

## **RULES FOR ABUSE, NEGLECT AND DEPENDENCY CASES**

### **Rule 1. Scope**

- a. These rules apply to all cases for the 27A Judicial District in which a petition is filed alleging that a juvenile is abused, neglected and/or dependent.
- b. These rules supersede and replace all previous local rules controlling actions in Abuse/Neglect/Dependency Court.
- c. A copy of these rules and any amendments shall be maintained in the Office of the Clerk of Superior Court/Juvenile Division and the District Court Judge's Office.

### **Rule 2. Purpose**

- a. These rules establish procedures for Juvenile Court in cases involving juveniles alleged to be abused, neglected, and/or dependent.
- b. These rules are designed to fulfill the purposes of the North Carolina Juvenile Code(the Code) and the Adoption and Safe Families Act(ASFA).
- c. These rules are intended to achieve a safe, stable and permanent home for juveniles under the court's jurisdiction in a timely manner.
- d. These rules are designed to eliminate unnecessary delays in court proceedings and to otherwise ensure compliance with Chapter 7B of the North Carolina General Statutes and ASFA.

### **Rule 3. Construction and Enforcement**

These rules shall be construed to accomplish the purposes set forth in Rule 2. The court may impose sanctions against a party or attorney who fails to comply with these rules; however, no rule shall be construed, applied or enforced in a manner that will endanger or harm a child or unduly prejudice the rights of a party.

### **Rule 4. Appointment of Counsel**

- a. The juvenile clerk shall maintain a list of attorneys willing to be appointed to represent parents of children alleged to be abused, neglected and/or dependent.
- b. When a petition is filed alleging abuse, neglect and/or dependency, the clerk shall assign separate counsel from the list to represent each parent named in the petition against whom allegations are made. The clerk shall include the attorney's name and business telephone number on the summons to be served on the respondent with the petition. The clerk shall notify the attorney(s) appointed of the date and time of any court hearing(s) by placing a copy of the summons, petition and any order(s) in the attorney's box in the juvenile's clerk office.

- c. Appointment of a Guardian Ad Litem attorney shall occur upon the filing of a petition and in accordance with NCGS 7B-601.

**Rule 5. Responsibility of Attorneys**

- a. To represent parents of children alleged to be abused, neglected and/or dependent, an attorney must:
  - i) make a request to the presiding juvenile court judge or the chief district court judge to be placed on the list;
  - ii) be a member of the Gaston County Bar;
  - iii) have a local working telephone number at which he or she can be contacted;
  - iv) maintain a mailbox in the juvenile clerk's office;
  - v) be familiar with the juvenile code and the local rules regarding abuse, neglect and dependency proceedings;
  - vi) have a commitment to work with parents and juveniles.
- b. An attorney shall make diligent efforts to maintain sufficient contact with his or client in order to provide effective representation.
- c. An attorney who has a conflict in another courtroom shall comply with the rules relating to priority and keep the court informed of his or her location.

**Rule 6. Nonsecure Custody Hearing**

- a. If a child is placed in nonsecure custody, an initial hearing to determine the need for continued nonsecure custody shall be held within 7 days and pursuant to the requirements of NCGS 7B-506. Subsequent nonsecure custody hearings shall be held as required by 7B-506.
- b. At each nonsecure custody hearing the court shall make all inquiries necessary and consider all evidence necessary to determine if continued nonsecure custody is supported by any of the criteria set forth in NCGS 7B-503.
- c. The date, time and place of the next court hearing shall be stated in open court and recited in the order.

**Rule 7. Adjudication**

- a. The adjudication hearing shall be held within 60 days of the filing of the petition alleging abuse, neglect and/or dependency.
- b. The adjudicatory hearing shall be conducted in a manner consistent with NCGS 7B-807.

- c. The court may accept stipulations admitting some or all of the allegations in the abuse, neglect and/or dependency petition. The court may allow the amendment of the petition in order to facilitate the stipulations. If amendments are made they are to be announced in open court, on the record and approved by the court. The adjudication order shall also contain the amendments.
- d. If the disposition hearing is not held immediately following adjudication, the date and time of the disposition hearing shall be stated in open court and noted in the adjudication order. The order shall be filed no later than 30 days after the hearing.

**Rule 8. Disposition**

- a. The dispositional hearing shall be held immediately following the adjudication or within 30 days thereafter.
- b. The dispositional hearing shall be conducted in a manner consistent with NCGS 7B-901.
- c. The Department of Social Services shall provide a written disposition report to the court and all parties.
- d. The Guardian Ad Litem may provide a written report to the court and all parties.
- e. The date and time of the review and/or permanency planning hearing shall be stated in open court and noted in the disposition order. The order shall be filed no later than 30 days after the hearing.

**Rule 9. Review Hearing**

- a. A review hearing shall be held within 90 days of the date of the dispositional hearing.
- b. The review hearing shall be conducted in a manner consistent with NCGS 7B-906(c).
- c. The Department of Social Services shall provide a written review report to the court and all parties.
- d. The Guardian Ad Litem shall provide a written review report to the court and all the parties.
- e. If custody is not restored to the parent(s), a further review hearing shall be set as soon as necessary and no later than 3 months.
- f. The date and time of the next hearing shall be stated in open court and noted in order. The order shall be filed no later than 30 days after the hearing.

**Rule 10. Permanency Planning Hearing**

- a. A permanency planning hearing for all juveniles placed outside the custody of their parents shall be held no later than 12 months from the date of the initial order removing custody.
- b. Subsequent permanency planning hearings shall be held at least every 6 months thereafter or earlier as set by the court to review the progress made in finalizing the permanent plan for the juvenile or, if necessary, to make a new permanent plan for the juvenile.
- c. The permanency planning hearing shall be conducted in a manner consistent with NCGS 7B-907.
- d. If appropriate, the permanency planning hearing may be combined with a review hearing required by NCGS 7B-906.
- e. The Department of Social Services shall provide a written permanency planning report to the court and all parties.
- f. The Guardian Ad Litem shall provide a written permanency planning report to the court and all parties.
- g. The date and time of the next hearing shall be stated in open court and noted in the order. The order shall be filed no later than 30 days after the hearing.

**Rule 11. Mediation**

- a. Upon motion of a party or upon the court's own motion, the court may order parties to participate in mediation at any stage of the proceedings.
- b. The date, time and place of the mediation shall be stated in open court.
- c. All parties and their attorneys shall attend the mediation. If the judge determines there are other individuals whose input may be helpful in the mediation process, the court may order that others be included in the mediation process.
- d. Mediation sessions that occur prior to adjudication may address stipulations to the facts alleged in the petition and the development of a case plan for the parents. Complete or partial agreements as to the petition and/or the case plan may be reached as a result of a pre-adjudication mediation.
- e. Mediation sessions that occur post-adjudication may address the issues of visitation, communication, permanent placement or other issues that may result in permanence for a child.
- f. If an agreement is reached at the mediation, a written agreement shall be drafted while all parties are present. All parties shall sign the agreement and receive a copy. In cases successfully mediated pre-adjudication the signed agreement shall be delivered to the court at the scheduled court hearing. The agreement, if approved by the court, shall be filed and becomes an enforceable order of the court. In cases mediated after adjudication, the court shall determine whether the mediated agreement will become part of the record and file.

- g.** Although parties may be ordered to attend mediation there shall be no punitive measures taken if a mediated agreement is not reached.

**Rule 12. Family Treatment Court**

- a.** Any party may refer a parent to family treatment court at any stage of the proceedings.
- b.** At the initial filing of the petition alleging abuse, neglect and/or dependency the social worker filing the petition shall complete an information form regarding the appropriateness of the parent(s) for referral to family treatment court. The social worker shall provide this completed form along with the petition to the attorney for the department of social services designated as a member of the family treatment court team. The parent(s) shall be reviewed by the family treatment court team at the next available staffing session.
- c.** If a parent(s) are accepted into family treatment court by the family treatment court team, the family treatment court coordinator and the parent(s) attorney shall meet with the parent(s) and review the family treatment court participation agreement. If the parent(s) agree to participate in family treatment court they shall sign the participation agreement and be brought before the family treatment court judge for review. If the family treatment court judge approves of the agreement he or she shall review the agreement in open court with the parent(s) to ensure it is knowing and voluntary. If accepted by the court it shall be signed by the family treatment court judge and becomes an enforceable order of the court.
- d.** Family treatment court shall be held every 2 weeks on a schedule set by the family treatment court team and will be available in the juvenile clerk's office and the district court judge's office.
- e.** Rules and procedures for family treatment court shall be developed and reviewed periodically by the family treatment court team to ensure that family treatment court is meeting the needs of its clients.
- f.** The family treatment court coordinator shall keep and maintain the rules and procedures.
- g.** A parent(s) may participate in both mediation and family treatment court.
- h.** The family treatment court process shall not replace or relieve the parties of their duties and responsibilities regarding the abuse, neglect and/or dependency proceedings held pursuant to the North Carolina General Statutes.

**Rule 13. Continuances**

- a.** No extension of time or continuance beyond the time specified by statute, court order, or these rules shall be granted, except for good cause. The consent of all parties alone is not good cause for an extension or continuance.

- b. In considering granting a continuance or extension, the court should take into account the best interest of the juvenile, the availability of parties or witnesses, whether such a continuance would promote the purposes of these rules, the rights of the parties and the ends of justice.
- c. All orders for extension or continuance shall be prepared and tendered to the presiding judge for signature.

**Rule 14. Court Priority**

Cases involving petitions filed that allege that a child is abused, neglected and/or dependent have priority over all other district court matters.

**Rule 15. Amendments and Modifications**

These rules are subject to amendment or modification as experience dictates and requires.