

**ASHTABULA COUNTY COMMON PLEAS COURT  
JUVENILE DIVISION  
LOCAL RULES**

**INTRODUCTION**

It is ordered that the following rules be and are hereby adopted for the governance of the practice and procedures in the Court of Common Pleas, Juvenile Division, Ashtabula County, Ohio, until otherwise provided pursuant to Article IV, Section (5) of the Ohio Constitution, to Section 2151.23 of the Ohio Revised Code, and to the Rules of Superintendence promulgated by the Supreme Court of Ohio.

**ADOPTION, SCOPE, AND CONSTRUCTION OF RULES**

A. The Juvenile Division of the Common Pleas Court for Ashtabula County, Ohio, adopts the following Rules for the management of proceedings and other functions of the Court. The Court may amend the Rules from time to time as needed or required by law.

B. These Rules are intended to supplement and complement the Ohio Rules of Juvenile Procedure, the Ohio Rules of Civil Procedure, the Superintendence Rules of the Supreme Court of Ohio, and other controlling statutes.

C. These Rules shall be applied, construed, and enforced so as to avoid inconsistency with other rules of Court and statutes governing proceedings of this Court. In their application, they shall be construed so as to provide fairness and to secure just, expeditious, and inexpensive determination of all proceedings.

D. These Rules shall be cited as “Ashtabula Juv. Ct. Rule X.”

E. These Rules shall be effective and may be revised from time to time as is necessary.

**1. THE OPERATION OF THE COURT**

**A. Terms of Court**

The term of the Court is one (1) calendar year. All actions and other business pending at the expiration of any term of court is automatically continued without further order. The jurist may adjourn court or continue any case whenever, in his/her opinion, such continuance is warranted. Session of the court may be held at such places throughout the county as the judge shall from time to time decide.

**B. Hours of the Court**

The regular business hours of the court shall be Monday through Friday, from 8:00 a.m. until 4:30 p.m. Court shall be in session at such times as ordered by the judge or other jurist and as required to meet special situations or conditions.

**2. CONDUCT IN COURT**

Proper decorum in the court is necessary for the administration of the court’s business. No radio or television transmission, voice recording device (other than a device used for purpose of the official record), cell phones, or the making or taking of pictures shall be permitted, except upon consent of the Judge and in accordance with Rules 11 and 12 of the Rules of Superintendence of the Courts of Ohio. No food or drink shall be permitted in the Court rooms.

Proper dress and attire are required for all Court hearings.

### **3. WEAPONS IN COURT FACILITIES**

#### **A. Prohibition**

No weapons shall be permitted in the Court facility except those carried by court security officers or as permitted under division (B) (1) of this standard. The Court shall establish and install adequate security measures to ensure no one will be armed with any weapon in the Court facility.

#### **B. Law Enforcement**

(1) In cases where law enforcement officers are appearing as a witness or party in their official capacity as a law enforcement officer, the law enforcement officer shall be permitted to carry their weapon, so long as they appear in uniform.

(2) In all cases, law enforcement officers who are parties to a judicial proceeding as a plaintiff, defendant, witness, or interested party outside the scope of their employment shall not be permitted to bring weapons into the Court facility.

### **4. COURT APPOINTMENTS**

Persons appointed by the Court to serve as attorneys or guardians ad litem shall be selected from lists maintained by the Court. Appointments will be made from such lists taking into consideration the qualifications, skills, expertise, and caseload of the appointee, in addition to the type, complexity, and requirements of the case.

Court appointees will be paid a reasonable fee with consideration given to the factors contained in Prof. Cond. Rule 1.5, the Ohio Revised Code, and the Local Rules of Court relating to fees.

The Court will review Court appointment lists periodically to ensure the equitable distribution of appointments.

### **5. FACSIMILE FILING STANDARDS**

#### **A. Filings by Facsimile Transmission**

All documents that do not require a filing fee may be filed with the Clerk of Court by facsimile transmission to 440-994-6020. No additional fee will be assessed for facsimile filings.

All documents filed by facsimile will be considered the original and must comply with the Ohio Rule of Civil Procedure 10. The person filing a document by facsimile should maintain in his or her records the source document and facsimile cover sheet used in the faxing document until the close of the case and all time periods for post judgment relief have been exhausted. The source document will be made available to the Court upon request. It will not be necessary for the person filing a document by facsimile to file the source document.

All documents filed by facsimile transmission must not exceed ten (10) pages in length and must contain the signature of the person filing the document, or, if the document is sent directly from the person's computer, the notation "/S/" followed by the name of the person signing the document.

## B. Cover Sheet for Facsimile Transmission

All documents filed by facsimile transmission must be accompanied by a cover letter containing the following information:

1. The caption of the case;
2. The case number;
3. The Judge or magistrate assigned to hear the case;
4. A title indicating what is contained in the facsimile document;
5. The date of the transmission;
6. The telephone number from which the document was faxed;
7. The number of pages faxed, including the cover page;
8. The name, address, telephone number, fax number, and email address of the person filing the document by facsimile. If the person filing the document is an attorney, the attorney registration number should also be included.

## C. Time of Filing

All documents filed by facsimile and accepted by the Clerk of Court will be considered filed with the Clerk or Court as of the date and time the Clerk time-stamps the document received, as opposed to the date and time imprinted by the facsimile machine. The Court's facsimile machine is available for transmission 24 hours a day, 7 days a week. However, the Clerk of Court's office will only be open to file any received facsimile documents during the normal business hours of Monday through Friday, from 8:00 a.m. to 4:30 p.m., excluding any holidays.

## D. Risk of Transmission

The Clerk of Courts will not acknowledge receipt of any document filed by facsimile. The burden to confirm receipt of the document is on the person filing the document by facsimile.

## E. Blurred or Semi-Clear Filings

In the event the facsimile document or a part of the document thereof is received in a blurred or semi-clear state, the Clerk shall notify the person who faxed the document immediately upon receipt thereof. If counsel is able to clarify the document, either by re-transmitting or filing an original on the same date, such clarification shall be accepted without further action.

If counsel cannot clarify the document as set out above, it shall be counsel's sole responsibility to contact the Judge or a magistrate of the Court to resolve the issue.

## 6. USE OF ELECTRONICALLY PRODUCED TICKET

The use and filing of a traffic ticket that is produced by computer or other electronic means is hereby authorized in the Ashtabula County Court of Common Pleas, Juvenile Division. The electronically produced traffic ticket shall conform in all substantive respects to the Ohio Uniform Traffic Ticket. If an electronically produced ticket is issued at the scene of an alleged offense, the issuing officer shall provide the defendant with a paper copy of the ticket.

## 7. MEDIATION

### A. Mediation in Custody Cases

As a matter of practice, all custody and visitation motions filed between parents of a child or children, which do not fall under a dependency, neglect, or abuse case filed by the Ashtabula County Children

Services Board, may be scheduled for mediation. The Court, at its discretion, can decide that a case is not amenable to mediation and can, based upon this finding, order mediation not to occur.

When mediation is ordered by the Court, each party shall contact the designated mediator to attend the mediation appointments, as set up with the mediator. Attendance at the appointments is mandatory, and failure of a party to attend a scheduled mediation appointment can result in a delay of court hearings and a delay in final orders in the case.

If the parties reach an agreement at mediation, the parties are responsible for bringing that agreement to the next Court hearing. Failure to bring the agreement to the Court hearing can result in further delays in the case.

#### **B. Mediation in Unruly and Misdemeanor Delinquency Proceedings**

A first time offender who is charged with an unruly complaint or a misdemeanor delinquency complaint which does not involve an offense of violence, a sexual offense, an offense involving a weapon, an offense involving drugs or alcohol, or certain cases with multiple offenses, shall be referred to mediation, in an effort to avoid a formal charge being brought against the juvenile, and to offer alternative options to the offender. The Court, at its discretion, can decide that a case is not amenable to mediation and treat it as an official case.

If a case is referred to mediation, a mediation letter shall be sent to the juvenile and that juvenile's parent(s). The juvenile and parent must then attend a scheduled mediation appointment(s), and comply with all aspects of mediation and any case plan services ordered from the mediation. Failure of the juvenile and parent to attend and comply with mediation and any case plan services ordered from the mediation, shall result in a formal charge being brought against the juvenile, which shall result in a formal record for the juvenile, as well as court costs and fines.

### **8. PHOTOGRAPHY, RECORDING, AND BROADCASTING OF COURT PROCEEDINGS**

No radio or television transmission, voice-recording device (other than a device used in making a record of the proceedings for the Court), or the making or taking of pictures shall be permitted, without prior approval of the Judge.

### **9. STANDARD COMPANIONSHIP ORDER IN VISITATION OR PARENTING CASES**

Unless otherwise ordered, the Court utilizes the Standard Companionship Order of the Ashtabula County Juvenile Court, which is included as Appendix A to these Local Rules, in all private parenting cases. The Court is free to alter this Standard Companionship Order if it finds that such order is not in the best interests of the child or children

### **10. COMPETENCY EVALUATION**

#### **A. General Purpose**

The purpose of this rule is to expedite proceedings under sections 2152.51 to 2152.59 of the Revised Code, to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under these sections.

#### **B. Expedited Hearings**

Juvenile competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or by this rule.

### **C. Notice**

Upon the conclusion of each hearing, the court shall provide written notice to the prosecuting attorney, the child's attorney, the child's guardian ad litem, and the child's parents, guardian, or custodian of the date, time and place of the next scheduled hearing. Mailed notice shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.

### **D. Stay of Proceedings**

Upon the filing of a motion for a determination regarding a child's competency or upon the court's own motion the court shall stay all delinquency proceedings pending a determination of competency. If, upon a determination of competency, the court determines that the child is not competent but could likely attain competency, the court order staying the delinquency proceedings shall remain in effect until such time as the child attains competency or the proceeding is dismissed.

## **11. USE OF RESTRAINTS ON A CHILD**

### **A. Presumption:**

Physical restraints shall not be used on juveniles appearing in court proceedings before the Ashtabula County Juvenile Court unless the judge or magistrate before whom the child is appearing makes an individualized determination on the record that there is no less restrictive alternative to the use of physical restraint and that the physical restraint of the child is necessary because of either of the following:

1. The child represents a current and significant threat to the safety of the child's self or other persons in the courtroom;
2. There is a significant risk the child will flee the courtroom.

B. Any party, as defined in Juv.R. 2 (Y), may be heard on the issue of whether the use of physical restraint is necessary for the particular child at a particular proceeding.

C. If physical restraint is found necessary by the judge or magistrate, said restraint shall be the least restrictive necessary to meet the risk requiring the restraint and in a manner that does not unnecessarily restrict the movement of the child's hands.

## **12. SERVICE BY PUBLICATION VIA POSTING AND ORDINARY MAIL WHEN THE RESIDENCE OF A PARTY IS UNKNOWN AND CANNOT BE ASCERTAINED WITH REASONABLE DILIGENCE**

A. ) Service by Publication via Posting and Mailing: Any request for service by publication shall be made by posting and mailing.

1) A request for service by Publication by Posting and Mailing shall include the following information:

- a) Case number
- b) The name of the first party on each side
- c) The name and last known address of the person to be served
- d) A summary statement of the allegations made in the pleading or motion
- e) The relief sought

2) Before service by Publication via Posting and Mailing can be made, an affidavit of a party or his counsel shall be filed with the court. The affidavit shall aver that service of summons cannot be made because the residence of the person is unknown to the affiant, all of the efforts made on behalf of the party to ascertain the residence of the person to be served, and that the residence of the person to be served cannot be ascertained with reasonable diligence. The affidavit must also state the last known address of

the person to be served.

3) Upon the filing of the affidavit required by division (A) (2) of this rule, the chief deputy clerk of court shall prepare a notice that contains the name and address of the court, the case number, the name of the first party on each side, and the name and last known address, if any, of the person or persons whose residence is unknown. The publication shall also contain a summary statement of the object of the pleading or motion and shall notify the person to be served that the person is required to appear at the time and place stated. The time stated shall not be less than seven days after the date of publication.

4) The chief deputy clerk shall cause service of the notice required by division (A) (3) of this rule to be made by posting in a conspicuous place and manner for seven (7) consecutive days at the following locations: Ashtabula County Court of Common Pleas, Juvenile Division; Ashtabula County Court of Common Pleas; and Ashtabula County Department of Job and Family Services. Service is complete on the date the notice is posted and the deputy clerk of court shall cause the date of posting to be recorded upon the docket.

5) In addition to posting the notice required by division (A) (4) of this rule, the chief deputy clerk shall mail summons or other pleading to be served by ordinary mail to the last known address of the party to be served. This mailing shall be evidenced by a certificate of mailing which shall be completed and filed by the chief deputy clerk. Service is complete when the certificate of mailing is docketed by the chief deputy clerk.

6) A request for service by publication shall be submitted at least fifteen (15) days before the date and time of the hearing stated in the notice.

B. ) Service by Publication in Newspaper of General Circulation: Any party requesting service by publication in a newspaper of general circulation in Ashtabula County, Ohio shall be responsible to arrange for service by publication with the newspaper at the cost of the requesting party. Upon completion of service by newspaper publication, the requesting party shall submit proof of same to the clerk of court for filing.

# APPENDIX “A”

## STANDARD COMPANIONSHIP ORDER OF ASHTABULA COUNTY JUVENILE COURT

A. The following standard companionship guidelines will be applied in all cases unless otherwise ordered:

1. Presumptions:

- a. Shared parenting is in the best interest of the children;
- b. Equal division of the available companionship time is in the best interest of the children;
- c. Whenever possible, it is in the best interest of the children that they be in the care and supervision of a parent, rather than third persons.

2. The presumptions are rebuttable and may be rebutted by competent credible evidence.

3. In the event the parties cannot agree upon a companionship schedule, they shall participate in mediation.

4. If the parties cannot develop their own companionship schedule through mediation, both parties shall provide the court with verification of their work schedules and available companionship times. The court will then assign companionship time, based upon the presumptions.

B. In the absence of an agreement by the parties, the court has wide discretion in determining what companionship schedule is reasonable and in the best interests of the children, and each judge may develop a uniform fixed schedule of companionship time.

C. Unless the court finds that companionship time should be restricted, the minimum time afforded to the nonresidential parent shall be as follows:

Companionship between the child(ren) and the non-residential parent may take place at such times as the parties may agree, but shall not be less than:

1. Weekends: Alternate weekends from Friday at 6:00 P.M. until Sunday at 6:00 P.M., commencing \_\_\_\_\_.

2. Weekdays: On Wednesday evening, prior to the weekend the non-residential parent has companionship, from 4:00 P.M. to 8:00 P.M. On Tuesday and Thursday evenings, prior to the weekend the non-residential parent does not have companionship, from 4:00 P.M. to 8:00 P.M.

The starting time for weekday companionship must be flexible and will depend upon the work schedule of the non-residential parent and the activity schedule of the child(ren).

3. Holidays: For companionship there are eight holidays:

- (1) New Year’s Day;
- (2) Easter;
- (3) Memorial Day;
- (4) July Fourth;

- (5) Labor Day;
- (6) Thanksgiving;
- (7) Christmas Eve;
- (8) Christmas Day.

In the odd-numbered years, the mother shall have the child(ren) on the odd numbered holidays and the father shall have them on the even-numbered holidays. In the even-numbered years, the father shall have the odd-numbered holidays and the mother the even-numbered holidays. Hours for holiday companionship for the non-residential parent shall be from 9:00 A.M. to 8:00 P.M., except for Christmas Day, which shall be from 8:00 P.M. Christmas Eve to noon Christmas Day. Except for Christmas Eve and Christmas Day, when a holiday companionship time falls on a Monday following that parent's regular weekend companionship, the companionship time will be continuous.

4. Precedence: Holiday companionship times take precedence over every other scheduled companionship times. Vacation and school break companionship shall take precedence over regular companionship.

5. Mother's Day, Father's Day: Mother's Day shall be spent with the mother and Father's Day spent with the father, regardless of which parent is entitled to the weekend. Hours for companionship shall be from 9:00 A.M. to 8:00 P.M.

6. Child's Birthday: A child's birthday shall always be spent with the mother in odd numbered years and with the father in even numbered years. Hours shall be from 9:00 A.M. to 8 P.M.

7. Extended Summer Companionship: The non-residential parent shall be entitled to five weeks companionship during the child(ren)'s summer vacation from school. If the parties cannot agree on the times, the five weeks for the non-residential parent shall be the last two weeks of June, beginning at 9 A.M. on June 17, and the first three weeks of July, ending at 8 P.M. on July 21. During the extended period of companionship with the non-residential parent, the residential parent shall have companionship with the child(ren) on alternating weekends and weekday evenings, in accordance with the same schedule the non-residential parent has at other times.

During the child(ren)'s summer vacation from school, and as part of the five weeks available to the non-residential parent, the non-residential parent is entitled to two weeks exclusive possessory vacation time, provided that not less than 30 days prior written notice is given to the residential parent. Likewise, the residential parent shall also be entitled to two weeks exclusive possessory vacation time, Provided that not less than 30 days prior written notice is given to the nonresidential parent.

8. School Breaks: If the non-residential parent has companionship on Christmas Day, he/she shall have companionship from 9 A.M. on December 19, until 8 P.M. on December 23. If the non-residential parent has companionship on Christmas Eve, he/she shall have companionship from 9 A.M. on December 26, until 8 P.M. on December 30.

Each parent shall have companionship for one-half of the days the child(ren) are off school for spring break, which shall alternate according to the Easter Day schedule. When the non-residential parent has companionship on Easter Day, he/she shall have the half that includes Easter Day.

9. Cancellation: The non-residential parent shall give the residential parent at least 48 hours notice if visitation is to be canceled, unless there is an emergency. Visitation time canceled by the non-residential parent is forfeited and shall not be made up. Visitation canceled by the residential parent is not forfeited and shall be made up at the earliest possible time. (For example, if weekend visitation is canceled by the residential parent due to illness of a child, it shall be made up on the next weekend.)

10. Waiting: The child(ren) and residential parent have no duty to await the visiting parent for more than thirty (30) minutes of the visitation time. A parent who is late forfeits companionship for that period, unless there is an emergency.

11. Address and Phone Numbers: Each parent must keep the other informed of his or her current address and telephone number and an alternate telephone number in the event of an emergency.

12. Clothing: The residential parent is responsible for providing sufficient appropriate clothing for every visitation period. All clothing sent by the residential parent must be returned immediately after the visitation period.

13. Transportation: The non-residential parent has responsibility for picking up and returning the child(ren). No person transporting the child(ren) may be under the influence of drugs or alcohol.

14. Illness or Injury of Child: If a child becomes ill or injured, warranting the giving of medication or consultation with a doctor or dentist, each parent must notify the other parent as soon as reasonably possible.

15. Telephone Access: Both the child(ren) and the parents must be allowed reasonable communication by telephone at reasonable times, regardless of with whom the child(ren) are currently residing. If it is the child(ren) calling a parent, the party with whom the child(ren) are residing at the time of the call shall bear the expense, unless the child(ren) are permitted to telephone the other parent collect. If the parties' cannot agree, telephone access shall be at least twice a week during the hours that the child(ren) are normally awake.

16. Moving: The residential parent shall not be permitted to move his or her residence from the jurisdiction of the court, without the prior written consent of the nonresidential parent, or permission of the court.