revoke the certification of a Supreme Court certified foreign language interpreter or a Supreme Court certified sign language interpreter or the provisional certification of a provisionally qualified foreign language interpreter for any of the following reasons:

- (A) A material omission or misrepresentation in the application for certification from the interpreter;
- (B) A substantial breach of the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule;
- (C) Noncompliance with the applicable continuing education requirements of Rule 85 of the Rules of Superintendence for the Courts of Ohio.

**RULE 84. Code of Professional Conduct for Court Interpreters and Translators.**

Supreme Court certified foreign language interpreters, Supreme Court certified sign language interpreters, provisionally qualified foreign language interpreters, and translators shall be subject to the Code of Professional Conduct for Court Interpreters and Translators, as set forth in Appendix H to this rule.

**RULE 85. Continuing Education.**

**(A) Requirements**

(1) Each Supreme Court certified foreign language interpreter and Supreme Court certified sign language interpreter shall complete and report, on a form provided by the Program, at least twenty-four credit hours of continuing education offered or accredited by the Program for each two-year reporting period. Six of the credit hours shall consist of ethics instruction and the remaining eighteen general credit hours shall be relevant to the work of the interpreter in the legal setting. The interpreter may carry forward a maximum of twelve general credit hours into the following biennial reporting period.

(2) Each provisionally qualified foreign language interpreter shall complete and report, on a form provided by the Program, at least twenty-four credit hours of continuing education offered or accredited by the Program within twenty-four months after the date of the last oral examination of the Consortium for Language Access in the Courts administered by the Program.

**(B) Duties of the Program**

In administering the continuing education requirements of this rule, the Program shall do both of the following:

(1) Keep a record of the continuing education hours of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter, provided it shall be the responsibility of the interpreter to inform the Program of meeting the continuing education requirements;

(2) Accredit continuing education programs, activities, and sponsors and establish procedures for accreditation, provided any continuing education programs or activities offered by the Consortium for Language Access in the Courts, the National Association of Judiciary Interpreters and Translators, the Registry of Interpreters for the Deaf, and the National Interpreter Council shall not require accreditation. The Program may assess a reasonable nonrefundable application fee in an amount as determined by the Program for a sponsor submitting a program or activity for accreditation.

**RULE 86. Certification Roster.**

The Program shall maintain a list of each Supreme Court certified foreign language interpreter, Supreme Court certified sign language interpreter, and provisionally qualified foreign language interpreter who is in compliance with the applicable continuing education requirements of Rule 85 of the Rules of Superintendence for the Courts of Ohio and shall post the list on the website of the Supreme Court.

**RULE 87. Establishment of Procedures by the Program.**

The Program may establish procedures as needed to implement Rules 80 through 86 of the Rules of Superintendence for the Courts of Ohio.

**Rules 88-98 are reserved for future use**

**RULE 99. Effective Date.**

(A) Except as otherwise provided in this rule, the Rules of Superintendence, adopted by the Supreme Court of Ohio on April 15, 1997, shall take effect on July 1, 1997. The rules govern all proceedings in actions brought on or after the effective date and to further proceedings in actions then pending, except to the extent that application in a particular pending action would not be feasible or would work an injustice, in which case the former procedure applies. Sup. R. 37(A)(4)(b) and (c) and 43(B)(2) shall take effect January 1, 1998.

(B) The amendments to Sup. R. 51 to 78, adopted by the Supreme Court of Ohio on July 7, 1997, shall take effect on October 1, 1997.

(C) Sup. R. 26 to 26.05, adopted by the Supreme Court of Ohio on July 7, 1997, shall take effect on October 1, 1997.

(D) The amendments to standard probate forms 18.0, 18.1, 18.2, 18.3, 18.4, 18.5, 18.6, 18.7, 18.8, and 18.9, adopted by the Supreme Court of Ohio on August 26, 1997, shall take effect on October 1, 1997.

(E) The amendments to Sup. R. 26.02 to 26.05 adopted by the Supreme Court of Ohio on September 9, 1997, shall take effect on October 1, 1997.

(F) The amendments to Sup. R. 10.01, 10.02 and standard domestic violence protection order forms (Forms 10.01-A to 10.01-J and 10.02-A), adopted by the Supreme Court of Ohio on October 7, 1997, shall take effect January 1, 1998.

(G) The amendments to standard domestic violence protection order form 10.02-A, adopted by the Supreme Court of Ohio on November 4, 1997, shall take effect on January 1, 1998.

(H) The amendments to Sup.R. 16 of the Rules of Superintendence for the Courts of Ohio, adopted by the Supreme Court on September 9, 1997, shall take effect on November 24, 1997.

(I) The amendments to Sup. R. 10 of the Rules of Superintendence for the Courts of Ohio, adopted by the Supreme Court on March 24, 1998, shall take effect on March 24, 1998.

(J) The amendments to Sup.R. 9 of the Rules of Superintendence for the Courts of Ohio, adopted by the Supreme Court on May 12, 1998, shall take effect on May 12, 1998.

(K) The amendments to Sup. R. 10, 10.03 and stalking protection order forms (Forms 10.03-A to 10.03-H), adopted by the Supreme Court of Ohio on December 14, 1999, shall take effect on March 1, 2000.

(L) The amendments to Sup. R. 10.01, Forms 10.01-A through 10.01-J, 10.02-A, and Form 10-A were adopted by the Supreme Court on April 10, 2000, shall take effect on June 1, 2000.

(M) The amendments Sup. R. 52(L) and to standard probate form 18.2, adopted by the Supreme Court of Ohio on May 9, 2000, shall take effect June 1, 2000.

(N) The amendment to Sup. R. 26 and 27 adopted by the Supreme Court on April 24, 2001, shall take effect on July 1, 2001.

(O) The amendments to Sup. R. 23.1, Forms 23.1-A to 23.1-C, Sup. R. 25 and Form 25-A adopted by the Supreme Court on September 18, 2001, shall take effect on October 15, 2001.

(P) The amendment to Sup. R. 50(C) adopted by the Supreme Court on February 26, 2002, shall take effect on March 25, 2002.

(Q) The amendment to Sup. R. 36.1 adopted by the Supreme Court on March 26, 2002, shall take effect on July 1, 2002.

(R) The amendments to Sup. R. 52(L), 57(G), 59(B), 60(C), 78(B) and (C) and Standard Probate Forms 1.0, 2.0, 2.1, 2.2, 4.0, 4.4, 6.0, 8.0, 8.1, 8.2, 8.3, 8.4, 8.5, 10.4A (eliminated), 13.0, 13.3, 13.8, 13.9, and 13.10 adopted by the Supreme Court on September 17, 2002, shall take effect on December 1, 2002.

(S) The amendment to Sup. R. 20 adopted by the Supreme Court on December 4, 2002, shall take effect on January 6, 2003.

(T) The amendments to Sup. R. 41 adopted by the Supreme Court on June 24, 2003, shall take effect on October 1, 2003.

(U) The amendments to Sup. R. 64 and Standard Probate Forms 7.0 and 8.6 adopted by the Supreme Court on February 3, 2004, shall take effect on April 8, 2004.

(V) The amendments to Sup. R. 26.03 and 26.05 adopted by the Supreme Court on September 14, 2004, shall take effect on September 23, 2004.

(W) The amendments to Sup. R. 26.03 and 26.05 adopted by the Supreme Court on February 1, 2005, shall take effect on March 23, 2005.

(X) The amendments to Sup. R. 40 adopted by the Supreme Court on June 14, 2005, shall take effect on July 4, 2005.

(Y) The amendments to standard probate form 15.2, adopted by the Supreme Court of Ohio on June 14, 2005, shall take effect on July 4, 2005.

(Z) The amendments to Sup. R. 16 adopted by the Supreme Court on August 8, 2006 shall take effect on January 1, 2007.

(AA) The amendments to Sup. R. 36 adopted by the Supreme Court of Ohio on September 19, 2006, shall take effect on November 1, 2006.

(BB) The amendments to Sup. R. 71 adopted by the Supreme Court on January 23, 2007 shall take effect on February 1, 2007.

(CC) The amendments to Sup. R. 10.02, 10.03, and protection order forms 10.01-A through 10.01-J, 10.02-A, 10.03-A through 10.03-H, 10-A shall take effect on May 1, 2007.

(DD) The amendments to standard probate form 17.8, adopted by the Supreme Court of Ohio on September 18, 2007, shall take effect on October 1, 2007.

(EE) The amendment to Sup. R. 27 adopted by the Supreme Court of Ohio on November 6, 2007, shall take effect on December 1, 2007.

(FF) The amendments to Sup. R. 19 and 19.1 adopted by the Supreme Court of Ohio on February 5, 2008, shall take effect on March 1, 2008. A magistrate appointed prior to the effective date of these amendments shall be deemed in compliance with the eligibility and qualifications requirements of Sup. R. 19.

(GG) The amendments to standard probate forms 5.10, 12.0, 15.9, 16.1, 17.0, and 18.0 and adopted by the Supreme Court of Ohio on February 5, 2008, shall take effect on March 1, 2008.

(HH) The amendments to Sup. R. 10.04 and forms 10.04-A, 10.01-G, and 10.03-H adopted by the Supreme Court of Ohio on December 15, 2008, shall take effect on February 1, 2009.

(II) The amendments to Sup. R. 9 and Appendix C, adopted by the Supreme Court on November 18, 2008, shall take effect on March 1, 2009.

(JJ) The amendments to Sup. R. 48 of the Rules of Superintendence adopted by the Court on January 20, 2009 shall take effect on March 1, 2009.

(KK) The amendments to Sup. R. 44 through 47 adopted by the Supreme Court on December 15, 2008 shall take effect on July 1, 2009.

(LL) The amendments to Sup. R. 2, 4, 35, 37, 39, 40, 41, 42, and Temp Sup. R. 1.08 and 1.10 were adopted by the Supreme Court on March 9, 2009 shall take effect on July 1, 2009.

(MM) The amendments to Sup. R. 17, adopted by the Supreme Court on November 2, 2009, shall take effect on December 1, 2009.

(NN) The amendments to Sup. R. 80 through 87 and Appendix H, adopted by the Supreme Court on November 2, 2009, shall take effect on January 1, 2010.

(OO) The amendments to standard probate forms 18.0, 18.2, 18.4, 21.5, 23.0, 23.1, 23.2, 23.3, 23.4, 23.6, and 23.7 and adopted by the Supreme Court of Ohio on November 2, 2009 shall take effect on January 1, 2010.

(PP) The amendments to Sup. R. 10, 10.01 and 10.03 and Domestic Violence Forms (10-A and 10-B, 10.01-A through 10.01-N, 10.02-A, 10.03-A, 10.03-B, 10.03-D through 10.03-H, and 10.04-A), adopted by the Supreme Court of Ohio on May 25, 2010, shall take effect on July 1, 2010.

(QQ) The amendments to Sup. R. 6 and 6.01 adopted by the Supreme Court of Ohio on December 14, 2010, shall take effect on January 1, 2011.

(RR) The amendments to Sup. R. 10.05 and juvenile domestic violence forms 10.05-A through 10.05-F, adopted by the Supreme Court of Ohio on February 3, 2011, shall take effect on March 1, 2011.

(SS) RESERVED

(TT) RESERVED

(UU) The amendments to standard probate forms 14.2 and 18.9 and new standard probate form 45(D), adopted by the Supreme Court of Ohio on August 8, 2011 shall take effect on September 1, 2011.

(VV) New standard probate forms 24.0 through 24.6, adopted by the Supreme Court of Ohio on December 8, 2011, shall take effect on January 1, 2012.

(WW) The amendments to Sup. R. 16 and new rules 16.01 through 16.14, adopted by the Supreme Court of Ohio on January 3, 2012, shall take effect on February 1, 2012.

(XX) New Sup. R. 10.06, adopted by the Supreme Court of Ohio on January 17, 2012, shall take effect on March 1, 2012.

(YY) The amendment to Temp. Sup. R. 1.11, adopted by the Supreme Court of Ohio on May 8, 2012, shall take effect on June 1, 2012.

(ZZ) The amendments to Sup. R. 7 and repeal of Sup. R. 36.1, adopted by the Supreme Court of Ohio on August 21, 2012, shall take effect on August 21, 2012.

Temporary Rules 1.01 through 1.11 of the Rules of Superintendence for the Courts of Ohio were approved by the Supreme Court on May 6, 2008, effective July 1, 2008:

**Temp. Sup. R. 1.01.                    Definitions**

As used in Temporary Rules 1.01 through 1.11 of the Rules of Superintendence for the Courts of Ohio, "business entity" means a for profit or nonprofit corporation, partnership, limited liability company, limited liability partnership, professional association, business trust, joint venture, unincorporated association, or sole proprietorship.

**Temp. Sup. R. 1.02.                      Designation and Organization**

**(A)    Designation of pilot project courts**

The Chief Justice of the Supreme Court shall designate up to five courts of common pleas to participate in the commercial docket pilot project pursuant to Temporary Rules 1.01 through 1.11 of the Rules of Superintendence for the Courts of Ohio. Such courts shall be styled “pilot project courts.” The Supreme Court Task Force on Commercial Dockets shall recommend to the Chief Justice courts for designation as pilot project courts. The Chief Justice shall not designate a court as a pilot project court unless the court agrees to participate in the commercial docket pilot project.

**(B)    Establishment of commercial docket**

Notwithstanding any rule of the Rules of Superintendence for the Courts of Ohio or local rule of court to the contrary, each pilot project court is authorized to establish and maintain a commercial docket pursuant to the requirements of Temporary Rules 1.01 through 1.11 of the Rules of Superintendence for the Courts of Ohio.

**(C)    Designation and training of commercial docket judges**

(1)    The Chief Justice of the Supreme Court shall designate one or more sitting judges of each pilot project court to hear all cases assigned to the commercial docket. Such judges shall be styled “commercial docket judges.” In the event of the death, resignation, or removal from or forfeiture of office of a commercial docket judge, the Chief Justice may designate another sitting judge of that pilot project court to serve as a commercial docket judge. The Supreme Court Task Force on Commercial Dockets shall recommend to the Chief Justice candidates for designation as commercial docket judges. The Chief Justice shall not designate a judge as a commercial docket judge unless the judge agrees to participate in the commercial docket pilot project.

(2)    Each commercial docket judge shall complete an orientation and training seminar on the administration of commercial dockets to be offered or approved by the Supreme Court of Ohio Judicial College.

**Temp. Sup. R. 1.03.                    Scope of the Commercial Docket**

**(A)    Cases accepted into the commercial docket**

A commercial docket judge shall accept a civil case, including any jury; non-jury; injunction, including any temporary restraining order; class action; declaratory judgment; or derivative action, into the commercial docket of the pilot project court if the case is within the statutory jurisdiction of the court and the gravamen of the case relates to any of the following:

- (1)    The formation, governance, dissolution, or liquidation of a business entity, as that term is defined in Temporary Rule 1.01 of the Rules of Superintendence for the Courts of Ohio;
- (2)    The rights or obligations between or among the owners, shareholders, partners, or members of a business entity, or rights and obligations between or among any of them and the entity;
- (3)    Trade secret, non-disclosure, non-compete, or employment agreements involving a business entity and an owner, sole proprietor, shareholder, partner, or member thereof;
- (4)    The rights, obligations, liability, or indemnity of an officer, director, manager, trustee, partner, or member of a business entity owed to or from the business entity;
- (5)    Disputes between or among two or more business entities or individuals as to their business or investment activities relating to contracts, transactions, or relationships between or among them, including without limitation the following:
  - (a)    Transactions governed by the uniform commercial code, except for consumer product liability claims described in division (B)(2) of this rule;
  - (b)    The purchase, sale, lease, or license of, or a security interest in, or the infringement or misappropriation of, patents, trademarks, service marks, copyrights, trade secrets, or other intellectual property;
  - (c)    The purchase or sale of a business entity or the assets of a business entity;
  - (d)    The sale of goods or services by a business entity to a business entity;
  - (e)    Non-consumer bank or brokerage accounts, including loan, deposit, cash management, and investment accounts;

- (f) Surety bonds and suretyship or guarantee obligations of individuals given in connection with business transactions;
- (g) The purchase, sale, lease, or license of, or a security interest in, commercial property, whether tangible, intangible personal, or real property;
- (h) Franchise or dealer relationships;
- (i) Business related torts, such as claims of unfair competition, false advertising, unfair trade practices, fraud, or interference with contractual relations or prospective contractual relations;
- (j) Cases relating to or arising under state or federal antitrust laws;
- (k) Cases relating to securities, or relating to or arising under federal or state securities laws;
- (l) Commercial insurance contracts, including coverage disputes.

**(B) Cases not accepted into the commercial docket**

A commercial docket judge shall not accept a civil case into the commercial docket of the pilot project court if the gravamen of the case relates to any of the following:

- (1) Personal injury, survivor, or wrongful death matters;
- (2) Consumer claims against business entities or insurers of business entities, including product liability and personal injury cases, and cases arising under federal or state consumer protection laws;
- (3) Matters involving occupational health or safety, wages or hours, workers' compensation, or unemployment compensation;
- (4) Environmental claims, except those arising from a breach of contractual or legal obligations or indemnities between business entities;
- (5) Matters in eminent domain;
- (6) Employment law cases, except those involving owners described in division (A)(3) of this rule;
- (7) Cases in which a labor organization is a party;

- (8) Cases in which a governmental entity is a party;
- (9) Discrimination cases based upon the United States constitution, the Ohio constitution, or the applicable statutes, rules, regulations, or ordinances of the United States, the state, or a political subdivision of the state;
- (10) Administrative agency, tax, zoning, and other appeals;
- (11) Petition actions in the nature of a change of name of an individual, mental health act, guardianship, or government election matters;
- (12) Individual residential real estate disputes, including foreclosure actions, or non-commercial landlord-tenant disputes;
- (13) Any matter subject to the jurisdiction of the domestic relations, juvenile, or probate division of the court;
- (14) Any matter subject to the jurisdiction of a municipal court, county court, mayor's court, small claims division of a municipal court or county court, or any matter required by statute or other law to be heard in some other court or division of a court;
- (15) Any criminal matter, other than criminal contempt in connection with a matter pending on the commercial docket of the court.

**Temp. Sup. R. 1.04.                      Transfer of Case to the Commercial Docket**

**(A)     Random assignment**

A case filed with a pilot project court shall be randomly assigned to a judge in accordance with the individual assignment system adopted by the court pursuant to division (B)(2) of Rule 36 of the Rules of Superintendence for the Courts of Ohio.

**(B)     Transfer procedure**

(1)     If the gravamen of a case filed with a pilot project court relates to any of the topics set forth in division (A) of Temporary Rule 1.03 of the Rules of Superintendence for the Courts of Ohio, the attorney filing the case shall include with the initial pleading a motion for transfer of the case to the commercial docket.

(2)     If the gravamen of the case relates to any of the topics set forth in division (A) of Temporary Rule 1.03 of the Rules of Superintendence for the Courts of Ohio, if the attorney filing the case does not file a motion for transfer of the case to the commercial docket, and if the case is assigned to a non-commercial docket judge, an attorney representing any other party shall file such a motion with that party's first responsive pleading or upon that party's initial appearance, whichever occurs first.

(3)     If the gravamen of the case relates to any of the topics set forth in division (A) of Temporary Rule 1.03 of the Rules of Superintendence for the Courts of Ohio, if no attorney representing a party in the case files a motion for transfer of the case to the commercial docket, and if the case is assigned to a non-commercial docket judge, the judge shall sua sponte request the administrative judge to transfer the case to the commercial docket.

(4)     If the case is assigned to the commercial docket and if the gravamen of the case does not relate to any of the topics set forth in division (A) of Temporary Rule 1.03 of the Rules of Superintendence for the Courts of Ohio, upon motion of any party or sua sponte at any time during the course of the litigation, the commercial docket judge shall remove the case from the commercial docket.

(5)     Copies of a party's motion for transfer of a case to the commercial docket filed pursuant to division (B)(1) or (2) of this rule shall be delivered to the administrative judge.

**(C)     Ruling or decision on transfer**

(1)     A non-commercial docket judge shall rule on a party's motion for transfer of a case filed under divisions (B)(1) or (2) of this rule no later than two days after the filing of the motion. A party to the case may appeal the non-commercial docket judge's decision to the administrative judge within three days of the non-commercial docket

judge's decision. The administrative judge shall decide the appeal within two days of the filing of the appeal.

(2) An administrative judge shall decide the sua sponte request of a non-commercial docket judge for transfer of a case made under division (B)(3) of this rule no later than two days after the request is made.

**(D) Review of transfer**

(1) The factors set forth in Temporary Rule 1.03 of the Rules of Superintendence for the Courts of Ohio shall be dispositive in determining whether a case shall be transferred to or removed from the commercial docket pursuant to division (B) of this rule.

(2) The decision of the administrative judge as to the transfer of a case under division (C) of this rule is final and not appealable.

**(E) Adjustment of other case assignments**

To guarantee a fair and equal distribution of cases, a commercial docket judge who is assigned a commercial docket case pursuant to division (B) of this rule may request the administrative judge to reassign a similar civil case by lot to another judge in the pilot project court.

**Temp. Sup. R. 1.05.                      Special Masters**

**(A)    Appointment**

(1)    With the consent of all parties in a commercial docket case, a commercial docket judge may appoint a special master to do any of the following with regard to the case:

(a)    Perform duties consented to by the parties;

(b)    Hold trial proceedings and make or recommend findings of fact on issues to be decided by the judge without a jury if appointment is warranted by some exceptional condition or the need to perform an accounting or resolve a difficult computation of damages;

(c)    Address pretrial and post-trial matters that cannot be addressed effectively and timely by the judge.

(2)    A special master shall not have a relationship to the parties, counsel, the case, or the commercial docket judge that would require disqualification of a judge under division (E) of Canon 3 of the Code of Judicial Conduct unless the parties consent with the judge's approval to appointment of a particular person after disclosure of any potential grounds for disqualification.

(3)    In appointing a special master, the commercial docket judge shall consider the fairness of imposing the likely expenses on the parties and shall protect against unreasonable expense or delay.

**(B)    Order appointing a special master**

(1)    A commercial docket judge shall give the parties notice and an opportunity to be heard before appointing a special master. Any party may suggest candidates for appointment.

(2)    An order appointing a special master shall direct the special master to proceed with all reasonable diligence and shall include each of the following:

(a)    The special master's duties, including any investigation or enforcement duties, and any limits on the special master's authority under division (C) of this rule;

(b)    The circumstances, if any, under which the special master may communicate ex parte with the commercial docket judge or a party;

(c)    The basis, terms, and procedure for fixing the special master's compensation.

(3) A commercial docket judge may amend an order appointing a special master at any time after notice to the parties, and an opportunity to be heard.

**(C) Special master's authority**

Unless the appointing order expressly directs otherwise, a special master shall have authority to regulate all proceedings and take all appropriate measures to perform fairly and efficiently the assigned duties. The special master may impose appropriate sanctions for contempt committed in the presence of the special master and may recommend a contempt sanction against a party and sanctions against a nonparty.

**(D) Evidentiary hearings**

Unless the appointing order expressly directs otherwise, a special master conducting an evidentiary hearing may exercise the power of the commercial docket judge to compel, take, and record evidence.

**(E) Special master's orders**

A special master who makes an order shall file the order with the clerk of the court of common pleas and promptly serve a copy on each party. The clerk shall enter the order on the docket.

**(F) Special master's reports**

A special master shall report to the commercial docket judge as required by the order of appointment. The special master shall file the report and promptly serve a copy of the report on each party unless the commercial docket judge directs otherwise.

**(G) Action on special master's order, report, or recommendations**

(1) In acting on a special master's order, report, or recommendations, the commercial docket judge shall afford the parties an opportunity to be heard; may receive evidence; and may adopt or affirm, modify, wholly or partly reject or reverse, or resubmit to the special master with instructions.

(2) A party may file an objection to or a motion to adopt or modify the special master's order, report, or recommendations no later than fourteen days after a copy is served, unless the court sets a different time.

(3) The court shall decide all objections to findings of fact made or recommended by the special master in accordance with the same standards as a ruling of a magistrate under paragraph (D)(3) of Rule 53 of the Rules of Civil Procedure, unless the parties, with the commercial docket judge's approval, stipulate either of the following:

- (a) The findings will be reviewed for clear error;
  - (b) The findings of a special master appointed under division (A)(1)(a) or (b) of this rule will be final.
- (4) The commercial docket judge shall decide de novo all objections to conclusions of law made or recommended by a special master.
- (5) Unless the order of appointment establishes a different standard of review, the commercial docket judge may set aside a special master's ruling on a procedural matter only for an abuse of discretion.

**(H) Compensation**

- (1) The commercial docket judge shall fix the special master's compensation before or after judgment on the basis and terms stated in the order of appointment, but the judge may set a new basis and terms after notice and an opportunity to be heard.
- (2) The compensation of the special master shall be paid either by a party or parties or from a fund or subject matter of the case within the commercial docket judge's control.
- (3) The commercial docket judge shall allocate payment of the special master's compensation among the parties after considering the nature and amount of the controversy and the extent to which any party is more responsible than other parties for the reference to a special master. An interim allocation may be amended to reflect a decision on the merits.

**Temp. Sup. R. 1.06.****Commercial Docket Case Management Plan**

The Supreme Court Task Force on Commercial Dockets shall establish a model commercial docket case management pretrial order to provide for the issuance of a commercial docket case management plan tailored to the requirements of the commercial docket. A commercial docket judge may use the model commercial docket case management pretrial order. Notwithstanding any contrary provision of a case management plan adopted by a pilot project court pursuant to division (B)(1) of Rule 5 of the Rules of Superintendence for Courts of Ohio, a commercial docket case management plan issued by a commercial docket judge shall govern the litigation of each commercial docket case assigned to that judge.

**Temp. Sup. R. 1.07.**

**Rulings on Motions and Submitted Cases**

**(A) Rulings on motions**

- (1) A commercial docket judge shall rule upon all motions in a commercial docket case within sixty days of the date on which the motion was filed.
- (2) If a commercial docket judge fails to rule upon a motion in a commercial docket case within sixty days of the date on which the motion was filed, an attorney representing the movant shall provide the judge with written notification alerting the judge of this fact. The attorney shall provide a copy of the notification to all other parties to the case.

**(B) Submitted cases**

- (1) A commercial docket judge shall issue a decision in all commercial docket cases submitted for determination after a court trial within ninety days of the date on which the case was submitted.
- (2) If a commercial docket judge fails to issue a decision in a commercial docket case submitted for determination after a court trial within ninety days of the date on which the case was submitted, an attorney representing a party to the case shall provide the judge with written notification alerting the judge of this fact. The attorney shall provide a copy of the notification to all other parties to the case.

**Temp. Sup. R. 1.08.**

**Commercial Docket Case Disposition Time Guideline**

**(A) Time guideline**

Except for a case designated as complex litigation pursuant to Rule 42 of the Rules of Superintendence for the Courts of Ohio, a pilot project court shall aspire to have each case assigned to a commercial docket judge to disposition within eighteen months of the date on which the case was filed. This time guideline is not mandatory, but rather is intended to serve as a benchmark and assist pilot project courts and commercial docket judges in measuring the effectiveness of their case management.

**(B) Notification of delay**

If a commercial docket judge has not disposed of a commercial docket case assigned to the judge within eighteen months of the date on which the case was filed, the judge shall notify the Case Management Section of the Supreme Court as to the cause for delay for the purpose of providing the information to the Supreme Court Task Force on Commercial Dockets.

**Temp. Sup. R. 1.09.                      Publication of Opinions and Orders**

Opinions and dispositive orders of the commercial docket judges shall be promptly posted on the website of the Supreme Court.

**Temp. Sup. R. 1.10. Pilot Project Evaluation**

The Supreme Court Task Force on Commercial Dockets shall collect, analyze, correlate, and interpret information and data concerning the commercial docket of each pilot project court. The Task Force may request the assistance of the Case Management Section of the Supreme Court and collect additional information from pilot project courts as needed.

**Temp. Sup. R. 1.11.                    Term of Temporary Rules 1.01 through 1.11**

Temporary Rules 1.01 through 1.11 of the Rules of Superintendence for the Courts of Ohio adopted by the Supreme Court on May 6, 2008 shall take effect on July 1, 2008 and shall remain in effect through June 30, 2013, unless extended, modified, or withdrawn by the Supreme Court prior to that date. Any commercial docket case pending after the term of these temporary rules shall continue pursuant to the requirements of the rules until final disposition thereof.

## **STATISTICAL REPORTING FORMS\***

\*See Appendix C for reporting forms related to court security.

## **APPENDIX A**

## **OHIO TRIAL COURT JURY USE AND MANAGEMENT STANDARDS**

The Ohio Trial Court Jury Use and Management Standards  
were adopted by the Supreme Court of Ohio on August 16, 1993.

### **APPENDIX B**

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**STANDARD 1**      **OPPORTUNITY FOR SERVICE**

- A. The opportunity for jury service should not be denied or limited on the basis of race, national origin, gender, age, religious belief, income, occupation, disability, or any other factor that discriminates against a cognizable group in the jurisdiction.
- B. Jury service is an obligation of all qualified citizens.

**Commentary**

Standard 1 is essentially identical to the ABA Standard.

It is the obligation of every court to reasonably accommodate the special needs of physically handicapped jurors. While physically handicapped jurors may pose special issues for courts and their personnel, these issues are manageable.

Support agencies and advancing technologies exist to aid courts in accommodating the special needs of hearing impaired and visually impaired jurors, for example.

The obligation of jury service falls on all citizens; it is vitally important that the legal system open its doors to each person who desires to serve on a jury.

Reference is made to the ADA.

**Ohio Statutes**

O.R.C. 2313.47      Race or color shall not disqualify a juror.

**STANDARD 2**      **JURY SOURCE LIST**

- A. The names of potential jurors should be drawn from a jury source list compiled from one or more regularly maintained lists of persons residing in the court jurisdiction.
- B. The jury source list should be representative and should be as inclusive of the adult population in the jurisdiction as is feasible.
- C. The court should periodically review the jury source list for its representativeness and inclusiveness of the adult population in the jurisdiction as is feasible.
- D. Should the court determine that improvement is needed in the representativeness or inclusiveness of the jury source list, appropriate corrective action should be taken.

**Commentary**

Standard 2 is identical to the ABA Standard.

There should be a periodic review of the representativeness and inclusiveness of the jury source list.

**Ohio Statutes**

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2311.42	Authorizes the drawing of a jury from an adjoining county if a party to the case is the board of county commissioners.
O.R.C. 2313.06	Provisions relative to the summoning of jurors using lists of voters and licensed drivers.
O.R.C. 2313.07	Construction of a jury wheel and the use of data processing equipment in drawing jurors.
O.R.C. 2313.08	Contains provisions relative to the annual jury list.
O.R.C. 2313.09	Supplemental jury lists.
O.R.C. 2313.15	Report of names of jurors excused.
O.R.C. 2313.20	Notice of drawing.
O.R.C. 2313.21	Conduct of drawing.
O.R.C. 2313.26	Order for additional number of jurors.

**STANDARD 3**      **RANDOM SELECTION PROCEDURES**

- A. Random selection procedures should be used throughout the juror selection process. Any method may be used, manual or automated, that provides each eligible and available person with an equal probability of selection. These methods should be documented.
  
- B. Random selection procedures should be employed in:
  - 1. Selecting persons to be summoned for jury service;
  - 2. Assigning prospective jurors to panels; and
  - 3. Calling prospective jurors for voir dire.
  
- C. Departures from the principle of random selection are appropriate:
  - 1. To exclude persons ineligible for service in accordance with Standard 4;
  - 2. To excuse or defer prospective jurors in accordance with Standard 6;
  - 3. To remove prospective jurors for cause or if challenged peremptorily in accordance with Standards 8 and 9; and
  - 4. To provide all prospective jurors with an opportunity to be called for jury service and to be assigned to a panel in accordance with Standard 13.

**Commentary**

Standard 3 is essentially identical to the ABA Standard.

**Ohio Statutes**

- O.R.C. 1901.25      Selection and impaneling of a jury.
- O.R.C. 1907.28      Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2101.30      Drawing of a jury in probate cases.
- O.R.C. 2313.07      Construction of a jury wheel and the use of data processing equipment in drawing jurors.
- O.R.C. 2313.08      Contains provisions relative to the annual jury list.
- O.R.C. 2313.09      Supplemental jury lists.
- O.R.C. 2313.15      Report of names of jurors excused.
- O.R.C. 2313.21      Conduct of drawing.

**STANDARD 4**      **ELIGIBILITY FOR JURY SERVICE**

All persons should be eligible for jury service except those who:

- A. Are less than eighteen years of age;
- B. Are not citizens of the United States;
- C. Are not residents of the jurisdiction in which they have been summoned to serve;
- D. Are not able to communicate in the English language; or
- E. Have been convicted of a felony and have not had their civil rights restored.

**Commentary**

Standard 4 is identical to the ABA Standard.

Legislative changes recommended in order for Standard 4 to be consistent with Standard 6.

**Ohio Statutes**

- O.R.C. 1901.25      Selection and impaneling of a jury.
- O.R.C. 1907.28      Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2961.01      Precludes convicted felons from serving as jurors.

**STANDARD 5**      **TERM OF AND AVAILABILITY FOR JURY SERVICE**

- A.     The time that persons are called upon to perform jury service and to be available should be the shortest period consistent with the needs of justice.
  
- B.     A term of service of one day or the completion of one trial, whichever is longer, is recommended. However, a term of one week or the completion of one trial, whichever is longer, is acceptable.
  
- C.     Persons should not be required to maintain a status of availability for jury service for longer than two weeks except in jurisdictions where it may be appropriate for persons to be available for service over a longer period of time.

**Commentary**

Standard 5 is essentially identical to the ABA Standard.

Courts should reduce, to the extent possible, the number of days a person serves and the period of availability.

**STANDARD 6**      **EXEMPTION, EXCUSE, AND DEFERRAL**

- A. All automatic excuses or exemptions, with the exception of statutory exemptions, from jury service should be eliminated.
- B. Eligible persons who are summoned may be excused from jury service only if:
  - 1. Their ability to receive and evaluate information is so impaired that they are unable to perform their duties as jurors and they are excused for this reason by a judge; or
  - 2. They request to be excused because their service would be a continuing hardship to them or to members of the public and they are excused by a judge or a specifically authorized court official.
- C. Deferrals for jury service for reasonably short periods of time may be permitted by a judge or a specifically authorized court official.
- D. Requests for excuses and deferrals and their disposition should be written or otherwise made or recorded. Specific uniform guidelines for determining such requests should be adopted by the court.

**Commentary**

Standard 6 has been changed from the ABA Standard to be consistent with the O.R.C.

Deferrals are encouraged rather than the granting of excuses.

With a shorter term of service (see Standard 5), reasons for being excused should be reduced.

The Jury Management Project Team recommends that all statutory exceptions be eliminated.

**Ohio Statutes**

- O.R.C. 737.26      Exempts fireman from jury duty.
- O.R.C. 1901.25      Selection and impaneling of a jury.
- O.R.C. 1907.28      Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2313.12      Jury exemptions; proof of exemptions.
- O.R.C. 2313.13      Postponement of jury service; temporary excuse or discharge.
- O.R.C. 2313.14      Failure to attend after postponed service.
- O.R.C. 2313.15      Report of names of jurors excused.

- O.R.C. 2313.16 Reasons for which jurors may be excused.
- O.R.C. 2313.27 Evasion of jury service.
- O.R.C. 2313.36 Exemptions from jury service in court of record.
- O.R.C. 5919.20 Exempts certain officers and personnel of the Ohio National Guard from jury service.
- O.R.C. 5920.10 Exempts members of the Ohio Military Reserve from jury duty.
- O.R.C. 5921.09 Exempts members of the Ohio Naval Militia from jury service.

**STANDARD 7**      **VOIR DIRE**

- A. Voir dire examination should be limited to matters relevant to determining whether to remove a juror for cause and to determine the juror’s fairness and impartiality.
- B. To reduce the time required for voir dire, basic background information regarding panel members should be made available to counsel in writing for each party on the day on which jury selection is to begin.
- C. The trial judge should conduct a preliminary voir dire examination. Counsel shall then be permitted to question panel members for a reasonable period of time.
- D. The judge should ensure that the privacy of prospective jurors is reasonably protected, and the questioning is consistent with the purpose of the voir dire process.
- E. In criminal cases, the voir dire process shall be held on the record. In civil cases, the voir dire process shall be held on the record unless waived by the parties.

**Commentary**

Standard 7 is essentially identical to the ABA Standard.

The questionnaire shall be handled in a manner to ensure privacy.

When prospective jurors are initially sworn, the oath should also indicate that the answers to the jury questionnaire are true.

**Ohio Statutes**

- O.R.C. 1901.25      Selection and impaneling of a jury.
- O.R.C. 1907.28      Authorizes county courts to adopt local rules regarding jury selection and impaneling.

**Court Rules**

- Civ. R. 47              Jurors.
- Crim. R. 24            Trial jurors.

**STANDARD 8**            **REMOVAL FROM THE JURY PANEL FOR CAUSE**

If the judge determines during the voir dire process that any individual is unable or unwilling to hear the particular case at issue fairly and impartially, that individual should be removed from the panel. Such a determination may be made on motion of counsel or by the judge.

**Commentary**

Standard 8 is essentially identical to the ABA Standard.

Jurors should be reminded that jury service is an obligation of each qualified citizen (see Standard 1).

**Ohio Statutes**

- O.R.C. 1901.25            Selection and impaneling of a jury.
- O.R.C. 1907.28            Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2313.42            Challenge for cause of persons called as jurors.
- O.R.C. 2313.43            Challenge of petit jurors.
- O.R.C. 2945.25            Causes for challenging jurors.
- O.R.C. 2945.26            Challenge of juror for cause.

**Court Rules**

- Civ. R. 47                    Jurors.
- Crim. R. 24                 Trial jurors.

## **STANDARD 9**      **PEREMPTORY CHALLENGES**

- A. Rules determining procedure for exercising peremptory challenges should be uniform throughout the state.
- B. Peremptory challenges should be limited to a number no larger than necessary to provide reasonable assurance of obtaining an unbiased jury.
- C. In civil cases, the number of peremptory challenges should not exceed three for each side. If the court finds that there is a conflict of interest between parties on the same side, the court may allow each conflicting party up to three peremptory challenges.
- D. In criminal cases, the number of peremptory challenges should not exceed:
  - 1. Six for each side when a death sentence may be imposed upon conviction;
  - 2. Four for each side when a sentence of imprisonment (state institution) may be imposed upon conviction; or
  - 3. Three for each side in all other prosecutions. One additional peremptory challenge should be allowed for each defendant in a multi-defendant criminal proceeding.
- E. In criminal and civil proceedings each side should be allowed one peremptory challenge if one or two alternate jurors are impaneled, two peremptory challenges if three or four alternates are impaneled, and three peremptory challenges if five or six alternates are impaneled. These additional peremptory challenges shall be used against an alternate juror only, and the other peremptory challenges allowed by law shall not be used against an alternate juror.

### **Commentary**

Standard 9 has been changed from the ABA Standard to be consistent with the O.R.C. and Ohio Rules of Court.

### **Ohio Statutes**

O.R.C. 1901.25	Selection and impaneling of a jury.
O.R.C. 1907.28	Authorizes county courts to adopt local rules regarding jury selection and impaneling.
O.R.C. 2938.06	Number of jurors and challenges.
O.R.C. 2945.21	Peremptory challenges.
O.R.C. 2945.23	Use of peremptory challenges.

**Court Rules**

Civ. R. 47  
Crim. R. 24

Jurors.  
Trial jurors.

**STANDARD 10**      **ADMINISTRATION OF THE JURY SYSTEM**

- A. The responsibility for administration of the jury system should be vested exclusively in the judicial branch of government.
- B. All procedures concerning jury selection and service should be governed by Ohio Rules of Court.
- C. Responsibility for administering the jury system should be vested in a single administrator acting under the supervision of the administrative judge of the court.

**Commentary**

Standard 10 is essentially identical to the ABA Standard.

Standard 10 suggests that current legislation be repealed.

**Ohio Constitution**

Article IV, Section 5(B)      Allows the Supreme Court to adopt Rules of Practice and Procedure and permits courts to adopt rules concerning local practice that do not conflict with Supreme Court Rules.

**Ohio Statutes**

O.R.C. 1901.14      Authorizes the adoption of local rules regarding the summoning of jurors.  
O.R.C. 1907.28      Authorizes county courts to adopt local rules regarding jury selection and impaneling.  
O.R.C. 2313.01      Authorizes the appointment of jury commissioners.  
O.R.C. 2313.02      Compensation and appointment of deputies and clerks in the office of jury commissioners.  
O.R.C. 2313.03      Oath of office for jury commissioners.  
O.R.C. 2313.04      Lists cases in which the deputy jury commissioner may act.

## **STANDARD 11      NOTIFICATION AND SUMMONING PROCEDURES**

- A. The notice summoning a person to jury service and the questionnaire eliciting essential information regarding that person should be:
  - 1. Combined in a single document;
  - 2. Phrased so as to be readily understood by an individual unfamiliar with the legal and jury systems; and
  - 3. Delivered by ordinary mail.
  
- B. A summons should clearly explain how and when the recipient must respond and the consequences of a failure to respond.
  
- C. The questionnaire should be phrased and organized so as to facilitate quick and accurate screening and should request only that information essential for:
  - 1. Determining whether a person meets the criteria for eligibility;
  - 2. Providing basic background information ordinarily sought during voir dire examination; and
  - 3. Efficiently managing the jury system.
  
- D. Policies and procedures should be established for monitoring failures to respond to a summons and for enforcing a summons to report for jury service.

### **Commentary**

Standard 11 is essentially identical to the ABA Standard.

### **Ohio Statutes**

- O.R.C. 1905.28 Gives the mayor of a municipal corporation the authority to compel the attendance of jurors.
- O.R.C. 1907.29 Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.
- O.R.C. 2101.30 Drawing of a jury in probate cases.
- O.R.C. 2313.10 Notice to jurors to appear and testify before jury commissioners.
- O.R.C. 2313.11 Failure of summoned juror to attend or testify.
- O.R.C. 2313.14 Failure to attend after postponed service.
- O.R.C. 2313.25 Service and return of venire.
- O.R.C. 2313.26 Order for additional number of jurors.
- O.R.C. 2313.29 Failure of juror to attend.
- O.R.C. 2313.30 Arrest for failure to attend.

**STANDARD 12**      **MONITORING THE JURY SYSTEM**

Courts should collect and analyze information regarding the performance of the jury system on a regular basis in order to evaluate:

- A.     The representativeness and inclusiveness of the jury source list;
- B.     The effectiveness of qualification and summoning procedures;
- C.     The responsiveness of individual citizens to jury duty summonses;
- D.     The efficient use of jurors; and
- E.     The cost-effectiveness of the jury management system.

**Commentary**

Standard 12 is essentially identical to the ABA Standard, and the Jury Standard Project Team recognizes that the information gathered must be analyzed to ensure efficient jury management.

**STANDARD 13**      **JUROR USE**

- A. Courts should employ the services of prospective jurors so as to achieve optimum use with a minimum of inconvenience to jurors.
  
- B. Courts should determine the minimally sufficient number of jurors needed to accommodate trial activity. This information and appropriate management techniques should be used to adjust both the number of individuals summoned for jury duty and the number assigned to jury panels.
  - 1. Courts using jury pools should ensure that each prospective juror who has reported to the court is assigned for voir dire; and
  - 2. Courts using panels should ensure that each prospective juror who has reported to the court is assigned for voir dire.
  
- C. Courts should coordinate jury management and calendar management to make effective use of jurors.

**Commentary**

Standard 13 is essentially identical to the ABA Standard.

**Ohio Statutes**

- O.R.C. 2313.19      Number of jurors drawn.
- O.R.C. 2313.24      Number of jurors; exception for smaller counties.

**STANDARD 14      JURY FACILITIES**

- A. Courts should provide an adequate and suitable environment for jurors.
- B. The entrance and registration area should be clearly identified and appropriately designed to accommodate the daily flow of prospective jurors to the courthouse.
- C. Jurors should be accommodated in pleasant waiting facilities furnished with suitable amenities.
- D. Jury deliberation rooms should include space, furnishings, and facilities conducive to reaching a fair verdict. The safety and security of the deliberation rooms should be ensured.
- E. To the extent feasible, juror facilities should be arranged to minimize contact between jurors, parties, counsel, and the public.

**Commentary**

Standard 14 is essentially identical to the ABA Standard.

**Ohio Statutes**

- O.R.C. 1907.29      Cross-references to civil and criminal rules and authorizes the punishment by contempt for summoned jurors who refuse to serve.
- O.R.C. 2313.05      Office and supplies for the jury commissioners.
- O.R.C. 2315.03      Deliberations of jury.
- O.R.C. 2945.33      Keeping and conduct of the jury after case is submitted to the jury.

**Rules of Superintendence**

- Appendix D      Court facility standards.

**STANDARD 15**      **JUROR COMPENSATION**

- A.      Persons called for jury service should receive a reasonable fee for their service and expenses.
- B.      Such fees should be paid promptly.
- C.      Employers shall be prohibited from discharging, laying-off, denying advancement opportunities to, or otherwise penalizing employees who miss work because of jury service.

**Commentary**

Standard 15 is essentially identical to the ABA Standard.

**Ohio Statutes**

- O.R.C. 1901.25      Selection and impaneling of a jury.
- O.R.C. 1907.28      Authorizes county courts to adopt local rules regarding jury selection and impaneling.
- O.R.C. 2101.16      Cross-references to other sections regarding jury fees.
- O.R.C. 2313.34      Discharge of juror; compensation.

**STANDARD 16**      **JUROR ORIENTATION AND INSTRUCTION**

- A. Orientation programs should be:
1. Designed to increase prospective jurors' understanding of the judicial system and prepare them to serve competently as jurors; and
  2. Presented in a uniform and efficient manner using a combination of written, oral, and audiovisual materials.
- B. Courts should provide some form of orientation or instructions to persons called for jury service:
1. Upon initial contact prior to service;
  2. Upon first appearance at the court; and
  3. Upon reporting to a courtroom for voir dire.
- C. The trial judge should:
1. Give preliminary instructions to all prospective jurors.
  2. Give instructions directly following impanelment of the jury to explain the jury's role, the trial procedures including notetaking and questioning by jurors, the nature of evidence and its evaluation, the issues to be addressed, and the basic relevant legal principles;
  3. Prior to the commencement of deliberations, instruct the jury on the law, on the appropriate procedures to be followed during deliberations, and on the appropriate method for reporting the results of its deliberations. Such instructions should be made available to the jurors during deliberations;
  4. Prepare and deliver instructions which are readily understood by individuals unfamiliar with the legal system; and
  5. Recognize utilization of written instructions is preferable.
  6. Before dismissing a jury at the conclusion of a case:
    - a. Release the jurors from their duty of confidentiality;
    - b. Explain their rights regarding inquiries from counsel or the press;
    - c. Either advise them that they are discharged from service or specify where they must report; and
    - d. Express appreciation to the jurors for their service, but not express approval or disapproval of the result of the deliberation.
- D. All communications between the judge and members of the jury panel from the time of reporting to the courtroom for voir dire until dismissal shall be in writing or on the record in open court. Counsel for each party shall be informed of such communication and given the opportunity to be heard.

## **Commentary**

Standard 16 is essentially identical to the ABA Standard with addition of C., 4.

Reference may be made to Ohio Jury Instructions.

## **Ohio Statutes**

O.R.C. 2945.10	Order of trial proceedings, including the charge to the jury.
O.R.C. 2945.11	Charge to the jury on questions of law and fact.
O.R.C. 2945.34	Admonition to be administered to jurors if they are separate during trial.

## **Court Rules**

Civ. R. 51	Instructions to the jury; objections.
Crim. R. 30	Instructions to the jury.

**STANDARD 17**      **JURY SIZE AND UNANIMITY OF VERDICT**

Jury size and unanimity in civil and criminal cases shall conform with existing Ohio law.

**Commentary**

Standard 17 has been changed from the ABA Standard to be consistent with the O.R.C.

**Ohio Constitution**

Article I, Section 5      Trial by jury; reform in civil jury system

**Ohio Statutes**

O.R.C. 1901.24      Cross-references to civil and criminal rules relating to juries.  
O.R.C. 1907.29      Cross-references to civil and criminal rules and authorizes the punishment  
by contempt for summoned jurors who refuse to serve.  
O.R.C. 2938.06      Number of jurors and challenges.

**Court Rules**

Civ. R. 38      Jury trial of right.  
Civ. R. 48      Juries; majority verdict; stipulation of number of jurors.  
Civ. R. Form 18      Judgment on jury verdicts.  
Crim. R. 23      Trial by jury or by the court.

## **STANDARD 18      JURY DELIBERATIONS**

- A. Jury deliberations should take place under conditions and pursuant to procedures that are designed to ensure impartiality and to enhance rational decision-making.
- B. The judge should instruct the jury concerning appropriate procedures to be followed during deliberations in accordance with Standard 16C.
- C. The deliberation room should conform to the recommendations set forth in Standard 14C.
- D. The jury should not be sequestered except under the circumstances and procedures set forth in Standard 19.
- E. A jury should not be required to deliberate after a reasonable hour unless the trial judge determines that evening or weekend deliberations would not impose an undue hardship upon the jurors and are required in the interest of justice.
- F. Training should be provided to personnel who escort and assist jurors during deliberation.

### **Commentary**

Standard 16 is essentially identical to the ABA Standard.

Counsel and appropriate court personnel should remain readily available during jury deliberations.

Juries should be provided with a pleasant, comfortable, secure, and safe place in which to work.

### **Ohio Statutes**

O.R.C. 2315.03	Deliberations of jury.
O.R.C. 2315.04	Duty of officer in charge of jury.
O.R.C. 2945.32	Contains the oath to be administered to an officer if the jury is sequestered.
O.R.C. 2945.33	Keeping and conduct of the jury after case is submitted to the jury.

### **Court Rules**

Civ. R. Form 18	Judgment on jury verdict.
Crim. R. 30	Instructions to the jury.

**STANDARD 19**      **SEQUESTRATION OF JURORS**

- A. A jury should be sequestered only for good cause, including but not limited to insulating its members from improper information or influences.
- B. During deliberations in the guilt phase and penalty phase, the jury shall be sequestered in a capital case.
- C. The trial judge shall have the discretion to sequester a jury on the motion of counsel or on the judge’s initiative and shall have the responsibility to oversee the conditions of sequestration.
- D. Standard procedures should be promulgated to:
  - 1. Achieve the purpose of sequestration; and
  - 2. Minimize the inconvenience and discomfort of the sequestered jurors.
- E. Training shall be provided to personnel who escort and assist jurors during sequestration.

**Commentary**

Standard 19 differs from the ABA Standard.

- 1. “Should” was changed to “shall” in C and E.
- 2. Jury escorts may be law enforcement personnel.

Standard 19 has been changed to be consistent with the O.R.C.

**Ohio Statutes**

- O.R.C. 2315.04      Duty of officer in charge of jury.
- O.R.C. 2945.31      Allows, but does not require, sequestering of jurors after a trial has commenced.
- O.R.C. 2945.33      Requires sequestration of jurors in capital cases once a case is submitted to the jury.

**Court Rules**

- Crim. R. 24      Trial jurors.

**OHIO COURT SECURITY STANDARDS**

**APPENDIX C**

## **PREAMBLE**

The following Ohio Court Security Standards represent the efforts of the Supreme Court Advisory Committee on Court Security & Emergency Preparedness. The Standards were first adopted by the Supreme Court in 1994 and are now revised to reflect changes in our society affecting them.

Ohio citizens should expect all court facilities to be safe and secure for all who enter so that justice for all may be sought and not unjustly interrupted. Court facilities and each courtroom therein should have appropriate levels of security to address any foreseeable concern or emergency that may arise during the course of business. Elected officials charged with court facility authority must be proactive and sensitive to court security and emergency preparedness concerns. While the Advisory Committee understands providing a safe court facility to all carries a financial price, it is imperative that the topics discussed in the Ohio Court Security Standards be addressed.

Court security and emergency strategies and actions must be consistent with individual rights, civil liberties, and freedoms protected by the United States Constitution, the Ohio Constitution, and the rule of law. Because Ohio has a diverse population, special thought should be given to overcoming language and cultural barriers and physical disabilities when addressing security and emergency issues. However, Ohio citizens must be assured that any security practice or policy is employed in a neutral manner.

The Ohio Court Security Standards attempt to balance the diverse needs of each community. However, each locale is encouraged to promulgate policies and procedures to meet its specific needs. Special consideration should be given to defining the roles and responsibilities of the court and law enforcement officials within each local jurisdiction.

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## **STANDARD 1. COURT SECURITY COMMITTEE**

Each court shall appoint a court security committee to meet on a periodic basis for the purpose of implementing these standards. If more than one court occupies a court facility, the courts shall collectively appoint a single committee.

### **Commentary**

Court security issues affect many sectors of the community and include differing local needs and serious funding concerns. Therefore, a Court Security Committee should review these issues in a cooperative and constructive manner.

The Court Security Committee should include representatives of first responders, emergency management agencies, and funding authorities, and may include representatives from each entity within the court facility and the community.

## **STANDARD 2. SECURITY POLICY AND PROCEDURES MANUAL**

### **(A) Adoption of manual**

As part of its court security plan, each court shall adopt a written security policy and procedures manual governing security of the court and the court facility to ensure consistent, appropriate, and adequate security procedures. The manual shall include each of the following:

- (1) A physical security plan;
- (2) Routine security operations;
- (3) An emergency action plan that addresses events such as a hostage situation, an escaped prisoner, violence in the courtroom, a bomb threat, and fire;
- (4) A high risk trial plan.

### **(B) Review of manual**

A court shall periodically test and update its security policy and procedures manual for operational effectiveness.

### **(C) Multiple courts**

If more than one court occupies a court facility, the courts shall collectively adopt and review a single security policy and procedures manual.

### **Commentary**

Although traditional forms of security, such as security searches of entrants to the court facility, are an excellent primary safeguard, it is important that courts have a written Security Policy and Procedures Manual addressing the items listed above.

To ensure a thorough knowledge of the court's Security Policy and Procedures Manual, all court security officers should review the manual as a part of their orientation and as a component of regular, continuing education for retained court security officers.

A copy of the Security Policy and Procedures Manual should be available to all court security officers to ensure they understand the appropriate security procedures.

All court security officers should be immediately informed of any changes or amendments to the Security Policy and Procedures Manual.

Security Policy and Procedures Manual is a protected document which should not be shared with non-security court personnel other than court leadership. However, it is recommended that a shorter guidebook be prepared for all other court personnel, which should include emergency evacuation procedures, routes, and building safety guidelines.

**STANDARD 3. EMERGENCY PREPAREDNESS MANUAL**

**(A) Adoption of manual**

As part of its court security plan, each court shall adopt a written emergency preparedness manual. The manual shall include a plan providing for the safety of all persons present within the court facility during an emergency.

**(B) Review of manual**

A court shall periodically test and update its emergency preparedness manual for operational effectiveness.

**(C) Multiple courts**

If more than one court occupies a court facility, the courts shall collectively adopt and review a single emergency preparedness manual.

## **STANDARD 4. CONTINUITY OF OPERATIONS MANUAL**

### **(A) Adoption of manual**

As part of its court security plan, each court shall adopt a written continuity of operations manual. The manual shall include a plan that addresses each of the following:

- (1) The continued operation of the court at an alternative site should its present site be rendered inoperable due to a natural disaster, act of terrorism, security breach within the building, or other unforeseen event;
- (2) The provisions of the “Court Continuity of Operations (COOP) Plan Template” available on the website of the Supreme Court.

### **(B) Review of manual**

A court shall periodically test and update its continuity of operations manual for operational effectiveness.

### **(C) Multiple courts**

If more than one court occupies a court facility, the courts shall collectively adopt and review a single continuity of operations manual.

## **STANDARD 5. PERSONS SUBJECT TO A SECURITY SEARCH**

All persons entering a court facility shall be subject to a security search. A security search should occur for each visit to the court facility, regardless of the purpose or the hour.

### **Commentary**

The credibility of court security requires the public be subject to a security search when entering a court facility. Any exemption of personnel from the security search process, including elected officials, court personnel, attorneys, law enforcement officers, or court security officers, should be decided and documented by the Court Security Committee.

At a minimum, each court facility should have at least one portable walk-through magnetometer and a hand-held magnetometer, with court security officers trained in the proper use of that equipment. Walk-through magnetometers at a single point of entry, with accompanying x-ray viewing of packages and handbags, is the optimal method of searching entrants to a court facility and should be utilized to provide the type of security needed to ensure a safe environment. A single point of entry for the public is strongly recommended.

## **STANDARD 6. COURT SECURITY OFFICERS**

### **(A) Assignment**

Uniformed court security officers should be assigned in sufficient numbers to ensure the security of each courtroom and the court facility.

### **(B) Certification and training**

All court security should be certified through the Ohio Peace Officers Training Council. These officers should receive specific training on court security and weapons instruction specific to the court setting.

### **Commentary**

For the purpose of these standards, “court security officer” means an individual employed or contracted to perform security duties or functions at a court facility and includes a law enforcement officer assigned to court security and a bailiff who performs court security duties or functions. “Court security officer” does not include an administrative bailiff who does not perform court security duties or functions.

Law enforcement officers who are present within the court facility for purposes other than court security, such as testifying at a trial, should not be considered a component of the court security system. These law enforcement officers' full attention should be directed to the duties to which they are assigned. The security of the court should not be reliant upon these law enforcement officers, who may have no specific training in court security.

## **STANDARD 7. WEAPONS IN COURT FACILITIES**

### **(A) Prohibition**

No weapons should be permitted in a court facility except those carried by court security officers or as permitted under division (B)(1) of this standard. The court should establish and install adequate security measures to ensure no one will be armed with any weapon in the court facility.

### **(B) Law enforcement**

(1) Each court should promulgate a local court rule governing the carrying of weapons into the court facility by law enforcement officers who are not a component of court security and are acting within the scope of their employment. If more than one court occupies a court facility, the courts shall collectively promulgate a single rule.

(2) In all cases, law enforcement officers who are parties to a judicial proceeding as a plaintiff, defendant, witness, or interested party outside of the scope of their employment should not be permitted to bring weapons into the court facility.

### **Commentary**

There is no issue more controversial relating to court security than whether law enforcement officers should be required to surrender their weapons at the court facility door. As a result, each individual court should review its needs and formulate policy based upon local needs and realities.

## **STANDARD 8. PRISONER TRANSPORT WITHIN COURT FACILITIES**

### **(A) Transport**

Prisoners should be transported into and within a court facility through areas that are not accessible to the public. When a separate entrance is not available and public hallways must be utilized, prisoners should be handcuffed behind the back or handcuffed with use of “belly chains” to limit hand movement and always secured by leg restraints.

### **(B) Carrying of firearms**

During the transport of prisoners, personnel in direct contact with the prisoners should not carry firearms. However, an armed court security officer should be present.

### **(C) Holding area**

Once within a court facility, prisoners should be held in a secure holding area equipped with video monitoring, where practicable, while awaiting court hearings and during any recess.

### **Commentary**

If prisoners cannot be transported through private court facility entrances, public movement in the area should be restricted during the time of prisoner transport since transport through a public area exposes the public to danger, enhances the possibility of prisoner escape, and increases the ability to transfer weapons or other contraband to prisoners.

Law enforcement officers should accompany prisoners to the courtroom, remain during the hearing, and return prisoners to the secured holding area. Court security officers should not assume this responsibility.

**STANDARD 9. DURESS ALARMS FOR JUDGES AND COURT PERSONNEL**

All courtrooms, hearing rooms, judges' chambers, clerks of courts' offices, and reception areas should be equipped with a duress alarm system connected to a central security station. The duress alarm system should include enunciation capability.

**Commentary**

There are times when individuals may be able to circumvent standard court security measures. Judges and court personnel should have a readily accessible signal system upon which to rely in emergency situations.

It is important that the duress alarm system be a type which includes an audible alarm at the central security station. However, the system should not include an audible alarm at the activation site. The duress alarm system should quickly summon additional help from the county sheriff's department or the nearest police jurisdiction when needed.

To ensure confidence in the duress alarm system is maintained, duress alarms should be tested periodically and all efforts should be made to minimize false alarms.

## **STANDARD 10. CLOSED-CIRCUIT VIDEO SURVEILLANCE**

If a court utilizes closed-circuit video surveillance, the system should include the court facility parking area, entrance to the court facility, court lobby, courtroom, and all other public areas of the court facility.

### **Commentary**

Posted notices that every judicial proceeding is under surveillance may dissuade those who have intentions of disrupting a hearing. Some court facilities may lack the architectural and structural elements necessary for court security and, therefore, require greater reliance on security devices. Closed-circuit video surveillance is secondary to security searches of entrants to a court facility.

## **STANDARD 11. RESTRICTED ACCESS TO OFFICES**

To ensure safe and secure work areas and to protect against inappropriate interaction between judges and participants in the judicial process, an effective secondary security perimeter should be utilized at the entrance to the office space housing judges and court personnel.

### **Commentary**

The security of the office space housing judges and court personnel must be maintained. Unlimited access to these areas is dangerous and unnecessary. The general public should not be permitted to wander through these areas for any reason. However, attorneys should have controlled access to the areas. Persons having business with a judge or court personnel should be encouraged to make appointments.

Steps which may be taken to facilitate this standard include a main receptionist checkpoint, passive or active electromagnetic hall locks, and cardreader door locks.

Also, the judges' chambers, as differentiated from the staff offices, and judges' parking spaces should not be designated by "Judge" signage.

Finally, parking spaces should be located as close as possible to an entrance.

## **STANDARD 12. OFF-SITE PERSONAL SECURITY**

As part of its court security plan, each court, in conjunction with law enforcement officers, should adopt procedures for the personal security of judges and court personnel at locations outside the court facility. If more than one court occupies a court facility, the courts shall collectively adopt procedures applicable to all judges and court personnel in the court facility.

### **Commentary**

The protection of judges and court personnel from work-related threats and acts of violence outside the court facility is important. It is essential that procedures be in place, when necessary, to respond to such incidents.

The particular procedures may include personal security profiles, residential alarm systems, cellular telephones, weapons training, self-defense training, and personal/family bodyguard security. While all of these steps include some financial commitment, the procedures may be graduated to respond to the needs of any given situation.

### **STANDARD 13. STRUCTURAL DESIGN OF COURT FACILITIES AND COURTROOMS**

When designing new or remodeling old court facilities, consideration should be given to circulation patterns that govern the movement of people to, from, and in the courtroom. Judges, juries, court personnel, and prisoners should have routes to and from the courtroom separate from public routes. Waiting areas should be available to allow separation of parties, victims, and witnesses.

#### **Commentary**

The circulation patterns should separate the prisoners from all other persons. The public should also be separated from the judges, juries, and court personnel.

## **STANDARD 14. SECURITY INCIDENT REPORTING**

### **(A) Reporting of security incidents**

(1) Every violation of law that occurs within a court facility should be reported to the law enforcement agency having jurisdiction. To facilitate reporting, all court personnel should familiarize themselves with the law enforcement agency that has jurisdiction within and around their court facility.

(2) Each court should adopt a policy for reporting court security incidents and should include the policy in the court's security policy and procedures manual. If more than one court occupies a court facility, the courts shall collectively adopt a single policy.

(3) A summary of court security incidents should be compiled annually for the court's benefit in evaluating security measures.

### **(B) Periodic review of security incidents**

All courts within the court facility should periodically review all court security incidents so the judges and court personnel are aware of recent events.

### **Commentary**

Although the facility may be a county court facility, in some areas, if the facility is located within the limits of a municipal corporation, the local police may be the law enforcement agency having jurisdiction.

A "court security incident" is any infraction outlined within the court's Security Policy and Procedures Manual and includes any and all disruptions made in the confines of the court facility.

To measure the effectiveness of court security procedures and to aid in securing necessary funding for court security measures, it is useful to recognize and record court security incidents. A standard incident reporting form should be utilized by court personnel to record each event which compromised the security of the court and/or the safety of the participants in the judicial process. Additionally, each court should do an annual summary of court security incidents for its own benefit in evaluating court security measures using the model incident reporting form.

**STANDARD 15. NEWS MEDIA IN THE COURT FACILITY**

The court security committee, along with other court officials, should consider and formulate a plan governing news media in a court facility. The plan should comply with the requirements of Rule 12 of the Rules of Superintendence for the Courts of Ohio and address both of the following:

- (A) The process for news media entering and departing from the court facility in a minimally intrusive manner so other court offices are not disturbed;
- (B) The safety of news media representatives in the courtroom as well as the location of their equipment so as to protect all persons in the courtroom and not create an impediment to court operations.

**STANDARD 16. INFORMATION TECHNOLOGY OPERATIONS SECURITY**

Each court should periodically evaluate and update its security for its information technology operations and implement appropriate security controls to ensure protection of those operations.

## **COURT FACILITY STANDARDS**

### **APPENDIX D**

## Court Facility Standards

These standards apply to all courts of record in Ohio except as otherwise indicated. The standards represent the minimum requirements to ensure the efficient and effective administration of justice and are intended to complement federal, state, and local laws, regulations, and standards pertaining to building construction, safety, security, and access.

**(A) General considerations.** In order to maintain suitable judicial atmosphere and properly serve the public, clean, well-lighted, adequately heated and air-conditioned court facilities shall be provided and maintained.

**(B) Location.** The facilities should be located in a courthouse or county or municipal building. The location within the building should be separate from the location of non-judicial governmental agencies. Court facilities should be located in a building that is dignified and properly maintained.

**(C) Courtroom.** Every trial judge should have a separate courtroom.

The courtroom should have adequate seating capacity so that litigants and others are not required to stand or wait in hallways and areas adjacent to the courtroom.

All participants must be able to hear and to be heard. If the room acoustics are not satisfactory, an efficient public address system shall be provided.

Every courtroom should have an elevated bench. Adequate shelving should be provided adjacent to the bench for legal reference materials. United States and Ohio flags should flank the bench.

The witness chair should be near the bench, slightly elevated, and situated in an appropriate enclosure.

Desks, tables, and chairs should be provided for all court personnel regularly present in the courtroom.

Tables and chairs should be provided for parties and counsel. Tables shall be situated to enable all participants to hear and to allow private interchanges between litigants and counsel.

Each trial courtroom should be equipped with a jury box, suitable for seating jurors and alternates sufficient to meet the demands of the court. The jury box should be situated so that jurors may observe the demeanor of witnesses and hear all proceedings.

A blackboard and other necessary demonstrative aids should be readily available. Unnecessary material or equipment should not be kept in the courtroom.

Each judge should have private chambers convenient to the courtroom. Access from chambers to the courtroom should be private. Chambers should be decorated and equipped in appropriate fashion.

**(D) Library.** Each court shall be provided an adequate law library comprised of those materials, including electronic media, considered necessary by the court.

**(E) Magistrate.** Magistrates should have courtroom and office facilities similar to those of a judge.

**(F) Juror and witness facilities.** Each trial courtroom shall have a soundproof jury deliberation room located in a quiet area as near the courtroom as possible. Access from the jury deliberation room to the courtroom should be private. Private personal convenience facilities should be available for the jurors.

An adequate waiting room must be provided for jurors. Reading material of general interest, television, and telephones should be provided.

A waiting room comparable to the jurors' waiting room should be provided for witnesses.

**(G) Consultation room.** A room should be provided for use of attorneys.

**(H) Violations Bureaus and pay-in windows.** Facilities for violations bureaus and pay-in windows should be located near public parking areas.

**(I) Court staff and court-related personnel facilities.** Adequate space and equipment shall be provided for court personnel to prepare, maintain, and store necessary court records. Space and equipment should be utilized to ensure efficiency, security, and confidentiality.

Adequate restroom facilities separate from public restroom facilities should be provided for all court personnel.

**(J) Public convenience facilities.** Clean, modern restroom facilities should be available in the vicinity of the public areas of the court. Public telephones should be available and afford privacy.

## **FACSIMILE FILING STANDARDS**

These Facsimile Filing Standards are adopted November 3, 2003 pursuant to Superintendence Rule 27, effective May 1, 2004.

### **APPENDIX E**

# FACSIMILE FILING STANDARDS FOR OHIO COURTS

These Facsimile Filing Standards are adopted November 3, 2003 pursuant to Superintendence Rule 27, effective May 1, 2004.

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## 1.00 Definitions

**1.01 “Facsimile transmission”** means the transmission of a source document by a facsimile machine that encodes a document into signals, transmits, and reconstructs the signals to print a duplicate of the source document at the receiving end.

**1.02 “Facsimile machine”** means a machine that can send and receive a facsimile transmission either as a stand alone device or as part of a computer system.

*[Commentary: E-MAILING OF FILING IS NOT CONSIDERED PART OF FAX FILING. IT WILL BE ADDRESSED IN ELECTRONIC FILING STANDARDS.]*

**1.03 “Fax”** is an abbreviation for "facsimile" and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

**1.04 “Source document”** means the document transmitted to the court by facsimile machine/system.

**1.05 “Effective original document”** means the facsimile copy of the source document received by the Clerk of Court and maintained as the original document in the court’s file.

**1.06 “Effective date and time of filing”** means the date and time that a facsimile filing is accepted by the Clerk of court for filing.

## 2.00 Applicability of local rules.

**2.01** All local rules of court adopted to permit filing of facsimile documents will be deemed to permit filing of all pleadings, motions, exhibits and other documents that may be filed with the Clerk of Courts. The local rules must specify any exceptions to this permission.

*[Commentary: There is not a mandate that requires a court to accept filings by FAX. Only those Courts, that choose to accept faxes, need to create local rules that meet the minimum standards set. We also created a "model rule" for those courts that are looking for more guidance. Clerks who serve in more than one location should specify all exceptions to fax filing.]*

**2.02** All local rules of court for facsimile filing SHALL place a requirement that the filer provide a cover page containing the following:

- (I) the caption of the case;
- (II) the case number;
- (III) the assigned judge;
- (IV) a description of the document being filed;
- (V) the date of transmission;
- (VI) the transmitting fax number; and
- (VII) an indication of the number of pages included in the transmission, including the cover page.

If a document is sent by fax to the Clerk of Court without the cover page information listed above, it may be deposited in the case jacket but need not be entered into the Case Docket and may be considered to be a nullity and thereby stricken from the record.

### **3.00 Place of filing**

**3.01** All local rules of court must specify the telephone number of the facsimile machine receiving transmission. The facsimile machine must have a dedicated telephone line and must be available to receive facsimile transmissions on the basis of 24 hours per day 7 days per week.

### **4.00 Time of filing**

**4.01** All local rules of court must specify that the date and time of ~~filing~~ receipt of any document is the date and time imprinted on the document by the facsimile machine receiving the transmission.

**4.02** All local rules of court must permit receipt of facsimile transmissions on the basis of 24 hours per day 7 days per week.

**4.03** All local rules of court may specify the effective date and time of filing for all documents received outside of the normal business hours of the office of the Clerk of Court and queue them in order of their receipt as documented by the date and time imprinted by the receiving facsimile machine.

**4.04** The Clerk of Court may but need not acknowledge receipt of a facsimile transmission.

*[Commentary: It was the intention of the committee that if for any reason the fax is not received, the burden of validating or confirming the receipt of the complete fax transmission is on the sending party. Most Fax machines are equipped with the capacity to report back to the sending party, a validation of transmission or a "failed transmission" report.]*

## **5.00 Filing of originals**

**5.01** All local rules of court must provide that documents filed by facsimile are accepted as the effective original document in the court file. The source document need not be filed. However, the sending party must maintain possession of the source document and make them available for inspection by the court upon request.

*[Commentary: The Standards Subcommittee recommends that local rules address the issue of retention of the source document until opportunities for the post judgment relief are exhausted.]*

**5.02** Documents shall be filed with a signature or notation “/s/” followed by the name of the person signing the source document. The person transmitting the document represents that the signed source document is in his/her possession.

**5.03** A local rule of court may limit the number of pages that it will accept by facsimile transmission. If the document to be transmitted exceeds the page limit established by local rule, the original must be filed. All local rules of court may permit exhibits that cannot be transmitted accurately or are lengthy to be replaced by an insert page describing the exhibit. The local rules may provide that the original of such an exhibit may be filed within a specified time subsequent to the facsimile filing.

**5.04** A local rule may be adopted that is not inconsistent with any standard regarding the filing of an original source document.

*[Commentary: The local rule should address and define what it felt was reasonable page limit. A filing that exceeds the page limit detailed in the local rule would either require filing through other allowable channels. or as is the case with Exhibits in section 6.01 of the Model rule; if the filing has exhibit(s) that cause it to exceed the page limit, then, in the fax filing the exhibit (or other lengthy document), would be "replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required by this paragraph may result in the court striking the document and/or exhibit." This allows the local court to facilitate filing by allowing faxes without placing an unusual burden on the clerk's office. ]*

## **6.00 Filing Fees**

**6.01** All local rules of court must specify the effective methods of paying fees and costs for any pleading or other document requiring such a fees or costs. The local rules may provide that the Clerk of Court does not have to accept a facsimile transmission filing unless the acceptable method of payment has been paid or arranged to be paid. Local rules of court may not require premium fee schedules for facsimile filings.

*[Commentary: In terms of costs associated with acceptance of fax filings, some clerks have expressed concern over related costs. In the case of FAX filing, the only substantive difference between a single original coming in over the counter and one coming in via FAX is the presentation. Section 6 specifically prohibits the charging of fees above and beyond the \$3.00/\$10.00 fee allowed for court technology, for accepting a FAX filing. However, if it's customary for a clerk's office to charge for copies (including service copies) or additional charges for administrative costs, mailing /postage costs, etc. ... then those fees would still apply regardless of how the original filing came in. Those additional fees would most likely fall under a separate local rule regarding fees that your court would already have in place. ]*

## **7.00 Effective Date of Local Rules**

**7.01** All local rules of court will become effective upon approval by the Supreme Court Committee on Technology and the Courts.

## **8.00 Time to Compliance**

**8.01** Courts which choose to offer facsimile filing shall submit local rules for approval by the Supreme Court of Ohio. Courts offering facsimile filing at the time this standard is adopted shall submit their local rule for approval within six months of the adoption of this standard.

## **APPENDIX**

### Model Facsimile Filing Rule for Ohio Courts

The Model Facsimile Rule for Ohio Courts is included for illustration. This form is expressly declared as sufficient to meet the requirements of the Facsimile Filing Standards for Ohio Courts. Departures from this form shall not void a local rule that is otherwise sufficient to meet the requirements of the aforesaid Facsimile Filing Standards for Ohio Courts.

**STANDARDS SUBCOMMITTEE OF THE  
SUPREME COURT ADVISORY COMMITTEE  
ON TECHNOLOGY AND THE COURTS**

**MODEL FACSIMILE FILING RULE FOR OHIO COURTS**

The provisions of this local rule are adopted under [ Civ.R. 5(E)] [Civ.R. 73(J)] [Crim.R.12(B)] [Juv.R. 8] [App.R. 13(A)].

Pleadings and other papers may be filed with the Clerk of Courts by facsimile transmission to [area code and number of receiving machine] subject to the following conditions:

**APPLICABILITY**

- 1.01** These rules apply to [civil], [criminal], [small claims], [probate], [juvenile], [appellate] and [domestic relations], proceedings in the [name of court].
- 1.02** These rules do not apply to [civil], [criminal], [small claims], [probate], [juvenile], [appellate] and [domestic relations], proceedings. In these proceedings no facsimile transmission of documents will be accepted.
- 1.03** The following documents will not be accepted for fax filing: [original wills and codicils] [cognovit promissory notes], [insert other examples]

**ORIGINAL FILING**

- 2.01** A document filed by fax shall be accepted as the effective original filing. The person making a fax filing need not file any source document with the Clerk of Court but must, however, maintain in his or her records and have available for production on request by the court the source document filed by fax, with original signatures as otherwise required under the applicable rules, together with the source copy of the facsimile cover sheet used for the subject filing.
- 2.02** The source document filed by fax shall be maintained by the person making the **filing** until the case is closed and all opportunities for post judgment relief are exhausted.

## **DEFINITIONS**

As used in these rules, unless the context requires otherwise:

- 3.01** A “facsimile transmission” means the transmission of a source document by a facsimile machine that encodes a document into optical or electrical signals, transmits and reconstructs the signals to **print** a duplicate of the source document at the receiving end.
- 3.02** A “facsimile machine” means a machine that can send and receive a facsimile transmission.
- 3.03** “Fax” is an abbreviation for “facsimile” and refers, as indicated by the context, to facsimile transmission or to a document so transmitted.

## **COVER PAGE**

- 4.01** The person filing a document by fax shall also provide therewith a cover page containing the following information: [See appendix for sample cover page form.]
- (I) the name of the court;
  - (II) the title of the case;
  - (III) the case number;
  - (IV) the assigned judge;
  - (V) the title of the document being filed (e.g. Defendant Jones’ Answer to Amended Complaint; Plaintiff Smith’s Response to Defendants’ Motion to Dismiss; Plaintiff Smith’s Notice of Filing Exhibit “G” to Plaintiff Smith’s Response to Defendants’ Motion to Dismiss) ;
  - (VI) the date of transmission;
  - (VII) the transmitting fax number;
  - (VIII) an indication of the number of pages included in the transmission, including the cover page;
  - (IX) if a judge or case number has not been assigned, state that fact on the cover page;

(X) the name, address, telephone number, fax number, Supreme Court registration number, if applicable, and e-mail address of the person filing the fax document if available; and

(XI) if applicable, a statement explaining how costs are being submitted.

**4.02** If a document is sent by fax to the Clerk of Court without the cover page information listed above, the Clerk may, at its discretion:

(I) enter the document in the Case Docket and file the document; or

(II) deposit the document in a file of failed faxed documents with a notation of the reason for the failure; in this instance, the document *shall not* be considered filed with the Clerk of Courts.

**4.03** The Clerk of Court is not required to send any form of notice to the sending party of a failed fax filing. However, if practicable, the Clerk of Court may inform the sending party of a failed fax filing.

### **SIGNATURE**

**5.01** A party who wishes to file a signed source document by fax shall either:

(I) fax a copy of the signed source document; or

(II) fax a copy of the document without the signature but with the notation "/s/" followed by the name of the signing person where the signature appears in the signed source document.

**5.02** A party who files a signed document by fax represents that the physically signed source document is in his/her possession or control.

*[Commentary: 5.01 (II) addresses those instances where the fax transmission is generated by the sending party's computer and therefore the document is not printed and capable of being signed prior to transmission.]*

### **EXHIBITS**

**6.01** Each exhibit to a facsimile produced document that cannot be accurately transmitted via facsimile transmission for any reason must be replaced by an insert page describing the exhibit and why it is missing. Unless the court otherwise orders, the missing exhibit shall be filed with the court, as a separate document, not later than five (5) court days following the filing of the facsimile document. Failure to file the missing exhibits as required

by this paragraph may result in the court striking the document and/or exhibit.

- 6.02** Any exhibit filed in this manner shall be attached to a cover sheet containing the caption of the case which sets forth the name of the court, title of the case, the case number, name of the judge and the title of the exhibit being filed (e.g., Plaintiff Smith's Notice of Filing Exhibit "G" to Plaintiff Smith's Response to Defendants' Motion to Dismiss), and shall be signed and served in conformance with the rules governing the signing and service of pleadings in this court. [See appendix for sample exhibit cover sheet.]

## **TIME OF FILING**

### **(OPTION I)**

- 7.01** Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the fax transmission was received by the Clerk of Court. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the basis of 24 hours per day seven days per week including holidays. Each page of any document received by the Clerk will be automatically imprinted with the date and time of receipt. The date and time imprinted on the document will determine the time of filing, provided the document is deemed accepted by the Clerk.

### **(OPTION II)**

- 7.01** Subject to the provisions of these rules, all documents sent by fax and accepted by the Clerk shall be considered filed with the Clerk of Courts as of the date and time the Clerk time-stamps the document received, as opposed to the date and time of the fax transmission. The office of the Clerk of Court will be deemed open to receive facsimile transmission of documents on the same days and at the same time the court is regularly open for business.
- 7.02** Fax filings may NOT be sent directly to the court for filing but may only be transmitted directly through the facsimile equipment operated by the Clerk of Courts.
- 7.03** The Clerk of Court may, but need not, acknowledge receipt of a facsimile transmission.

- 7.04** The risks of transmitting a document by fax to the Clerk of Courts shall be borne entirely by the sending party. Anyone using facsimile filing is urged to verify receipt of such filing by the Clerk of Court through whatever technological means are available.

## **FEES AND COSTS**

- 8.01** No document filed by facsimile that requires a filing fee shall be accepted by the Clerk for filing until court cost and fees have been paid. Court cost and fees may be paid by credit or debit cards or through an escrow account established with the Clerk. The forms necessary for the authorization of payment by credit card or escrow account shall be available at the Clerk's office during normal business hours [and are accessible on-line at \_\_\_\_\_]. Documents tendered to the Clerk without payment of court cost and fees, or with incomplete information on the charge authorization or request, or which do not conform to applicable rules will not be filed. [See appendix for sample credit card payment form.]

*[Commentary: Information furnished for authorization of payment by credit/debit card shall not be part of the case file.]*

- 8.02** No additional fee shall be assessed for facsimile filings.

## **LENGTH OF DOCUMENT**

- 9.01** Facsimile filings shall not exceed \_\_\_\_\_ pages in length. . The filer shall not transmit service copies by facsimile.

*[Commentary: The local rule should address and define what it felt to be a reasonable page limit. The subcommittee also recommends that service copies not be sent by fax. However, this is optional, and at the discretion of the local court.]*

## **EFFECTIVE DATE**

- 10.01** These local rules shall be effective [insert date], and shall govern all proceedings in actions brought after they take effect and also further proceedings in pending actions, except to the extent that, in the opinion of the court, their application in a particular action pending on the effective date would not be feasible or would work an injustice, in which event, the former procedure applies.

*[Commentary: Facsimile filing standards in the model rule contemplate the facsimile transmission of documents to a court by electronic means. The court receiving the facsimile transmission will maintain its equipment to reconstruct a paper copy version of the source document to serve as the original document. These standards should be differentiated from other types of electronic filing, for which other standards will apply.]*

## **APPENDIX**

- 1. Sample Facsimile Filing Cover Page**
- 2. Sample Exhibit Cover Page**
- 3. Sample Credit Card Payment Form**

**FACSIMILE FILING COVER PAGE**

RECIPIENT INFORMATION:

NAME OF COURT: \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

SENDING PARTY INFORMATION:

NAME: \_\_\_\_\_

SUPREME COURT

REGISTRATION NO. (if applicable): \_\_\_\_\_

OFFICE/FIRM: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

FAX NUMBER: \_\_\_\_\_

E-MAIL ADDRESS (if available): \_\_\_\_\_

CASE INFORMATION:

TITLE OF THE CASE: \_\_\_\_\_

CASE NUMBER\*: \_\_\_\_\_

TITLE OF THE DOCUMENT: \_\_\_\_\_

JUDGE\*: \_\_\_\_\_

FILING INFORMATION:

DATE OF FAX TRANSMISSION: \_\_\_\_\_

NUMBER OF PAGES (including this page): \_\_\_\_\_

STATEMENT EXPLAINING HOW COSTS ARE BEING SUBMITTED, IF  
APPLICABLE: \_\_\_\_\_

\_\_\_\_\_

\*If a judge or case number has not been assigned, please state that fact in the space provided.

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

JOHN SMITH, Plaintiff,	
v.	Case No.: 1234567
BILL JONES, Defendant.	Judge _____ <i>(in the alternative a notation here that the case is not yet assigned)</i>

---

PLAINTIFF SMITH'S NOTICE OF FILING EXHIBIT "G"  
TO  
PLAINTIFF SMITH'S RESPONSE TO DEFENDANT'S MOTION TO DISMISS

---

Plaintiff Smith, through counsel, hereby files Exhibit "G" to Plaintiff Smith's Response to Defendant's Motion to Dismiss. The referenced pleading was filed by facsimile transmission with the Court on [date]. Exhibit "G" could not be accurately transmitted by fax and is therefore being timely filed as a separate document with the Court pursuant to Local Rule XX.X.

Respectfully Submitted,

---

Attorney Name (Sup. Crt. Reg. No.)  
Office/Firm  
Address  
Telephone  
Facsimile  
E-mail

Counsel for Plaintiff John Smith

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Filing Exhibit "G" was sent by ordinary U.S. mail on [date] to counsel for defendant Bill Jones, [name and address of recipient].

---

Attorney Name  
Counsel for Plaintiff John Smith

CREDIT / DEBIT CARD AUTHORIZATION FORM

To: Clerk, \_\_\_\_\_ County Common Pleas Court \_\_\_\_\_ Division

Fax No: \_\_\_\_\_

Regarding (if applicable):

Case Name: \_\_\_\_\_

Case Number: \_\_\_\_\_

Dear Clerk's Office Representative:

Please charge my credit / debit card in the amount of \$ \_\_\_\_\_ in payment of fees for the following court costs/service(s): [Identify document to be filed or other service to be performed by the Clerk's Office for which a fee is assessed.] \_\_\_\_\_

Circle One:                      MasterCard                      Visa

Credit / Debit Card Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Name of Cardholder: \_\_\_\_\_

Billing Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Cardholder Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Name & Telephone No. of Person Submitting This form: \_\_\_\_\_

## **APPENDIX F**

**[Model Standards of Practice for Family and Divorce Mediation  
(adopted by the American Bar Association, Association of Family and Conciliation Courts  
and the Association for Conflict Resolution) modified to reference express provisions of  
Ohio law.]**

**Overview and Definitions**

Family and divorce mediation (“family mediation” or “mediation”) is a process in which a mediator, an impartial third party, facilitates the resolution of family disputes by promoting the participants’ voluntary agreement. The family mediator assists communication, encourages understanding and focuses the participants on their individual and common interests. The family mediator helps the participants to explore options, make decisions and reach their own agreements.

Family mediation is neither a substitute for the need for family members to obtain independent legal advice or counseling or therapy, nor is it appropriate for all families. However, experience has established that family mediation is a valuable option for many families because it can:

- (A) Increase the self-determination of participants and improve their ability to communicate;
- (B) Promote the best interests of children; and
- (C) Reduce the economic and emotional costs associated with the resolution of family disputes.

Effective mediation requires that the family mediator be qualified by training, experience and temperament; that the mediator be impartial; that the participants reach their decisions voluntarily; that their decisions be based on sufficient factual data; that the mediator be aware of the impact of culture and diversity issues that impact the mediation process; and that the best interests of children be taken into account. Further, the mediator should also be prepared to identify families whose history includes domestic abuse or child abuse.

These Model Standards of Practice for Family and Divorce Mediation (“Model Standards”) aim to perform three major functions:

- (A) To serve as a guide for the conduct of family mediators;
- (B) To inform the mediating participants of what they can expect; and

(C) To promote public confidence in mediation as a process for resolving family disputes.

The Model Standards are aspirational in character. They describe good practices for family mediators. They are not intended to create legal rules or standards of liability.

The Model Standards include different levels of guidance:

Use of the term “may” in a Standard is the lowest strength of guidance and indicates a practice that the family mediator should consider adopting but which can be deviated from in the exercise of good professional judgment.

Most of the Standards employ the term “should” which indicates that the practice described in the Standard is highly desirable and should be departed from only with very strong reason.

The term “shall” in a Standard is a higher level of guidance to the family mediator, indicating that the mediator should not have discretion to depart from the practice described.

## **Standard I**

*A family mediator shall recognize that mediation is based on the principle of self-determination by the participants.*

(A) Self-determination is the fundamental principle of family mediation. The mediation process relies upon the ability of participants to make their own voluntary and informed decisions.

(B) The primary role of a family mediator is to assist the participants to gain a better understanding of their own needs and interests and the needs and interests of others and to facilitate agreement among the participants.

(C) A family mediator shall inform the participants that they may seek information and advice from a variety of sources during the mediation process.

(D) A family mediator shall inform the participants that they may withdraw from family mediation at any time and are not required to reach an agreement in mediation.

(E) The family mediator's commitment shall be to the participants and the process. Pressure from outside of the mediation process shall never influence the mediator to coerce participants to settle.

## **Standard II**

*A family mediator shall be qualified by education and training to undertake the mediation.*

(A) To perform the family mediator's role, a mediator should:

- (1) have knowledge of family law;
- (2) have knowledge of and training in the impact of family conflict on parents, children and other participants, including knowledge of child development, domestic abuse and child abuse and neglect;
- (3) have education and training specific to the process of mediation; and
- (4) Be able to recognize the impact of culture and diversity.

(B) Family mediators shall provide information to the participants about the mediator's relevant training, education and expertise.

## **Standard III**

*A family mediator shall facilitate the participants' understanding of what mediation is and assess their capacity to mediate before the participants reach an agreement to mediate.*

(A) Before family mediation begins, a mediator shall provide the participants with an overview of the process and its purposes, including:

- (1) informing the participants that reaching an agreement in family mediation is consensual in nature, that a mediator is an impartial facilitator, and that a mediator may not impose or force any settlement on the parties;
- (2) distinguishing family mediation from other processes designed to address family issues and disputes;
- (3) informing the participants that any agreements reached will be reviewed by the court when court approval is required;

(4) informing the participants that they may obtain independent advice from attorneys, counsel, advocates, accountants, therapists or other professionals during the mediation process;

(5) advising the participants, in appropriate cases, that they can seek the advice of religious figures, elders or other significant persons in their community whose opinions they value;

(6) discussing, if applicable, the issue of separate sessions with the participants, a description of the circumstances in which the mediator may meet alone with any of the participants, or with any third party and the conditions of confidentiality concerning these separate sessions;

(7) Informing the participants that the presence or absence of other persons at mediation, including attorneys, counselors or advocates, depends on the wishes of the participants. The mediator shall take controlling statutes or rules into consideration. The mediator may encourage the presence of another person when there is a history or threat of violence or other serious coercive activity by a participant;

(8) describing the obligations of the mediator to maintain the confidentiality of the mediation process and its results as well as any exceptions to confidentiality;

(9) Advising the participants of the circumstances under which the mediator may suspend or terminate the mediation process and that a participant has a right to suspend or terminate mediation at any time.

(B) The family mediator should have participants sign a written agreement to mediate their dispute and the terms and conditions thereof within a reasonable time after first consulting the family mediator, if they desire to mediate.

(C) The family mediator should be alert to the capacity and willingness of the participants to mediate before proceeding with the mediation and throughout the process. A mediator shall not agree to conduct the mediation if the mediator reasonably believes one or more of the participants are unable or unwilling to participate.

(D) Family mediators should not accept a dispute for mediation if they cannot satisfy the expectations of the participants concerning the timing of the process.

## **Standard IV**

*A family mediator shall conduct the mediation process in an impartial manner. A family mediator shall disclose all actual and potential grounds of bias and conflicts of interest reasonably known to the mediator. The participants shall be free to retain the mediator by an informed, written waiver of the conflict of interest. However, if a bias or conflict of interest clearly impairs a mediator's impartiality, the mediator shall withdraw regardless of the express agreement of the participants.*

(A) Impartiality means freedom from favoritism or bias in word, action or appearance, and includes a commitment to assist all participants as opposed to any one individual.

(B) Conflict of interest means any relationship between the mediator, any participant or the subject matter of the dispute that compromises or appears to compromise the mediator's impartiality.

(C) A family mediator should not accept a dispute for mediation if the family mediator cannot be impartial.

(D) A family mediator shall identify and disclose potential grounds of bias or conflict of interest upon which a mediator's impartiality might reasonably be questioned. Such disclosure should be made prior to the start of mediation and in time to allow the participants to select an alternate mediator.

(E) A family mediator shall resolve all doubts in favor of disclosure. All disclosures shall be made as soon as practical after the mediator becomes aware of the bias or potential conflict of interest. The duty to disclose is a continuing duty.

(F) A family mediator shall guard against bias or partiality based on the participants' personal characteristics, background or performance at the mediation.

(G) A family mediator shall avoid conflicts of interest in recommending the services of other professionals.

(H) A family mediator shall not use information about participants obtained in mediation for personal gain or advantage.

(I) A family mediator shall withdraw pursuant to Standard XI if the mediator believes the mediator's impartiality has been compromised or a conflict of interest has been identified and has not been waived by the participants.

## **Standard V**

*A family mediator shall fully disclose and explain the basis of any compensation, fees and charges to the participants.*

(A) The participants shall be provided with sufficient information about fees at the outset of mediation to determine if they wish to retain the services of the mediator.

(B) The participants' written agreement to mediate their dispute shall include a description of their fee arrangement with the mediator.

(C) A mediator shall not enter into a fee agreement that is contingent upon the results of the mediation or the amount of the settlement.

(D) A mediator shall not accept a fee for referral of a matter to another mediator or to any other person.

(E) Upon termination of mediation a mediator shall return any unearned fee to the participants.

## **Standard VI**

*A family mediator shall structure the mediation process so that the participants can make decisions based on sufficient information and knowledge.*

(A) The mediator should facilitate full and accurate disclosure and the acquisition and development of information during mediation so that the participants can make informed decisions. This may be accomplished by encouraging participants to consult appropriate experts.

(B) Consistent with standards of impartiality and preserving participant self-determination, a mediator may provide the participants with information that the mediator is qualified by training or experience to provide. The mediator shall not provide therapy or legal advice.

(C) If the participants so desire, the mediator shall allow attorneys, counsel or advocates for the participants, or other individual designated by the participants, to be present at the mediation sessions.

(D) With the agreement of the participants, the mediator may document the participants' resolution of their dispute. The mediator should inform the participants that any agreement should be reviewed by an independent attorney before it is signed.

## **Standard VII**

*A family mediator shall maintain the confidentiality of all information acquired in the mediation process, unless the mediator is permitted or required to reveal the information by law or agreement of the participants.*

(A) The mediator should discuss the participants' expectations of confidentiality with them prior to undertaking the mediation. The written agreement to mediate should include provisions concerning confidentiality.

(B) Prior to undertaking the mediation the mediator shall inform the participants of the limitations of confidentiality such as statutory, judicially or ethically mandated reporting.

(C) As permitted by law, the mediator shall disclose a participant's threat of suicide or violence against any person to the threatened person and the appropriate authorities if the mediator believes such threat is likely to be acted upon.

(D) If the mediator holds private sessions with a participant, the obligations of confidentiality concerning those sessions should be discussed and agreed upon prior to the sessions.

(E) If subpoenaed or otherwise noticed to testify or to produce documents the mediator should inform the participants immediately. The mediator shall not testify or provide documents in response to a subpoena without an order of the court that is pursuant to O.R.C. 3109.52, if the mediator reasonably believes doing so would violate an obligation of confidentiality to the participants.

## **Standard VIII**

*A family mediator shall assist participants in determining how to promote the best interests of children.*

(A) The mediator should encourage the participants to explore the range of options available for separation or post divorce parenting arrangements and their respective costs and benefits. Referral to a specialist in child development may be appropriate for these purposes. The topics for discussion may include, among others:

(1) Information about community resources and programs that can help the participants and their children cope with the consequences of family reorganization and family violence;

(2) Problems that continuing conflict creates for children's development and what steps might be taken to ameliorate the effects of conflict on the children;

(3) Development of a parenting plan that covers the children's physical residence and decision-making responsibilities for the children, with appropriate levels of detail as agreed to by the participants;

(4) The possible need to revise parenting plans as the developmental needs of the children evolve over time; and

(5) Encouragement to the participants to develop appropriate dispute resolution mechanisms to facilitate future revisions of the parenting plan.

(B) The mediator shall be sensitive to the impact of culture and religion on parenting philosophy and other decisions.

(C) The mediator shall inform any court-appointed representative for the children of the mediation. If a representative for the children participates in mediation, the mediator should, at the outset, discuss the effect of that participation on the mediation process and the confidentiality of the mediation with the participants. Whether the representative of the children participates or not, the mediator shall provide the representative with the resulting agreements insofar as they relate to the children.

(D) Except in extraordinary circumstances, the children shall not participate in the mediation process without the consent of both parents and, if applicable, the children's court-appointed representative.

(E) Prior to including the children in the mediation process, the mediator shall consult with the parents and the children's court-appointed representative, if applicable, about whether the children should participate in the mediation process and the form of that participation.

(F) The mediator shall inform all concerned about the available options for the children's participation (which may include personal participation, an interview with a mental health professional, the mediator interviewing the child, or a videotaped statement by the child) and discuss the costs and benefits of each with the participants.

### **Standard IX**

*A family mediator shall take reasonable steps to ascertain a family situation involving child abuse or neglect and take appropriate steps to shape the mediation process accordingly*

(A) As used in these Standards, child abuse or neglect is defined by applicable state law.

(B) A mediator shall not undertake a mediation in which the family situation has been assessed to involve child abuse or neglect without having completed appropriate and adequate training.

(C) If the mediator has reasonable grounds to believe that a child of the participants is abused or neglected within the meaning of the jurisdiction's child abuse and neglect laws, the mediator shall comply with applicable child protection laws.

(1) The mediator should encourage the participants to explore appropriate services for the family.

(2) The mediator shall consider the appropriateness of suspending or terminating the mediation process in light of the allegations.

### **Standard X**

*A family mediator shall take reasonable steps to ascertain a family situation involving domestic abuse and take appropriate steps to shape the mediation process accordingly.*

(A) As used in these Standards, domestic abuse includes domestic violence as defined by applicable state law and issues of control and intimidation.

(B) A mediator shall not undertake a mediation in which the family situation has been assessed to involve domestic abuse without having completed appropriate and adequate training.

(C) Some cases are not suitable for mediation because of safety, control or intimidation issues. A mediator shall make a reasonable effort to screen for the existence of domestic abuse prior to entering into an agreement to mediate. The mediator shall continue to assess for domestic abuse throughout the mediation process.

(D) If domestic abuse appears to be present the mediator shall consider taking measures to insure the safety of participants and the mediator including, among others:

- (1) establishing appropriate security arrangements;
- (2) holding separate sessions with the participants even without the agreement of all participants;
- (3) allowing a friend, representative, advocate, counsel or attorney to attend the mediation sessions;
- (4) encouraging the participants to be represented and or accompanied by an attorney, counsel or an advocate throughout the mediation process;
- (5) referring the participants to appropriate community resources;
- (6) Suspending or terminating the mediation sessions, with appropriate steps to protect the safety of the participants.

The mediator should facilitate the participants' formulation of parenting plans that protect the physical safety and psychological well being of the participants and their children.

## **Standard XI**

*A family mediator shall suspend or terminate the mediation process when the mediator reasonably believes that a participant is unable to effectively participate or for other compelling reason.*

(A) Circumstances under which a mediator should consider suspending or terminating the mediation, may include, among others:

- (1) the safety of a participant or well-being of a child is threatened;
- (2) a participant has or is threatening to abduct a child;
- (3) a participant is unable to participate due to the influence of drugs, alcohol, or physical or mental condition;
- (4) the participants are about to enter into an agreement that the mediator reasonably believes to be unconscionable;
- (5) a participant is using the mediation to further illegal conduct;
- (6) a participant is using the mediation process to gain an unfair advantage;
- (7) If the mediator believes the mediator's impartiality has been compromised in accordance with Standard IV.

(B) If the mediator does suspend or terminate the mediation, the mediator shall take all reasonable steps to minimize prejudice or inconvenience to the participants, which may result.

## **Standard XII**

*A family mediator shall be truthful in the advertisement and solicitation for mediation.*

(A) Mediators should refrain from promises and guarantees of results. A mediator should not advertise statistical settlement data or settlement rates.

- (B) Mediators shall accurately represent their qualifications. In an advertisement or other communication, a mediator may make reference to meeting state, national, or private organizational qualifications only if the entity referred to has a procedure for qualifying mediators and the mediator has been duly granted the requisite status.

## **Standard XIII**

*A family mediator shall acquire and maintain professional competence in mediation.*

(A) Mediators should continuously improve their professional skills and abilities by, among other activities, participating in relevant continuing education programs and should regularly engage in self-assessment.

(B) Mediators should participate in programs of peer consultation and should help train and mentor the work of less experienced mediators.

(C) Mediators should continuously strive to understand the impact of culture and diversity on the mediator's practice.

## **APPENDIX G**

**[Special Policy Considerations for State Regulation of Family Mediators and Court Affiliated Programs]**

The Model Standards recognize the National Standards for Court Connected Dispute Resolution Programs (1992). There are also state and local regulations governing such programs and family mediators. The following principles of organization and practice, however, are especially important for regulation of mediators and court-connected family mediation programs. They are worthy of separate mention.

(A) Individual states or local courts should set standards and qualifications for family mediators including procedures for evaluations and guidelines for handling grievances against mediators. In developing these standards and qualifications, regulators should consult with appropriate professional groups, including professional associations of family mediators.

(B) When family mediators are appointed by a court or other institution, the appointing agency should make reasonable efforts to insure that each mediator is qualified for the appointment. If a list of family mediators qualified for court appointment exists, the requirements for being included on the list should be made public and available to all interested persons.

(C) Confidentiality should not be construed to limit or prohibit the effective monitoring, research or evaluation of mediation programs by responsible individuals or academic institutions provided that no identifying information about any person involved in the mediation is disclosed without their prior written consent. Under appropriate circumstances, researchers may be permitted to obtain access to statistical data and, with the permission of the participants, to individual case files, observations of live mediations and interviews with participants.

## **APPENDIX H**

# **CODE OF PROFESSIONAL CONDUCT FOR COURT INTERPRETERS AND TRANSLATORS**

## **Preamble.**

Foreign language interpreters, sign language interpreters, and translators help ensure that individuals enjoy equal access to justice, including case and court functions and court support services. Foreign language interpreters, sign language interpreters, and translators are highly skilled professionals who fulfill an essential role by assisting in the pursuit of justice. They act strictly in the interest of the courts they serve and are impartial officers of those courts, with a duty to enhance the judicial process.

## **Definitions.**

As used in this code, “provisionally qualified foreign language interpreter,” “Supreme Court certified foreign language interpreter,” “Supreme Court certified sign language interpreter,” and “translator” have the same meanings as in Rule 80 of the Rules of Superintendence for the Courts of Ohio.

## **Applicability.**

This code applies to Supreme Court certified foreign language interpreters, provisionally qualified foreign language interpreters, Supreme Court certified sign language interpreters, and translators. This code shall bind all agencies and organizations that administer, supervise, use, or deliver interpreting or translating services in connection with any case or court function.

A court may use this code to assist it in determining the qualifications of any individual providing services as an interpreter under Rule 702 of the Rules of Evidence.

## **Canon 1. High Standards of Conduct.**

Interpreters and translators shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible, consistent with the ends of justice.

### **Commentary**

Interpreters and translators should maintain high standards of conduct at all times to promote public confidence in the administration of justice.

## **Canon 2. Accuracy and Completeness.**

Interpreters and translators shall render a complete and accurate interpretation or translation without altering, omitting, or adding anything to what is spoken or written, and shall do so without explaining the statements of the original speaker or writer.

### **Commentary**

In order to preserve the record of the court and assist in the administration of justice, interpreters should completely and accurately interpret the exact meaning of what is said or written without embellishing, explaining, omitting, adding, altering, or summarizing anything. This includes maintaining accuracy of style or register of speech, as well as not distorting the meaning of the source language, even if it appears obscene, incoherent, non-responsive, or a misstatement. Interpreters and translators have a duty to inform the court of any error, misinterpretation, or mistranslation so that the record may be promptly corrected. The terms “accurately,” “completely,” and “exact” do not signify a word-for-word or literal interpretation, but rather mean to convey the exact meaning of the discourse of the speaker or writer.

## **Canon 3. Impartiality and Avoidance of Conflicts of Interest.**

Interpreters and translators shall be impartial and unbiased. Interpreters and translators shall refrain from conduct that may give the appearance of bias and shall disclose any real or perceived conflict of interest.

### **Commentary**

Interpreters and translators must disclose to the court any prior involvement with a case or court function, parties, or witnesses that creates or could be viewed as creating a conflict of interest, provided such disclosure must not include anything that is privileged or confidential. The court must then determine whether the interpreter or translator may continue on the case or court function. Counsel for either party may petition the court for appointment of a different interpreter or translator on the basis of a conflict of interest and the court must determine on the record whether to release the interpreter or translator from the case or court function.

## **Canon 4. Confidentiality.**

Interpreters and translators shall protect from unauthorized disclosure all privileged or other confidential communications, documents, or information they hear or obtain while acting in a professional capacity.

### **Commentary**

Interpreters and translators must maintain confidentiality with respect to any communication, document, information, or other type of confidential matter, including police and medical records and attorney-client privileged communications protected under section 2317.02 of the Revised Code. Interpreters and translators must not derive, either directly or indirectly, any profit or advantage from any confidential communication, document, or information acquired while acting in a professional capacity.

## **Canon 5. Representation of Qualifications.**

Interpreters and translators shall accurately and completely represent their credentials, certifications, training, references, and pertinent experience.

### **Commentary**

Interpreters and translators have a duty to present accurately and completely any applicable credentials, certifications, training, references, and pertinent experience, consistent with Canon 6 of this code. It is essential that interpreters and translators present a complete and truthful account of their qualifications before appointment to allow the court to fairly evaluate their qualifications for delivering interpreting or translating services.

## **Canon 6. Proficiency.**

Interpreters and translators shall provide professional services only in matters in which they can proficiently perform.

### **Commentary**

By accepting an assignment, interpreters and translators warrant they have the skills, training, and understanding of terminology to interpret or translate accurately and effectively in the given setting, are fluent in the required languages, and have the ability to understand regional differences and dialects. Interpreters have a duty to request from the court and the parties all pertinent information and materials necessary to prepare for the case or court function.

Interpreters and translators should strive continually to improve language skills and knowledge of specialized vocabulary and familiarize themselves with the judicial system and any applicable court rules. Interpreters and translators are responsible for having the proper dictionaries and other reference materials available when needed.

## **Canon 7. Assessing and Reporting Impediments to Performance.**

Interpreters and translators shall at all times assess their ability to perform effectively and accurately. If an interpreter or translator discovers anything impeding full compliance with the oath or affirmation of the interpreter or translator and this code, the interpreter or translator shall immediately report this information to the court.

### **Commentary**

Interpreters and translators must immediately inform the court of any condition interfering with their ability to provide accurate and complete interpretation or translation. This may include excessively rapid, quiet, or indistinct speech, physical interference such as inability to see exhibits, noise in their surroundings, or any other interfering factor.

Interpreters and translators must inform the court if they are having difficulties obtaining pertinent information or materials required to prepare for a case or court function that may impede their ability to perform adequately. If at the time of a hearing or trial the interpreter or translator has not been provided with necessary information or materials, the interpreter or translator must inform the court on the record and request a recess to review such information or materials.

Interpreters and translators should withdraw from an assignment if they are unable to understand or satisfactorily communicate with the non-English speaking, limited English proficient, deaf or hard-of-hearing party, witness, or juror, or if they lack required skills, preparation, or terminology to perform effectively in the case or court function for which they have been summoned.

### **Canon 8. Duty to Report Ethical Violations.**

Interpreters and translators shall report to the court any efforts to impede their compliance with any law, this code, or other official policy governing interpreting or translating. Interpreters and translators shall promptly report to the appropriate legal or disciplinary authority if they observe another interpreter or translator improperly performing an assignment; accepting remuneration apart from authorized fees; disclosing privileged or confidential communications, documents, or information; or otherwise committing a breach of this code.

#### **Commentary**

Interpreters and translators must report to the court any ethical violation, action, or information that refers to the persistence of a party demanding that an interpreter or translator violate this code, subject to any applicable privilege.

### **Canon 9. Scope of Practice.**

Interpreters and translators shall not give legal advice, communicate their conclusions with respect to any answer, express personal opinions to individuals for whom they are interpreting or translating, or engage in any other activity that may be construed to constitute a service other than interpreting or translating while serving as an interpreter.

#### **Commentary**

Since interpreters and translators are only responsible for enabling others to communicate, they should exclusively limit themselves to the activity of interpreting and translating. Interpreters and translators should refrain from initiating communications while interpreting or translating or at all times except as set out below.

Interpreters may be required to initiate communications during a case or court function when they find it necessary to seek assistance in performing their duties. Examples of such circumstances include seeking direction when unable to understand or express a word or thought, requesting speakers to moderate their rate of communication or repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. In such instances the interpreter should refer to him or herself in the third person, making it clear and on the record that the interpreter is speaking for him or herself.

At no time may an interpreter give advice. An interpreter should not explain the purpose of forms, services, or otherwise act as counselor or advisor. The interpreter may sight translate language on a form, but may not provide independent legal advice as to the purpose of the form or instruct the litigant as to the proper manner of completing the form.

Interpreters and translators should not personally serve to perform acts that are the official responsibility of other court officials including, but not limited to, court clerks, pretrial release investigators or interviewers, or probation officers, except as required by and in the presence of such officials.

**Canon 10. Restrictions from Public Comment.**

Consistent with Canon 4 of this code, interpreters and translators shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

**Commentary**

Interpreters and translators must refrain from making public comments or giving opinions or reports concerning any particulars of a case or court function in which they are or have provided professional services, regardless whether the information is privileged or confidential. This restriction does not apply to general public comments or reports concerning the interpreting or translating professions.