

RULES FOR LOUISIANA DISTRICT COURTS

TITLE V

Fourteenth Judicial District Court

Parish of Calcasieu

Chapter: 41

Chapter Title: Court Organization and Sessions

Appendix 20

Rule No: 41.0

General Organization of Court:
Divisions or Sections of Court

There shall be a Family and Juvenile Docket in the Fourteenth Judicial District and that Docket shall be allotted to Divisions C and I. Matters heard on the Family and Juvenile Court Docket shall be as follows:

- (1) Juvenile matters governed by the Louisiana Children's Code;
- (2) All proceedings for the adoption of minors, to decree minors abandoned and for the relinquishment or termination of parental rights;

Sessions

Except when otherwise specially ordered, or as otherwise provided herein, court shall open its daily sessions at 9:00 A.M. A recess shall be taken from 12:00 noon until 1:30 P.M., and court shall adjourn at 4:30 P.M.

General Motion Hour shall be held at 9:00 a.m. on Monday, Wednesday and Friday. The Judge handling Motion Hour shall be the Duty Judge.

Term of Court

Court shall convene in the month of September of each year and shall remain in session throughout the year in accordance with the schedule to be prepared by the Court.

The court week begins on Monday. If Monday, or any other day on which court is scheduled to convene, is a legal holiday, court shall convene instead on the first legal day following. For any reason deemed sufficient, court may be adjourned before or extended beyond the expiration of the time allotted.

The Court may call a special session of court during vacation and any action, proceeding, or matter otherwise required by law to be tried or heard in Open Court during the regular session may be tried or heard during said special session.

Regular rule days shall continue to be held during the months of July and August.

Court Docket

The Clerk shall keep one docket for all Family Court cases and one docket for all Juvenile Court cases to be clearly identified by court and division as soon as filed.

Non-Support Cases

Unless otherwise determined by the Court, non support matters shall be scheduled on and shall convene at 9:30 a.m., excluding holidays, on such days of the week as designated by the Judges in the Family and Juvenile Court. The Court shall continue in session as the Judge or Hearing Officer determines and the docket requires.

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Rule No: 41.1

Court Administration: Duty
Judges: Mediation

The Duty Judge should not sign a continuance assigned to the other division when the presiding Judge is available. The presiding Judge shall always be contacted if at all possible, and if the presiding Judge will not be available within a reasonable time the Duty Judge has the discretion to make the decision on the continuance.

There will be no regular Duty Judge during Christmas and New Year's week, the Judge's Summer School, the Annual Spring Judge's Conference, the Louisiana State Bar Convention and the Judicial College in October. The Judges shall make adequate arrangements to handle Duty Judge matters during these particular weeks.

Court Dockets

If a case which has previously been fixed for trial is settled or dismissed, the attorneys shall promptly notify the Clerk of Court and the presiding Judge to that effect.

The Clerk of Court shall furnish each Judge, no later than one week preceding his scheduled court week, a trial docket showing the number and title of the case, the attorneys of record, the date of the filing of the suit and the date that a request for trial was filed.

When cases are assigned for trial on the same date in different divisions involving the same trial attorney or attorneys, the following order of preference shall prevail:

- (1) Criminal jury trials;
- (2) Civil jury trials;
- (3) Custody, access and/or protective order rules and trials;
- (4) Criminal bench trials;
- (5) Civil bench trials;
- (6) Juvenile trials;
- (7) Support and ancillary rules; and
- (8) Criminal motions (exception being motions with statutory time limitations).

When cases are assigned for trial on the same date in different Family and Juvenile Court divisions involving the same attorney or attorneys, the following order of preference shall prevail:

- (1) Juvenile continued custody hearings and trials (Delinquency, Family in Need of Services, Child in Need of Care);
- (2) Trials of contested matters (custody, access, support, relocation and community property partitions);
- (3) Protective orders;
- (4) Rules; and
- (5) Hearing Officer Conferences.

Once a trial has commenced, it shall take preference over all other proceedings. Contested matters shall be heard with preference of assignment going to the first rule filed. The exception to this rule is community property partitions, which shall be heard with preference of assignment going to the first petition filed.

It is incumbent upon the attorney who has a potential conflict to immediately notify opposing counsel and the Court.

Allotment of Cases

Family and Juvenile Court cases shall be allotted to Divisions C and I on an equal and random basis and in a manner that prevents parties filing proceedings from anticipating assignments or otherwise forum shopping for a particular division of the Court.

Before allotment of a case, any Judge of Family and Juvenile Court may issue orders, including but not limited to preliminary and interlocutory orders, writs, executory process, pauper orders and in his discretion, grant an extension of time in which to plead.

Once a case has been allotted, all exceptions, motions, rules and trials on the merits shall be taken up by the Judge of the division to which the case is allotted. All matters to be heard within specified legal delays shall be heard by that Judge within the required time frame. However, the matter may be heard by any Judge within the legal delays by consent of the Judge who has been allotted the case. Any uncontested matter, preliminary default or confirmation of default may be taken up before either division of Family and Juvenile Court. In the event of an unexpected absence of both Judges in Family and Juvenile Court, any of the remaining Judges of the 14th Judicial District Court may hear any matter which was set for hearing before the absent Judge.

After a case has been allotted, it shall not be transferred to another Judge without the consent of the Judge to whom it is to be transferred, except in cases where the Judge to whom it was originally allotted is recused or for some other reason is unable to preside in the matter. If a Judge to whom a case has been allotted is recused or is unable to preside in the matter, the case shall be reallocated to the other Judge in Family and Juvenile Court. If that Judge is recused or is unable to preside in the matter, the case shall be assigned randomly among the other Judges of the 14th Judicial District Court.

In case of voluntary or legal recusation, or where the docket of any division is carrying more than its fair share of the cases, or otherwise according to the discretion of the Judges, any case may be transferred from one division of Family and Juvenile Court to another by order approved by both Judges concerned; provided, however, that when two cases are consolidated for the purpose of trial, the case having the highest docket number shall be transferred to the division to which the case having the lower docket number has been allotted.

In the event of emergency, including prolonged absence due to death, resignation, incapacity or otherwise of the Judge of any division, and in anticipation thereof, the remaining Judges shall order that no case shall be allotted to said division until there is a Judge available to conduct the Court's business. In such absence or anticipated absence, the remaining Judges may likewise order reallocation of all pending cases, or as many as the interests of justice may require. Each remaining Judge is empowered in such event to transfer to himself, from such inoperative division, any particular case which is entitled under the law to a speedy hearing or in which the interests of justice call for such transfer and hearing.

The allotment of cases referred to herein shall be made by the Deputy Clerk of Court assigned to Family and Juvenile Court or any Deputy Clerk duly designated.

After a case has been allotted, the Clerk of Court shall at once cause the division to which the case has been allotted to be noted on the outside of the jacket of the record and in the docket book.

Every two weeks the Clerk shall prepare a list of cases and divisions of respective allotments and post such list in a prominent place and send a copy of said list to each of the Judges.

Appendix 24
Rule No: 41.2
Court Procedures

Pleadings and Discovery

All suits filed in Family Court shall be accompanied by the Clerk's form.

All pleadings, motions and exceptions shall be typewritten and double spaced on white paper of legal size, with proper margins, and shall contain the title and number of the case and the nature of the filing. Quotations may be single spaced.

Printed or photo copied forms used in lieu of original typed documents, as well as copies of documents attached as evidence or for the information of the Court, shall be of good quality, legible, and not subject to fading.

Briefs and Memorandum

Any brief, memorandum and/or correspondence with the Court shall be furnished contemporaneously to the opposing counsel or party, if unrepresented, with a certificate of compliance attached thereto.

All exceptions and motions for new trial shall be accompanied by a brief written statement of the facts and reasons in support of the exception or motion and a memorandum of authorities on which the party relies. Copies shall be furnished contemporaneously to the opposing counsel and or party if unrepresented. Each party opposing the exception or motion shall file with the Court, no later than five (5) judicial days before the hearing, a brief statement of the facts and reasons advanced in opposition to the exception or motion and a memorandum of authorities on which the party relies, a copy of which shall likewise be provided contemporaneously to the opposing counsel or party, if unrepresented.

Any exception or motion which is filed without a memorandum of authorities attached shall not be assigned a hearing date or in the discretion of the Court may be dismissed. Attorneys appearing without having timely filed the required memorandum of authorities may not be permitted to argue.

Records

Only attorneys and court reporters of this Judicial District shall be permitted to withdraw records, exhibits and documents and they shall give their receipts therefore. They shall not retain such records or documents longer than 72 hours, except with special permission of the Court.

Attorneys from other Judicial Districts in this state shall be permitted to withdraw records, documents and exhibits upon presentation of an order of the Court authorizing them to do so, which order shall state the length of time that the record, document or exhibit may be retained.

All records or documents pertaining to a cause pending shall be presented to the Court by the Clerk in the courtroom on the day such case is to be tried.

Withdrawal of Counsel

Prior to the mailing or serving of a notice of the Court for the purpose of assigning a case for hearing or trial, any attorney may, by ex parte order, be permitted to withdraw his representation of a party. It is required that the ex parte order be presented to the Judge of the division in which the case is pending. An attorney who has been permitted by ex parte order to withdraw shall give notice of same to all other counsel and all unrepresented parties.

Following the mailing or serving of such hearing or trial notice, an attorney may withdraw his representation of a party only if the motion to withdraw is filed with an affidavit and supporting documentation that the withdrawing counsel gave written notification of their withdrawal and the next hearing date to their client. All opposing counsel, unrepresented parties, and the party whom the attorney represents shall be served by mail with a copy of the motion. The Court may not grant the motion if doing so would necessitate the delaying or reassignment of the case for trial, unless consented to by opposing counsel, and if permitted by the Court.

All motions to withdraw shall contain the last known mailing address and phone number of the attorney's client.

Nothing in this rule shall be construed to prevent the substitution of counsel for a litigant at any

time prior to commencement of hearing or trial, provided that the motion to substitute is signed by both the withdrawing and enrolling attorney, and provided further that it shall not retard the scheduled hearing or trial.

Duties of Curator Ad Hoc

In any case in which a curator ad hoc is appointed to represent an absentee defendant, the petition shall contain information as to the residence address or whereabouts of the defendant. The curator ad hoc shall promptly make diligent effort to locate and contact the defendant either by personal contact or by certified or registered mail with return receipt requested. When the case is called for trial, the curator ad hoc shall be prepared to present competent evidence to show that a diligent effort was made to locate the defendant, to give him the information and render the services required by this rule.

If the absentee defendant can be located or contacted, the curator ad hoc shall inform him, either by personal contact or by certified or registered mail with return receipt requested, of the nature of the proceedings and the date of the trial or hearing, and he shall render such other services as may be necessary for the protection of the rights of the absentee. At the trial or hearing, unless otherwise ordered by the Court, the curator ad hoc shall file in evidence copies of the letters written to or received from the defendant, and the return receipts of registered letters addressed to the defendant.

Those attorneys appearing on the curator ad hoc list shall be required to accept not less than one appointment per calendar in a Child in Need of Care proceeding.

Appointment of Counsel in Child Protection Cases

A. Policy

The Court acknowledges that each party in a case should have access to competent, continuous, diligent representation throughout the life of the case.

B. Appointment of Counsel for Parent(s) or Caretaker

Ideally, counsel should be appointed as early in the case as is practical.

(1) At the continued custody hearing, the Court will advise parent(s) of the right to court-appointed counsel if the parent(s) are indigent.

(2) The Court will, in the interest of justice, appoint counsel for such indigent persons.

(3) The Court will appoint a curator for any parent who is an absentee.

C. Appointment of Counsel for Children

The Court will appoint counsel for the children in a child protection case at the continued custody hearing.

D. Continuity of Representation

(1) Wherever possible, after counsel enters an appearance or accepts an appointment, representation shall continue through all stages of the proceedings until the case has been removed from the docket.

(2) If a parent in an action for involuntary termination of parental rights (TP) is indigent and requires appointment of counsel, the Court will appoint the same counsel who represented the parent in the CINC proceeding, except where a compelling reason would preclude such appointment.

Child in Need of Care- Removal

Once a child has been removed from the custody of her parent(s) or legal guardian(s) and custody placed with the State, all required DSS review forms shall contain documentation of the continuing necessity for the placement with the State and the continuing appropriateness of that placement. All efforts made to return the child to his parent(s) or legal guardian(s) and the length of continued placement or continued removal from the parents' custody shall also be documented.

Adopted effective April 16, 2001.

Private Permanency Placement Review Hearings, Permanent Placement Reports,
Contents

In any case in which a permanency placement review hearing is required by Ch. C. Art. 1146(B), the legal custodian of the child shall file a written report not less than ten (10) days prior to the permanency placement hearing. Said report shall be known as the permanent placement report and shall contain the following information:

- 1) Date of the child's placement
- 2) Name and address of the family in whose home the child is placed
- 3) The child's general welfare/ How the child is progressing in the home
- 4) A statement as to whether this is the initial placement. If not, a statement as to why any previous placements failed
- 5) Target date for the adoption petition to be filed
- 6) A statement of any obstacles which may exist to the adoption and any plan to overcome said obstacles
- 7) A statement of any special concerns, such as serious health or behavioral problems.

Adopted effective April 16, 2001.

Services Coordinator

Any agency appointed by the Court as the lead agency in an individual case is to act as monitor of and service coordinator for that FINS case. It will be the duty of the lead agency to ensure that the FINS referrals have accurate information regarding available community services and assist the referrals in accessing those services. The lead agency will also monitor the FINS referrals to determine whether the family service plan is followed and to make appropriate interventions as needed.

In cases where OCS has been named lead agency, the Court's "Judgment of FINS Disposition" form shall be completed prior to the disposition hearing and brought to Court on the day of disposition. This form shall remain a permanent part of the record.

Adopted effective April 16, 2001.
