

**TWELFTH JUDICIAL DISTRICT
DISTRICT COURT DIVISION**

FAMILY COURT DIVISION

JUVENILE CASE MANAGEMENT PLAN

II. JUVENILE DELINQUENT AND UNDISCIPLINED CASES

RULE 1. GENERAL PROVISIONS

- 1.1** The purpose of these rules is to institute a Case Management Plan that will provide for the orderly, prompt, and just disposition of Juvenile Delinquent and Undisciplined matters. These rules are promulgated in compliance with Rule 2(a), General Rules of Practice for Superior and District Courts and are to be administered under the direction of the Family Court Administrator.
- 1.2** These rules shall, at all times, be construed in such manner as to promote justice and avoid delay. Attorneys shall adhere to the Canons of Ethics and the Code of Professional Conduct as promulgated by the North Carolina State Bar Association.
- 1.3** It is recognized that these rules are not complete in every detail and will not cover every situation that may arise. In the event that these rules do not cover a specific matter, all parties shall act in accordance with the orders of the Chief District Court Judge or assigned Juvenile Judge, or by direction of the Family Court Administrator.
- 1.4** These rules and procedures, and all amendments hereafter, shall be filed with the Clerk of Superior Court for Cumberland County and may be cited accordingly.
- 1.5** The Family Court Administrator shall distribute a copy of these rules and any subsequent amendments hereafter to each member of the Juvenile Bar in Cumberland County. Thereafter, Family Court Administrator shall maintain a supply of printed rules, as well as associated forms, to be provided to attorneys upon request.
- 1.6** The Clerk of Superior Court, Juvenile Records Division, for Cumberland County shall provide a case number at the time of filing and place the number upon the petition in accordance with the applicable Rules of Recordkeeping issued by the Administrative Office of the Courts. All subsequent pleadings and papers filed with the Clerk and all subsequent communications to opposing counsel, parties, or court personnel shall accurately reflect this case number.

- 1.7 An attorney who has a conflict in another court shall comply with the relevant rules relating to priority and, when absent from juvenile court because of a conflict, shall keep the court informed of his/her location at all times.

RULE 2. DETERMINATION OF COUNSEL

- 2.1 Upon the filing of a petition alleging a juvenile to be delinquent, the clerk shall issue a Juvenile Summons and Notice of Hearing Undisciplined/Delinquent form (AOC-J-340) and appoint counsel to represent the juvenile named in the petition.
- 2.2 The summons shall contain the attorney's name, business address, and telephone number and the date of hearing.
- 2.3 A copy of the summons shall be provided to the named juvenile, and to the parent, guardian, or custodian named in the petition.
- 2.4 A copy of the petition, along with a copy of the *Order of Assignment of Counsel* form (AOC-CR-224), shall be provided to the appointed counsel in the action. The Juvenile Court Counselor shall provide a copy of the Juvenile Family Data Sheet to the Clerk of Superior Court to be attached to counsel's copy of the petition.
- 2.5 After the first hearing in a case, an attorney appointed to represent a juvenile who has not been served and who does not appear at the hearing, shall not be responsible for further appearances until the clerk notifies the attorney that the juvenile has been served with this specific petition.
- 2.6 Counsel will not be allowed by the court to withdraw from a case, except for compelling reasons.
- 2.7 If counsel becomes aware of a juvenile or domestic case involving the same child(ren) in another court, counsel shall inform the juvenile case coordinator.

RULE 3. CASE ASSIGNMENT

- 3.1 All Juvenile Undisciplined or Delinquent Cases shall be individually assigned by the juvenile case coordinator to the presiding juvenile court judge holding the first appearance. When a new petition is filed in a case that has been previously assigned to a judge, that judge will continue as the assigned juvenile court judge for the new petition.
- 3.2 Requests for reassignment shall be directed to the Chief District Court Judge.

RULE 4. SECURE CUSTODY ORDERS

- 4.1 Requests for *ex parte* secure custody orders should be presented for consideration to the judge presiding in juvenile court. If juvenile court is not in session, the order may be presented to any district court judge.
- 4.2 In all cases where the juvenile is known to be represented by counsel, reasonable notice shall be given to such counsel who shall be given an opportunity to be present at the time of making the motion before the court. Reasonable notice shall be presumed to be oral notice given at least two (2) hours prior to appearance before the Court.
- 4.3 Failure to give reasonable notice may result in any order being set aside.

RULE 5. HEARING SCHEDULES

- 5.1 Juvenile matters involving delinquent and undisciplined juveniles are regularly scheduled to be heard on alternating weeks. Variance from the regular hearing schedule may occur for good cause shown upon order of the Chief District Court Judge.
- 5.2 The assigned Juvenile Judge shall conduct calendar call each day and determine the order of hearings.
- 5.3 Detention hearings will be scheduled weekly pursuant to a schedule promulgated by the Chief District Court Judge.

RULE 6. ESTABLISHING THE TRIAL CALENDAR

- 6.1 All petitions shall be calendared pursuant to a schedule promulgated by the Chief District Court Judge, which adheres to the time requirements of Chapter 7B of the North Carolina General Statutes.
- 6.2 As to juvenile petitions alleging an offense that would be a felony if committed by an adult;
 - (a) All petitions shall be set for a Felony First Appearance within ten (10) days of the filing of the petition.
 - (b) Appointed counsel, the juvenile, the prosecutor, and the Juvenile Court Counselor (or representative) shall be present at the hearing.
 - (c) At the Felony First Appearance Hearing:

- The status of the case shall be reviewed, including service. If service has not been perfected, the First Appearance will be rescheduled. If service has been perfected a probable cause hearing/trial date will be set within fifteen (15) days of the hearing.
- Counsel shall be prepared to certify to the Court a firm estimate of the length of probable cause hearing or trial.
- Requests for peremptory/special settings shall be made to the court. *(Peremptory/Special Settings requests shall be in compliance with Rule 10 below.)*

6.3 As to juvenile petitions alleging an offense that would be a misdemeanor if committed by an adult;

- (a) All petitions shall be set for a Misdemeanor Adjudication First Appearance hearing on the date noticed and pursuant to a schedule promulgated by the Chief District Court Judge.
- (b) Appointed counsel, the juvenile, the prosecutor, and the Juvenile Court Counselor (or representative) shall be present at the hearing.
- (c) At the Misdemeanor Adjudication First Appearance Hearing:
 - The status of the case, including service, shall be reviewed, and if not heard a firm trial date will be set.
 - Counsel shall be prepared to certify to the Court a firm estimate of the length of trial.
 - Requests for peremptory/special settings shall be made to the court. *(Peremptory/Special Settings requests made shall be in compliance with Rule 10 below.)*

6.4 As to juvenile petitions alleging multiple offenses, including an offense that would be a felony if committed by an adult, the time periods established in Rule 6.2 above shall be followed.

6.5 The trial date assigned shall not be more than sixty (60) days from the date of service of the petition.

RULE 7. NOTICE OF CALENDARING

7.1 The Clerk of Superior Court shall place those cases determined to be ready for hearing on the calendar pursuant to Local Rule 5 and 6 above.

7.2 Calendars shall be published by the Family Court Administrator's Office and shall be available by 11:00 a.m. Wednesday of the week preceding the scheduled court session.

7.3 The Office of Juvenile Justice shall provide to the assigned Assistant District Attorney a recommendation of disposition for each respective case no later than 8:00 A.M. on the first day of the court session. The Assistant District Attorney shall provide a calendar for attorney inspection reflecting the recommendations of each court counselor.

RULE 8. TIME STANDARDS

Absent exigent circumstances, all Juvenile Delinquent and Undisciplined cases should be adjudicated within sixty (60) days of the service of the petition.

RULE 9. MOTIONS/DISCOVERY PRACTICE

All motions and discovery shall be made as set forth in Chapter 7B of the North Carolina General Statutes.

RULE 10. PEREMPTORY /SPECIAL SETTINGS

- 10.1** Requests for a peremptory setting for cases involving persons who must travel long distances, cases involving numerous expert witnesses or cases in which other extraordinary reasons for such request exist, must be made to the assigned Juvenile Judge. A peremptory setting shall be granted only for good cause and compelling reasons.
- 10.2** Requests for a peremptory setting must be in motion form, and copy thereof must be served upon all opposing counsel. The assigned juvenile judge may set a case peremptorily on his/her own motion.
- 10.3** Cases set peremptorily will only be continued by the court for exigent reasons.
- 10.4** Requests for a special setting for cases involving trial lengths that exceed one day shall be made to the Chief District Court Judge.
- 10.6** Requests for a special session for cases involving trial lengths that exceed one day, shall be prepared on the Request for Special Juvenile Session form and presented to the assigned juvenile court judge. Upon a finding by the assigned juvenile court judge that the case should be designated for special setting, the Request for Special Session form shall be presented to the Chief District Court Judge for approval. (Request for Special Juvenile Session form shall be on form CCLF-FC(J)-002 as prepared and distributed by the Family Court Administrator's Office.)

- 10.7** The assigned juvenile case coordinator will notify all counsel/unrepresented parties and the Clerk of Superior Court of any peremptory or special setting ordered by the court.

RULE 11. MOTIONS FOR CONTINUANCE

- 11.1** All requests for continuance shall be made by written motion on a *Motion for Continuance* form and shall set forth with particularity the reason for the continuance, consent if given by opposing party(ies), and a requested reschedule date. *[The Motion for Continuance shall be on form CCLF-FC(J)-005 as prepared and distributed by the Family Court Administrator's Office, or in letter form which essentially provides the same information]*. Motions shall be presented as follows:

(a) Regular Session.

- (a) Prior to the first day of the court session, the motion shall be presented to the assigned Juvenile Case Coordinator for ruling by the assigned Juvenile Court Judge or the Chief District Court Judge;
- (b) In open court, the motion shall be presented to the assigned Juvenile Court Judge presiding.

(b) Special Session.

- (a) To the assigned Juvenile Case Coordinator for ruling by the Chief District Court Judge;
- (b) Motions for Continuance shall be presented no later than fourteen (14) days after receipt of notice of the Special Session Designation.

- 11.2** Motions shall be presented as soon as counsel/unrepresented parties become aware of the reason for the continuance.

- 11.3** Opposing counsel/unrepresented parties must be notified of the motion for continuance prior to the delivery of the request to the assigned Juvenile Case Coordinator. The manner and date of notice to opposing counsel/unrepresented parties shall be indicated on the motion.

- 11.4** Opposing counsel/unrepresented parties shall thereafter have three (3) working days to file an objection to the motion for continuance with the assigned Juvenile Case Manager. All objections shall be made by written motion on the *Objection to Motion for Continuance* form setting forth the particular reasons for objection and served on opposing counsel/unrepresented parties. *[The Objection to Motion for Continuance shall be on form CCLF-FC(J)-006 as prepared and distributed by the Family Court Administrator's Office, or in letter form which essentially provides the same information]*. If a response is not received from the opposing

counsel/parties within three (3) working days of the receipt of the motion to continue, it will be assumed that the opposing counsel/ parties do not object.

- 11.5** Requests for continuance for cases set on regular sessions shall be ruled upon by the assigned Juvenile Court Judge within five (5) working days.
- 11.6** Requests for continuance for cases set on special sessions shall be ruled upon by the Chief District Court Judge within five (5) working days.
- 11.7** In the event any case is ordered continued the assigned Juvenile Case Coordinator shall notify all attorneys and the Clerk of Superior Court. Counsel shall notify the juvenile and any witnesses subpoenaed by the juvenile. Counsel for the State shall notify any witnesses subpoenaed by the state. The clerk shall subpoena witnesses as requested by the State.
- 11.8** Requests for continuance will only be granted when compelling reasons are presented which affect the fundamental fairness of the trial and it is in the best interest of justice. Continuances will not be granted based on consent of the parties, or the fact that the case has not been continued previously
- 11.9** Request for continuance beyond the time specified in Rule 8 will only be granted for extraordinary circumstances that could not have been foreseen.
- 11.10** Should an objection arise, any failure on the part of the moving party to comply with the rules concerning written motion and notice to opposing counsel/unrepresented parties shall result in the voiding of any continuance granted.

RULE 12. SERVICE OF NOTICE

- 12.1** Service as provided for in these rules may be accomplished by depositing such documents in the attorney boxes located in the office of the Clerk of Superior Court, Juvenile Records Division or Civil Division.
- 12.2** Service on unrepresented parties shall be accomplished by U.S. Mail, postage prepaid and first class or as otherwise provided by law.
- 12.3** Providing notice to the Clerk of Superior Court does not constitute providing notice to the Family Court Administrator's Office.
- 12.4** Service to opposing counsel shall be defined as service to all attorneys of record.

RULE 13. DELINQUENT ORDERS OR JUDGMENTS

- 13.1** Orders or judgments to be prepared by counsel shall be presented to the opposing party within ten (10) working days for review. Any order or judgment shall be considered delinquent if the order or judgment has not been presented to the court for signature no later than fifteen (15) working days after being directed by the court to prepare the order or judgment.
- 13.2** The Family Court Administrator shall identify those cases which are delinquent, pursuant to Rule 13.1 above, and bring them to the attention of the Chief District Court Judge or assigned Juvenile Case Judge for consideration of any such sanctions or imposition of such penalties as deemed appropriate and allowed by law.

RULE 14. SANCTIONS

The willful failure to comply with any section of these rules shall subject the party or parties so failing to comply with all sanctions allowed by law as deemed appropriate in the discretion of the assigned Juvenile Judge or the Chief District Court Judge.

RULE 15. FORMS

Local forms for use by counsel in accordance with these rules are attached hereto and are subject to change as legislation and/or policy dictates.

THESE RULES SUPERSEDE ALL PREVIOUS JUVENILE DELINQUENT AND UNDISCIPLINED RULES IN THE DISTRICT COURT OF CUMBERLAND COUNTY, TWELFTH JUDICIAL DISTRICT. THEY SHALL BECOME EFFECTIVE FROM AND AFTER July 1, 2006.

THIS THE _____ DAY OF _____ 2006.

**A. ELIZABETH KEEVER
CHIEF DISTRICT COURT JUDGE**