

**RULES FOR
LOUISIANA DISTRICT COURTS**

AND

**NUMBERING SYSTEM FOR
LOUISIANA FAMILY AND DOMESTIC RELATIONS COURTS**

Adopted April 1, 2002

**Includes Amendments through November 3, 2008
(November 3, 2008 Amendments effective January 1, 2009)**

**RULES FOR
LOUISIANA DISTRICT COURTS**

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FAMILY AND DOMESTIC RELATIONS COURTS,
AND JUVENILE COURTS**

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**RULES FOR LOUISIANA DISTRICT COURTS
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RULES FOR PROCEEDINGS IN DISTRICT COURTS, FAMILY AND DOMESTIC RELATIONS COURTS, AND JUVENILE COURTS

Chapter 1 CONSTRUCTION, APPLICATION AND AMENDMENT

Rule 1.0 Construction of Rules and Appendices

These Rules and Appendices are intended to govern interaction between the courts, counsel, and litigants and to ensure the administration of justice in an efficient and effective manner.

Local administrative rules governing internal operating procedures of the courts, on topics not otherwise covered by these rules, may be adopted by *en banc* order of the court.

Any local administrative rule shall be made available to the public by filing a copy with the Judicial Council of the Supreme Court and by filing a copy with the clerk of court for the appropriate parish or parishes.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) The Louisiana Supreme Court has constitutional authority to promulgate these Rules under La. Const. art. V § 5. These Rules are intended to supplement the Codes of Civil and Criminal Procedure. Therefore, a conflict between a Rule and legislation should be resolved by following the legislation.

(b) The Appendices are subordinate to the Rules. Therefore, a conflict between a Rule and an Appendix should be resolved by following the Rule. The information in the Appendices was provided by the various judicial districts and may be revised in accordance with the procedure found in Rule 1.3(c).

Rule 1.1 Application of Rules and Appendices; Citation Form

(a) Title I and Appendices 1 through 6 apply to all proceedings in district courts, family and domestic relations courts, and juvenile courts.

- (b) Title II and Appendices 3 and 7 through 10 apply to all civil (except for family, juvenile and domestic relations) proceedings in district courts.
- (c) Title III and Appendices 11 through 18 apply to criminal proceedings in all district courts.
- (d) The numbering system for rules in Title IV applies to all Louisiana family and domestic relations proceedings in district courts and in the Family Court for the Parish of East Baton Rouge.
- (e) The numbering system in Title V applies to all juvenile proceedings in district courts and in juvenile courts for the Parishes of East Baton Rouge, Orleans, Jefferson and Caddo.
- (f) Titles I through IV of these Rules shall be known as the “Louisiana District Court Rules” and may be officially cited: La. Dist. Ct. R. _____. The Appendices to these Rules may be officially cited: La. Dist. Ct. R.____, App. _____
- (g) Title V of these Rules shall be known as the “Louisiana Juvenile Court Rules” and may be officially cited: La. Juv. Ct. R._____. The Appendices to Title V may be officially cited: La. Juv. Ct. R. _____ , App. _____

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended November 3, 2008, effective January 1, 2009.

Comment

The full citation of the Rules for use in Tables of Authorities shall be as follows:

La. Dist. Ct. R. 1.0, La. R.S. Title 13, Vol. 8 (West 20XX & Supp. 20XX).

Rule 1.2 Effective Date

The effective date of the Louisiana Rules for District Courts and all Appendices is April 1, 2002. These rules and all Appendices shall govern all proceedings commenced thereafter and, insofar as just and practicable, all proceedings then pending.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Rule 1.3 Amendment of Rules and Updating Appendices

- (a) Proposed rules or amendments to existing Louisiana Rules for District Courts in Titles I through III and Title V or to the numbering system in Title IV must be approved by the Supreme Court. Proposed amendments may be submitted by any Louisiana judge or licensed member of the Louisiana bar to the Judicial Administrator of the Supreme Court.
- (b) Changes to the Louisiana Rules for District Courts organized according to the numbering system in Title IV must be approved by the district court, criminal court, or family court that adopted the rule, sitting en banc, and a copy must be provided to the Office of the Judicial Administrator of the Supreme Court within 30 days of the signing of the Order.
- (c) Amendments to the information contained in the appendices to the Louisiana Rules for District Courts shall be made by Court Order attached to the Appendix Amendment Form (Appendix 19) and submitted to the Office of the Judicial Administrator of the Supreme Court within thirty (30) days of the signing of the Order. The Office of the Judicial Administrator of the Supreme Court shall update the appendices annually by communication with the Chief Judge and the Clerk of Court for each judicial district, family court or juvenile court.
- (d) The rules and appendices shall be published annually by West Publishing Company and shall be available on the official website of the Supreme Court of Louisiana.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2004, effective January 1, 2005; amended November 3, 2008, effective January 1, 2009.

Comment

Amendments to the appendices shall be posted to the Louisiana Supreme Court website as close as possible to the effective date of the amendment.

Rule 1.4 Deviations from Rules

An individual judge may, in the interest of justice and upon notice to all parties, permit deviations from these rules in a particular proceeding. Any such deviation shall be noted on the record in open court in the presence of all parties or by written order filed into the record of the proceedings and mailed to all parties or their counsel of record.

Adopted April 1, 2002, effective April 1, 2002.

Rule 1.5 Computation of Time

1. The following rules apply in computing any period of time specified in these rules:

- (a) Exclude the day of the act, event, or default that begins the period.
- (b) Exclude intermediate legal holidays when the period is less than seven days, unless the period is stated in calendar days.
- (c) Include the last day of the period, unless the last day is a legal holiday, in which case the period runs until the end of the next day that is not a legal holiday.
For example:

- (i) When a rule requires an act be done 10 days before an event, and the tenth day falls on a Sunday, the act must be done no later than the preceding Friday (assuming Friday is not a legal holiday).
- (ii) When a rule requires an act be done 10 days after an event, and the tenth day falls on a Sunday, the act must be done no later than the following Monday (assuming Monday is not a legal holiday).

Adopted June 2, 2003, effective July 1, 2003.

Comments

(a) For determination of whether a day is a legal holiday, refer to La. Code Civ. Proc. art. 5059 and La. R.S. 1:55

(b) Computation example for cases in which a rule requires an act be done after an event: Rule 17.5 requires “notice of judgment” be sent to the judge, the clerk and the parties “within 15 days after rendition of the judgment.” The district court rendered judgment on the appeal on Tuesday, December 10, 2002. The deadline for sending the notice of judgment is Thursday, December 26, 2002 because Wednesday, December 25 is a legal holiday.

(c) Computation example for cases in which a rule requires an act be done before an event: Rule 9.9(b) requires any opposition memorandum be filed “at least eight calendar days before the scheduled hearing.” You wish to oppose an exception or motion that is set for hearing on Monday, December 16, 2002. The deadline for filing and serving an opposition memorandum is Friday, December 6, 2002 because the filing and serving deadline is Sunday, December 8, 2002, which is a legal holiday.

(d) This Rule governs only the computation of time under these rules. This Rule is not intended to apply to computation of time under any legislation or any other law.

Chapter 2 DATES OF COURT

Rule 2.0 Dates of Court

The local holidays observed by each judicial district or court, in addition to legal holidays, are as set forth in Appendix 1 to these rules.

Comments

- (a) See La. R.S. 1:55 for a listing of legal holidays.
- (b) See 2004 amendment to La. R.S. 1:55(E)(1)(b) which, by reference to La. R.S. 1:55(B)(1)(a), adds Mardi Gras Day and General Election Day as legal holidays.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2004, effective January 1, 2005.

Chapter 3

JUDGES AND FACSIMILE TRANSMISSIONS TO JUDGES

Rule 3.0 Office Hours

When not on the bench, each judge shall maintain such regular office days and hours as may be necessary to conduct public business.

Adopted April 1, 2002, effective April 1, 2002.

Rule 3.1 Divisions or Sections of Court

Courts may by *en banc* order divide into divisions or sections for the purpose of allotting matters within the court's jurisdiction. Those courts that have done so, and their respective methods for assigning judges to divisions or sections, are indicated in Appendix 2.

Adopted April 1, 2002, effective April 1, 2002.

Rule 3.2 Duty Judges

Each judicial district or court may designate one or more of its members to act as a duty judge. In civil proceedings, the duties assigned to a duty judge shall comply with La. Code Civ. Proc. art. 253.3. The identity of each duty judge shall be prominently displayed in a manner deemed appropriate by the court. If the court chooses to use multiple duty judges to perform various functions, the delineation of each duty judge's duties shall also be prominently displayed. The length of term and duties of the duty judge shall be at the sole discretion of the judges in each judicial district or court sitting en banc. For those judicial districts or courts that have designated duty judges, the office hours for performance of his or her duties, and the duties assigned, are listed in Appendix 3.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) Previous rules of court adopted by individual judicial districts often included various rules dealing with judges, such as selection of a chief judge; courts

sitting *en banc*; duties and powers of judges; duty judges; random allotment; recusal, transfer and consolidation; accessibility; and judicial accounts.

Many of these rules duplicated articles of the Louisiana Constitution, applicable Revised Statutes, or Supreme Court of Louisiana decisions. Furthermore, many of the rules dealt with the internal administration of the court rather than with the interaction of counsel and litigants with the judicial process.

No provisions restating existing law have been included in these rules. The citations to authority for the deleted topics are as follows:

- (1) The Court *En Banc* - La. R.S. 13:472; La. R.S. 13:474; La. R.S. 13:991-999; La. R.S. 13:1221; La. R.S. 13:1312; La. Code Civ. Proc. art. 193.
- (2) Chief Judge - La. Const. Art. 5, Sec. 17.
- (3) Duties & Powers of Judges - La. Code Civ. Proc. art. 191; La. R.S. 13:501.
- (4) Random Allotment - *State v. Sprint Communications Co., L.P.*, 699 So.2d 1058 (La. 1997); La. Code Civ. Proc. art. 253.1.
- (5) Recusal - La. Code Civ. Proc. arts. 151-158, 161.
- (6) Transfer of Actions - *Sprint, supra*; La. Code Civ. Proc. art. 253.2.
- (7) Consolidation of Actions - La. Code Civ. Proc. art. 1561.
- (8) Cumulation of Actions - La. Code Civ. Proc. arts. 461, et seq.

(b) The constitutional implications of the decision in the *Sprint* case, *supra*, regarding random allotment of cases affect a court's ability to appoint duty judges and, more importantly, the designation of duties to such judges. Act 24 §1 of the 1st Extraordinary Session of the 2000 Legislature enacted La. Code Civ. Proc. art. 253.3, effective June 6, 2000, which clarifies the matters that a duty judge may hear. The constitution and the Code of Criminal Procedure govern the appointment of duty judges in criminal proceedings.

(c) Previous rules adopted by individual courts often included various provisions regarding quasi-judicial officers. Many of these rules duplicated applicable revised statutes or code articles.

No provisions restating existing law have been included in these rules. The citations to authority for the deleted topics are as follows:

- (1) Judges *Ad Hoc* - La. Const. Art. 5, Sections 5(A), 22(B); La. Code Civ. Proc. arts. 157, 158 and 161.
- (2) Magistrate Commissioners - La. R.S. 13:713.
- (3) The clerk of court acting as justice of the peace - La. Code Civ. Proc. art. 284.
- (4) Court Appointed Special Masters - La. R.S. 13:4165.
- (d) See La. R.S. 13:501 regarding sessions of court.

Rule 3.3 Facsimile Transmissions to Judges

Any document sent to a judge by facsimile transmission must not exceed fifteen pages, unless the judge has granted permission for a longer transmission. A party sending such facsimile transmission in excess of fifteen pages must contact the Court prior to transmission for each transmission sent.

Adopted October 29, 2003, effective January 4, 2004.

Chapter 4 COURT PERSONNEL

Rule 4.0 Court Reporters

The court shall provide a method for making a verbatim recording of all proceedings conducted in open court.

Adopted April 1, 2002, effective April 1, 2002.

Rule 4.1 Judicial Administrators

The court *en banc* may appoint and fix the salary of a judicial administrator to assist the court in fulfilling its administrative obligations. Those judicial districts that have appointed an administrator are listed in Appendix 4.

Websites for district courts and Clerks of Court, where available, are also listed in Appendix 4.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2008, effective January 1, 2009.

Comments

(a) Previous rules of court adopted by individual judicial districts often included various rules dealing with court reporters, court criers and bailiffs. Many of these rules duplicated revised statutes or code articles.

(b) No provisions restating existing law have been included in these rules. The citations to authority for the deleted topics are as follows:

- (1) Court Reporters - La. R.S. 13:961, 982; La. Code Civ. Proc. art. 372.
- (2) Criers - La. Code Civ. Proc. art. 333.
- (3) Docket and Minute Books - La. Code Civ. Proc. arts. 254 and 256.
- (4) Costs of transcription, maximum and minimum court reporter fees - La. R.S.13:961, et seq.

Chapter 5

COURTROOM USE, ACCESSIBILITY AND SECURITY

Rule 5.0 Courtroom Use

The name of the judge assigned to a particular courtroom shall be prominently displayed outside the courtroom in a manner deemed appropriate by the court. The clerk of court shall maintain a list of all courtrooms, their locations and the judges assigned to each.

Adopted April 1, 2002, effective April 1, 2002.

Rule 5.1 Accessibility to Judicial Proceedings

(a) The facilities, services and programs of the court shall be readily accessible to persons with disabilities. Attached as Appendix 5A is a form that may be used to request reasonable accommodations extended under the ADA. Attached as Appendix 5B is a form that may be used to request an interpreter. Attached as Appendix 5C is a form that may be used as an interpreter's oath.

(b) In addition to the above requirements, courts having 50 or more employees shall develop, promulgate, and maintain a problem-resolution process, designating a responsible court officer or employee to coordinate access to court programs and services by persons with disabilities, and to resolve complaints regarding lack of access for such persons.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2008, effective January 1, 2009.

Rule 5.2 Courtroom Security

The sheriff or his designated deputies shall provide security for the courtrooms, chambers, judicial offices, and hallways within the courthouse. Security procedures shall be approved by the chief judge of the district court or other court.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 6

COURTROOM DECORUM AND THE CONDUCT OF ATTORNEYS AND JUDGES

Rule 6.0 The Opening of Court

The bailiff shall open each session of court with an appropriate recitation and order, such as the following:

“Oyez, Oyez, Oyez, Section (or Division) _____, the Honorable _____ Judicial District Court (or other court) of the State of Louisiana, in and for the Parish of _____, is now in session. The Honorable Judge _____ presiding. Order and silence are commanded. God save the State and this Honorable Court.

The bailiff shall direct all persons in the courtroom when they are to rise, in accordance with the directions of the court.

Adopted April 1, 2002, effective April 1, 2002.

Rule 6.1 General Courtroom Conduct

- (a) No person may engage in any conduct that would be disruptive to the business of the court, including the following:
 - (1) Using tobacco in any form at any time.
 - (2) Reading newspapers while court is in session.
 - (3) Displaying any political advertisement of any nature.
- (b) Attorneys, as officers of the court, must help to maintain the dignity of the court. Male attorneys and clerks of court must wear coats and ties in the courtroom. Female attorneys and clerks of court must wear a comparable level of attire.
- (c) No one may wear a hat or be barefoot in the courtroom. Witnesses and spectators must appear neat and clean, within the limits of propriety. The court will make allowances for those who must appear in work clothes and for those whose attire is dictated by their religion.
- (d) No one is allowed inside the rail except for attorneys, litigants, officers of the court, and anyone else that the court specifically authorizes.

(e) A judge should prohibit broadcasting, televising, recording or taking photographs in the courtroom and areas immediately adjacent thereto at least during sessions of court or recesses between sessions. See Code of Judicial Conduct Canon 3A(9).

(f) A judge may prohibit the use of electronic transmitters, receivers, entertainment devices such as cellular telephones, beepers, computer disc players, etc., in a courtroom.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Rule 6.2 Attorney Conduct

(a) Any attorney who tenders himself or herself before the court and represents that he or she is duly authorized to practice law, but who has been declared ineligible, suspended, or disbarred from practice before the courts of this State, shall be subject to contempt proceedings.

(b) No one may represent a party in any proceeding except counsel of record, unless allowed to do so by law.

(c) When an attorney is interested in two or more matters fixed for hearing in different sections or divisions of court on the same day, that attorney must notify the minute clerk of the section or sections from which he or she expects to be temporarily absent as to his or her presence in another court.

(d) As a general rule, attorneys desiring to address the court while it is in session shall do so while standing. Unless directed otherwise by the judge, all judgments, orders, decrees, or other documents shall be handed to the clerk, who shall hand them to the judge.

(e) Private conversation or conference between attorneys or others in attendance during any court session should not be disruptive to the proceedings.

(f) Attorneys shall address all remarks, objections, and comments to the judge, never to opposing counsel. Impromptu argument or discussion between counsel will not be permitted.

(g) Except with leave of court obtained, only one attorney for each party shall examine any one witness.

- (h) Counsel may not approach the witness in the witness chair without first obtaining the court's permission.
- (i) Before showing an exhibit to a witness, counsel must first either show opposing counsel the exhibit or provide opposing counsel a copy of the exhibit.
- (j) Counsel and parties to any litigation shall not send the court copies of correspondence between them.
- (k) Attorneys should abide by the Rules of Professional Conduct and the Louisiana Code of Professionalism, the latter of which is set forth below:

The Louisiana Code of Professionalism

1. My word is my bond. I will never intentionally mislead the court or other counsel. I will not knowingly make statements of fact or law that are untrue.
2. I will clearly identify for other counsel changes I have made in documents submitted to me.
3. I will conduct myself with dignity, civility, courtesy and a sense of fair play.
4. I will not abuse or misuse the law, its procedures or the participants in the judicial process.
5. I will consult with other counsel whenever the scheduling procedures are required and will be cooperative in scheduling discovery, hearings, the testimony of witnesses and in the handling of the entire course of any legal matter.
6. I will not file or oppose pleadings, conduct discovery or utilize any course of conduct for the purpose of undue delay or harassment of any other counsel or party. I will allow counsel fair opportunity to respond and will grant reasonable requests for extensions of time.

7. I will not engage in personal attacks on other counsel or the court. I will support my profession's efforts to enforce its disciplinary rules and will not make unfounded allegations of unethical conduct about other counsel.
8. I will not use the threat of sanctions as a litigation tactic.
9. I will cooperate with counsel and the court to reduce the costs of litigation and will readily stipulate to all matters not in dispute.
10. I will be punctual in my communication with clients, other counsel, the court, and in honoring scheduled appearances.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004.

Comments

(a) The Louisiana Code of Professionalism was authored by the Professionalism and Quality of Life Committee of the Louisiana State Bar Association in 1991. It was adopted by the Louisiana State Bar Association House of Delegates and approved by the Supreme Court of Louisiana in January 1992.

(b) Rule 6.2(j) is not intended to prohibit attaching correspondence between counsel to a pleading where appropriate, such as to show that attempts have been made to schedule a conference to resolve discovery disputes under Rule 10.1.

Rule 6.3 Code of Professionalism in the Courts

Attorneys and judges should conform to the Code of Professionalism adopted as Section 11 of Part G, General Administrative Rules, Supreme Court of Louisiana:

The Code of Professionalism in the Courts

PREAMBLE

The following standards are designed to encourage us, the judges and lawyers, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of professionalism and civility, both of which are hallmarks of a learned profession dedicated to public service.

These standards shall not be used as a basis for litigation or sanctions or penalties. Nothing in these standards alters or detracts from existing disciplinary codes or alters the existing standards of conduct against which judicial or lawyer negligence may be determined.

However, these standards should be reviewed and followed by all judges of the State of Louisiana. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

JUDGES' DUTIES TO THE COURT

We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and authority to insure that all litigation proceedings are conducted in a civil manner.

We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral communications with lawyers, parties, or witnesses.

We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

We will be considerate of time schedules of lawyers, parties, and witnesses in scheduling all hearings, meetings and conferences.

We will make all reasonable efforts to decide promptly all matters presented to us for decision.

We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.

While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed on lawyers by the exigencies of litigation practice.

We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

We will not impugn the integrity or professionalism of any lawyer on the basis of clients whom or the causes which a lawyer represents.

We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.

We will not adopt procedures that needlessly increase litigation expense.

We will bring to lawyers' attention uncivil conduct which we observe.

We will be courteous, respectful, and civil in opinions, ever mindful that a position articulated by another judge is the result of that judge's earnest effort to interpret the law and the facts correctly.

We will abstain from disparaging personal remarks or criticisms, or sarcastic or demeaning comments about another judge in all written and oral communications.

We will endeavor to work with other judges in an effort to foster a spirit of cooperation in our mutual goal of enhancing the administration of justice.

LAWYERS' DUTIES TO THE COURTS

We will speak and write civilly and respectfully in all communications with the court.

We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible.

We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.

We will not engage in *ex parte* communication on any pending action.

We will attempt to verify the availability of necessary participants and witnesses before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, so we can promptly notify the court of any likely problems.

We will act and speak civilly to court marshals, clerks, court reporters, secretaries, and law clerks with an awareness that they too, are an integral part of the judicial system.

Adopted April 1, 2002, effective April 1, 2002.

Rule 6.4 District Court Standards

The district courts, family and domestic relations courts and juvenile courts should comply with the District Court Standards adopted as Section 10 of Part G, General Administrative Rules, Supreme Court of Louisiana:

I. ACCESS TO JUSTICE

Standard 1.1 Public Proceedings

The court conducts openly its judicial proceedings that are public by law or custom.

Standard 1.2 Safety, Accessibility, and Convenience

The court encourages responsible parties to make court facilities safe, accessible and convenient.

Standard 1.3 Effective Participation

All who appear before the court are given reasonable opportunities to participate effectively without undue hardship or inconvenience.

Standard 1.4 Courtesy, Responsiveness, and Respect

Judges and other trial court personnel are courteous and responsive to the public and accord respect to all with whom they come into contact.

Standard 1.5 Affordable Cost of Access

The court encourages all responsible public bodies and public officers to make the costs of access to the trial court's proceedings and records - whether measured in terms of money, time, or the procedures that must be followed - reasonable, fair, and affordable.

II. EXPEDITION AND TIMELINESS

Standard 2.1 Case Processing

The trial court encourages timely case management and processing.

Standard 2.2 Required Reports and Requests for Information

The trial court promptly provides required reports and responds to requests for information.

Standard 2.3 Prompt Implementation of Law and Procedure

The trial court promptly implements changes in the law and procedure.

III. EQUALITY, FAIRNESS, AND INTEGRITY

Standard 3.1 Fair and Reliable Judicial Process

Trial court procedures faithfully adhere to laws, procedural rules, and established policies.

Standard 3.2 Juries

The jury venire is representative of the jurisdiction from which it is drawn.

Standard 3.3 Court Decisions and Actions

Trial courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

Standard 3.4 Clarity

Decisions of the trial court address clearly the issues presented to it and, where appropriate, specify how compliance can be achieved.

Standard 3.5 Responsibility for Enforcement

The trial court takes appropriate responsibility for the enforcement of its orders.

Standard 3.6 Production and Preservation of Records

Records of all relevant court decisions and actions are accurate and properly preserved.

IV. INDEPENDENCE AND ACCOUNTABILITY

Standard 4.1 Independence and Comity

The trial court maintains its constitutional independence and observes the principle of cooperation with other branches of government.

Standard 4.2 Accountability for Public Resources

The trial court responsibly seeks, uses, and accounts for its public resources.

Standard 4.3 Personnel Practices and Decisions

The trial court uses fair employment practices.

Standard 4.4 Public Education

The trial court informs the community of its structure, function, and programs.

Standard 4.5 Response to Changes

The trial court recognizes new conditions or emergent events and adjusts its operations as necessary.

V. PUBLIC TRUST AND CONFIDENCE

Standard 5.1 Accessibility

The trial court and the justice it renders are perceived by the public as accessible.

Standard 5.2 Fair, Impartial, and Expeditious Court Functions

The trial court functions fairly, impartially, and expeditiously in order that the public has trust and confidence in the integrity of the decisions of the court.

Standard 5.3 Judicial Independence and Accountability

The trial court is perceived to be independent, cooperative with other components of government, and accountable.

Adopted April 1, 2002, effective April 1, 2002.

Comment

While many of these standards may be applicable to juvenile and family courts, some of the standards will need to be modified in consideration of the special needs and functions of these specialized jurisdiction courts.

Chapter 7 RECORD MANAGEMENT

Rule 7.0 Record Management

Each clerk of court shall maintain and destroy records according to law.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) Rules of court adopted by individual judicial districts often included various rules dealing with withdrawal of records, maintenance of records, destruction of records, and other miscellaneous administrative matters. These rules duplicated articles of the Louisiana Code of Civil Procedure, Louisiana Code of Criminal Procedure, and Revised Statutes.

(b) No provisions restating existing law have been included in these rules. The citations to the deleted topics are as follows:

(1) Withdrawal of records - La. R.S. 44:32, et seq. and La. R.S. 13:4681.

(2) Destruction of records - La. R.S. 13:917 and 1221.

(3) Preservation of records - La. R.S. 44:36.

(4) See Title III, Rule 15.0 regarding case records in criminal proceedings.

Chapter 8 INDIGENTS AND *IN FORMA PAUPERIS*

Rule 8.0 Uniform *In Forma Pauperis* Affidavit

A party other than an inmate who wishes to proceed *in forma pauperis* must complete and file the affidavit in Appendix 6.

Adopted April 1, 2002, effective April 1, 2002.

Rule 8.1 Traversal of *In Forma Pauperis* Status

The court, on its own motion or the motion of any party, may hold a hearing to traverse the right of any litigant to proceed *in forma pauperis*.

Adopted April 1, 2002, effective April 1, 2002.

Rule 8.2 No Recommendation from Clerk of Court Required

No recommendation from the clerk of court's office as to whether a litigant is in fact indigent need be attached to an affidavit of poverty submitted by a party wishing to proceed *in forma pauperis*. No requirement that such a recommendation be attached, pursuant to La. Code Civ. Proc. art. 5183, may be instituted except by amendment to these rules.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) See La. Code Civ. Proc. art. 5181, et seq., for general rules regarding proceeding *in forma pauperis*. See Chapter 13 for special rules governing civil litigation filed by inmates.

(b) Federal laws, including the Social Security Act and the Privacy Act of 1974, provide that Social Security numbers are confidential and that governmental benefits may not be denied because of a person's refusal to provide that information unless its provision is required by federal statute. Accordingly, the Social Security number is optional in the affidavit in Appendix 6.

TITLE II

RULES FOR CIVIL (EXCEPT FOR FAMILY, JUVENILE OR DOMESTIC RELATIONS) PROCEEDINGS IN DISTRICT COURTS

Chapter 9 PROCEDURE

Rule 9.0 Daily Order of Business

To provide for the expeditious administration of justice, to the extent practicable the court shall hear uncontested matters and the trials of motions or exceptions on days on which trials on the merits are not scheduled.

If uncontested matters and the trials of motions or exceptions are heard on days on which trials on the merits are scheduled, the court will, where practicable, maintain the following order of business:

- (a) Uncontested matters, including preliminary defaults.
- (b) The trial of motions or exceptions that do not require the testimony of witnesses.
- (c) The trial of motions or exceptions that require the testimony of witnesses.
- (d) Trials on the merits.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.1 Matters Scheduled But Not Heard

Whenever practicable, matters should be heard in the order placed on the docket. If the trial of a matter is begun but not concluded before court is adjourned, that trial should take precedence the following day, when practical.

If the court is unable to hear a scheduled matter, the matter should be rescheduled for hearing at the next available date and time.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.2 Matter Heard by Judge to Whom Allotted

Except as allowed by La. Code Civ. Proc. art. 253.3, all contested matters must be heard by the judge to whom the matter was allotted. If all parties and the court receiving the matter consent, a judge other than the one allotted the action may hear the matter. The judge to whom the action has been allotted may designate the order-signing judge or any other judge to sign such orders and set such hearings, and in his or her absence, to hear such matters where necessary to comply with law, or when deemed to be an emergency, in accordance with La. Code Civ. Proc. art. 253.3.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.3 Allotment; Signing of Pleadings In Allotted or Non-Allotted Cases

All pleadings filed shall be randomly assigned to a particular section or division of the court in accordance with La. Code Civ. Proc. art. 253.1 before presentation of a pleading

to any judge. The method of allotment for each district court is set forth in Appendix 3. Provided, to the extent allowed by La. Code Civ. Proc. art. 253.3, each district court shall designate in Appendix 3: (1) those matters that ordinarily will not be allotted to a particular section or division of the court and instead will be signed by the duty judge or by any judge authorized to sign such pleadings; and (2) those pleadings that, although filed in actions that will be allotted, may be presented for signature to the duty judge or to any judge authorized to sign such pleadings.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.4 Presentation of Pleadings to the Court

All pleadings, briefs and memoranda must be presented to the Clerk of Court for allotment and filing before presentation to the assigned judge.

Exceptions to this rule are noted on Appendix 7.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended November 3, 2008, effective January 1, 2009.

Rule 9.5 Court's Signature; Circulation of Proposed Judgment

All judgments, orders, and rulings requiring the court's signature must either be presented to the judge for signature when rendered or, if presented later, contain the typewritten name of the judge who rendered the judgment, order or ruling.

If presented later, the responsible attorney or the unrepresented party must circulate the proposed judgment, order or ruling to counsel for all parties and to unrepresented parties and allow at least three working days for comment before presentation to the court. When submitted, the proposed judgment, order or ruling must be accompanied by a certificate regarding the date of mailing, hand delivery or other method of delivery of the document to other counsel of record and to unrepresented parties, and stating whether any opposition was received.

The page of the judgment or order containing the judge's signature line must reflect the docket number and title(s) of the pleading(s) at issue.

This rule does not apply to default judgments.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004; amended November 3, 2004, effective January 1, 2005; amended November 3, 2008, effective January 1, 2009.

Rule 9.6 Form of the Pleadings

All pleadings must be typed or printed legibly, double-spaced, on legal-sized white paper, and written in the English language. Margins must be 2" at the top and 1" on the sides and bottoms. Quotations and footnotes may be single-spaced. Once a matter is allotted, the docket number and the division or section assigned the matter must be indicated in the caption.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.7 Signing of Pleadings

Each pleading must be signed by an attorney or by the party thereto proceeding *pro se*. The correct mailing address, street address, phone number, and facsimile number, if any, of the person signing the pleading, and in the case of an attorney, the Louisiana Bar Identification Number, must appear below the signature.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.8 Exceptions and Motions

(a) *Contradictory Exceptions and Motions.* All exceptions and motions, including those incorporated into an answer, must be accompanied by a proposed order requesting the exception or motion be set for hearing. If the exceptor or mover fails to comply with this requirement, the court may strike the exception or motion, or may set the matter for hearing on its own motion. To assist the court in scheduling the hearing, the exception or motion and any opposition thereto must state: (1) whether or not the case is set for trial and, if so, the trial date; and (2) whether testimony will be offered at the hearing.

(b) *Time between filing and hearing.* No hearing on an exception or motion will be scheduled until at least 15 calendar days after filing. A party seeking to have an exception or motion heard less than 15 days after filing must show good cause and must state in the exception or motion the reasons why an expedited hearing is necessary.

(c) *Ex parte motions.* Paragraphs (a) and (b) do not apply to:

- (1) unopposed motions;
- (2) motions in which all affected parties have joined; or
- (3) motions permitted by law or by these rules to be decided *ex parte*.

Any motion that may be decided *ex parte* must be accompanied by a proposed order, except a motion for the court to give in writing its findings of fact and reasons for judgment under La. Code Civ. Proc. art. 1917.

(d) *Motions and Exceptions Referred to the Merits.* If a party filing a motion or exception wishes to refer it to the merits, the party must file an unopposed motion, accompanied by a proposed order, asking that it be referred to the merits. This rule does not apply to motions for summary judgment (see Rule 9.10). If the court finds that the interests of justice would be served by referring the motion or exception to the merits, the court may do so.

(e) *Unopposed motion.* An “unopposed motion” is one to which all affected parties have consented. Before representing to the court that the motion is unopposed, the mover must contact all parties affected by the motion and obtain their consent. The moving party must certify in the motion that the consent requirement has been met.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004; amended November 3, 2008, effective January 1, 2009.

Comments

(a) Rule 9.8(a) provides that the court may strike an exception or motion if not accompanied by an order scheduling the matter for a hearing or may set the matter for hearing on its own motion. La. Code Civ. Proc. art. 964 provides that the court on its own motion may strike a matter from a pleading only after a hearing.

(b) See La. Code Civ. Proc. art. 2593 with regard to exceptions to a contradictory motion, rule to show cause, opposition, or petition in a summary proceeding.

(c) This Rule does not govern the time that an exception must be pled. La. Code of Civ. Proc. art. 928 B permits a party to plead a peremptory exception “at any stage of the proceeding in the trial court prior to a submission of the case for a decision” But under La. Code Civ. Proc. art. 929 B, the trial court has the option of trying and disposing of a late-filed exception “either in advance of or on the trial of the case.” This Rule preserves the trial court’s option under La. Code Civ. Proc. art. 929 B. Although this Rule generally requires a 15-day period between the filing and the hearing of an exception, it also gives the trial court discretion to shorten the period “for good cause shown.” See also Rule 1.4, which allows a trial judge in a particular case to deviate from a Rule “in the interest of justice and upon notice to all parties”

Rule 9.9 Memoranda Supporting or Opposing Exceptions and Motions

(a) When a party files an exception or motion, that party must concurrently furnish the trial judge and serve on all other parties a supporting memorandum that cites both the relevant facts and applicable law. The memorandum must be served on all other parties so that it is received by the other parties at least 15 calendar days before the hearing, unless the court sets a shorter time.

(b) A party who opposes an exception or motion must concurrently furnish the trial judge and serve on all other parties an opposition memorandum at least eight calendar days before the scheduled hearing. The opposition memorandum must be served on all other parties so that it is received by the other parties at least eight calendar days before the hearing, unless the court sets a shorter time.

(c) The mover or exceptor may furnish the trial judge a reply memorandum, but only if the reply memorandum is furnished to the trial judge and served on all other parties so that it is received before 4:00 p.m. on a day that allows one full working day before the hearing. For example, if the hearing is set for Friday, the reply memorandum must be received no later than 4:00 p.m. the preceding Wednesday. If the hearing is set for Monday, the reply memorandum must be received no later than 4:00 p.m. the preceding Thursday.

(d) Parties who fail to comply with paragraphs (a) and (b) of this rule may forfeit the privilege of oral argument. If a party fails to timely serve a memorandum, thus necessitating a continuance to give the opposing side a fair chance to respond, the court may order the late-filing party to pay the opposing side's costs incurred on account of untimeliness.

(e) Any party may, but need not, file a copy of the memorandum with the clerk of court. See Rule 9.4 and Appendix 7 to determine whether a particular judicial district requires that memoranda be filed with the clerk of court or sent directly to the presiding judge.

(f) Paragraphs (a) - (c) do not apply to the following motions:

- (1) A motion for an extension of time to perform an act.
- (2) A motion to continue a pretrial conference, hearing, motion, or trial of an action.
- (3) A motion to add or substitute parties.
- (4) A motion to amend pleadings or to file supplemental pleadings.
- (5) A motion to appoint a guardian, curator or tutor.
- (6) A motion to intervene.
- (7) A motion to withdraw or substitute counsel of record (but any such motion must comply with Rule 9.13).
- (8) A motion to consolidate.
- (9) Any unopposed motion or joint motion.
- (10) A motion for the court to give in writing its findings of fact and reasons for judgment under La. Code Civ. Proc. art. 1917.
- (11) A motion to compel a response to discovery, when no response has been made.

Any motion listed in (1) through (11) must state the grounds in support, cite any applicable rule, statute, or other authority justifying the relief sought, and comply with Rule 9.8 to the extent applicable.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004.

Comment

See La. Code Civ. Proc. art. 1313 regarding service of pleadings subsequent to the original petition.

Rule 9.10 Motions for Summary Judgment

1. Rules 9.8 and 9.9 apply to motions for summary judgment.
2. A memorandum in support of a motion for summary judgment must contain:
 - (a) A list of the essential legal elements necessary for the mover to be entitled to judgment;
 - (b) A list of the material facts that the mover contends are not genuinely disputed; and
 - (c) A reference to the document proving each such fact, with the pertinent part containing proof of the fact designated.
3. A memorandum in opposition to a motion for summary judgment must contain:
 - (a) A list of the material facts that the opponent contends are genuinely disputed; and
 - (b) A reference to the document proving that each such fact is genuinely disputed, with the pertinent part designated.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended October 29, 2003, effective January 4, 2004.

Comments

- (a) See also La. Code Civ. Proc. art. 966(B) as amended in 2003 for general rules regarding procedure for motions for summary judgment.
- (b) See La. Code Civ. Proc. art. 1313 regarding service of pleadings subsequent to the original petition.

Rule 9.11 Executory Process

To assist the court, parties who file suit for executory process should highlight or emphasize clearly the language in the attached exhibits necessary for executory process, such as “confession of judgment” and “waiver of demand for payment.”

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Comment

Failure to comply with Rule 9.11 may, at the discretion of the court, result in delay while pleadings are conformed to the requirements of the rule.

Rule 9.12 Enrollment as Counsel of Record

All licensed Louisiana attorneys in good standing may enroll as counsel of record: (1) by oral notice made in open court when all parties or their counsel are present, or (2) by filing a written Notice of Enrollment in accordance with La. Code Civ. Proc. art. 853 with the clerk of court, with copies to all other enrolled counsel or unrepresented parties and to the Court.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004; amended November 3, 2004, effective January 1, 2005.

Comment

Attorneys enrolling pro hac vice must comply with Rule XVII, Section 13 Supreme Court Rules.

When a lawyer enrolls as counsel after the petition or first responsive pleading is filed, a Notice of Enrollment must be filed. The Notice of Enrollment must be filed separately in each case.

Rule 9.13 Withdrawal as Counsel of Record

Enrolled attorneys have, apart from their own interests, continuing legal and ethical duties to their clients, all adverse parties, and the court. Accordingly, the following requirements govern any motion to withdraw as counsel of record:

- (a) The withdrawing attorney who does not have written consent from the client must make a good-faith attempt to notify the client in writing of the withdrawal and of the status of the case on the court's docket. The attorney must deliver or mail this notice to the client before filing any motion to withdraw.
- (b) If the action or proceeding has been assigned to a particular section or division of the court, then the motion to withdraw must be submitted to the judge presiding over that section or division.
- (c) Any motion to withdraw must include the following information:
 - (1) The motion must state current or last-known street address and mailing address of the withdrawing attorney's client. The withdrawing attorney must also furnish this information to the clerk of court.
 - (2) If a scheduling order is in effect, a copy of it must be attached to the motion.
 - (3) The motion must state whether any conference, hearing, or trial is scheduled, and, if so, its date.
 - (4) The motion must include a certificate that the withdrawing attorney has complied with paragraph (a) and with Rule 1.16 of the Rules of Professional Conduct, Louisiana State Bar Association, Articles of Incorporation, Art. 16. A copy of the written communication required by paragraph (a) must be attached to the motion.
- (d) The court may allow an attorney to withdraw on *ex parte* motion if:

- (1) The attorney has been terminated by the client; or
 - (2) The attorney has secured the written consent of the client and of all parties or their respective counsel; or
 - (3) No hearing or trial is scheduled, or the case has been concluded.
- (e) If paragraph (d) does not apply, then an attorney may withdraw as counsel of record only after a contradictory hearing and for good cause. All parties and the withdrawing attorney's client must be served with a copy of the motion and rule to show cause why it should not be granted.
- (f) If counsel's withdrawal would delay a scheduled hearing or trial, the court will not allow the withdrawal, unless exceptional circumstances exist.
- (g) Paragraphs (a) through (f) do not apply to an *ex parte* motion to substitute counsel signed by both the withdrawing attorney and the enrolling attorney. The following rules govern such a motion:
- (1) The court may grant the motion without a hearing. Movers must furnish the court with a proposed order.
 - (2) Substitution of counsel will not by itself be good cause to alter or delay any scheduled matters or deadlines.

Adopted April 1, 2002, effective April 1, 2002; amended October 29, 2003, effective January 4, 2004.

Comment

Rule 9.13 is not intended to supersede the Rules of Professional Conduct regarding the presentation of false testimony to the court.

Rule 9.14 Fixing for Trial or Hearing; Scheduling Orders; Contact with Jurors

- (a) The date on which a motion to fix for trial on the merits may be made, and the method of setting a date for trial or hearing of a matter including deadlines for scheduling

orders, pretrial briefs, contact with jurors, or any other matter, shall be determined by each district court as set forth in Appendix 8.

(b) Any party may request in writing, or the court on its own motion may order, a La. Code Civ. Proc. art. 1551 scheduling conference between counsel and the court to whom the case has been allotted. A party requesting such a conference must deliver the original and one copy of the request to the clerk of court. The clerk of court shall file the original in the suit record, stamp “filed” on the copy, and route the copy to the assigned judge. Within 30 days after receiving a request for a scheduling conference, the court shall schedule a conference for the purpose of addressing those matters set forth in La. Code Civ. Proc. art. 1551. The scheduling conference may be held by any appropriate means, including in person, by telephone, or teleconference.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.15 Subpoenas

(a) A request for issuance of a subpoena must be issued and filed with the clerk of court at least 10 days before the desired appearance date, unless a different deadline is set by the court in the pre-trial or other order.

(b) In the case of a settlement, counsel on whose client’s behalf the witness has been asked to testify should make reasonable efforts to notify the witness.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.16 Agreements and Stipulations

The court will recognize agreements and stipulations between counsel concerning the conduct, trial, or continuance of a suit only if they are:

- (1) written and filed in the record; or
- (2) made in open court and entered on the minutes.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.17 Continuances

- (a) The court may grant a continuance of a trial or hearing for good grounds. Among the factors the court will consider are the diligence and good faith of the moving party, the reasonableness of the grounds, fairness to both parties and other litigants before the court, and the need for the orderly and prompt administration of justice.
- (b) The court will grant a continuance in any case where the law so requires.
- (c) If the court grants a continuance, each party is responsible for contacting its own witnesses.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.18 Oral Arguments

Oral argument is a privilege, not a right, and is within the court's discretion.

Adopted April 1, 2002, effective April 1, 2002.

Rule 9.19 Defaults

A party may move for a preliminary default either in open court or in writing. By moving for a preliminary default the requesting attorney or party is certifying to the court that the defendant in the principal or incidental demand has been properly served and has failed to answer within the time prescribed by law. A party seeking to confirm a default judgment must prepare and file into the record a certificate to be signed by the clerk of court showing the date and type of service and the absence of a timely answer.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Rule 9.20 Appeals to District Court

Appeals to the district court shall be randomly allotted.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) Previous district court rules adopted by individual judicial districts often included various rules that duplicated the Code of Civil Procedure and applicable Revised Statutes.

No provisions restating existing law have been included in these Rules. The citations to authorities for deleted topics are as follows:

- (1) Construction of Pleadings - La. Code Civ. Proc. art. 865.
- (2) Form of Pleadings - La. Code Civ. Proc. arts. 853, 854 & 862.
- (3) Signing Pleadings - La. Code Civ. Proc. art. 863.
- (4) Exceptions & Motions - La. Code Civ. Proc. arts. 852, 853, 854, 862, 865, 921, 922, 923, 924, and 962.
- (5) Time of trial of exceptions - La. Code Civ. Proc. art. 929.
- (6) Curators ad hoc - La. Code Civ. Proc. arts. 5091-5098; La. R.S. 13:3421 through 13:3445; and La. Civ. Code arts. 47 through 53.
- (7) Motions for summary judgment - La. Code Civ. Proc. arts. 966 and 967.

(b) La. R.S. 13:1303 requires that the civil district courts of the Parish of Orleans prescribe the order of preference for the trial of cases. La. Code Civ. Proc. art. 1571(A)(1)(b) states that the district court should prescribe the order of preference “in accordance with the law.”

(c) La. R.S. 13:850 allows for facsimile filings and lists the requirements for such filings.

(d) La. Code Civ. Proc. art. 1551 lists the matters which may be considered at scheduling conferences.

(e) La. Code Civ. Proc. art. 1355.1 deals with the reissuance of subpoenas.

(f) La. Code Civ. Proc. art. 5096 provides that, if a curator is appointed, the party requesting the appointment must furnish security for costs and fees in an amount subject to the discretion of the court.

(g) See Supreme Court of Louisiana General Administrative Rules Part G, Section 2, regarding time for filing post-trial or post-hearing briefs.

(h) See La. Code Civ. Proc. arts. 1601-1605 regarding the grounds for a continuance.

(i) The constitutional implications of the decision in *State v. Sprint Communications Co., L.P.*, 699 So.2d 1058 (La. 1997), regarding random allotment of cases affect a court's ability to appoint duty judges and, more importantly, the designation of duties to such judges. Act 24 of the 1st Extraordinary Session of the 2000 Legislature enacted La. Code Civ. Proc. art. 253.3, which clarifies the matters which may be heard by a duty judge.

Chapter 10 DISCOVERY

Rule 10.0 Interrogatories

A party shall be allowed to serve upon any other party, without leave of court, thirty-five interrogatories, as allowed by La. Code Civ. Proc. art. 1457(B). A court may not restrict the parties to fewer than thirty-five interrogatories except by amendment to these rules.

Adopted April 1, 2002, effective April 1, 2002.

Comment

See *Nathaniel Gaines, et al. v. Avondale Industries, Inc., et al.*, Parish of Orleans, Civil District Court, Div. M, No. 95-1823, to the Court of Appeal, Fourth Circuit, No. 2001-C-0365, *writ denied* 820 So.2d 616 (La. 2001), holding that a local rule may not restrict the number of interrogatories to the defendants or plaintiffs in the aggregate.

Rule 10.1 Discovery Motions

Before filing any discovery motion, the moving party must attempt to arrange a conference with the opposing party for the purpose of amicably resolving the discovery dispute. The conference may be conducted in person or by telephone. The discovery motion must include a certificate stating:

- (a) that the parties have conferred in person or by telephone as required by this rule and the reasons why they were unable to agree; or
- (b) that opposing counsel has refused to confer after reasonable notice.

If the court finds that opposing counsel has willfully failed to confer, or failed to confer in good faith, the court may impose sanctions.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 11 ALTERNATIVE DISPUTE RESOLUTION AND SPECIAL MASTERS

Rule 11.0 Louisiana Mediation Act

The district courts of Louisiana encourage and support the use of alternative dispute resolution to promote resolution of disputes and refer all counsel to the Louisiana Mediation Act, La. R.S. 9:4101, et seq. Additionally, the district courts of Louisiana encourage and support the use of special masters in appropriate circumstances.

Adopted April 1, 2002, effective April 1, 2002.

Rule 11.1 Certification of No Opposition to Mediation

Before submitting a request for mediation under La. R.S. 9:4103(A), a party must certify that opposing counsel has been contacted and does not object to mediation.

Adopted April 1, 2002, effective April 1, 2002.

Comments

(a) La. R.S. 13:4165 allows the court to appoint special masters in civil actions under the circumstances set forth therein.

(b) See La. R.S.9:4103(A), which provides that, on motion of any party, a court may order the referral of a civil case for mediation. In the interest of judicial economy, these rules require a certificate of no opposition by opposing counsel before filing a request for court ordered mediation under La. R.S.9:4102(A).

Chapter 12 JURORS, COSTS, CHALLENGES, EXEMPTIONS

Rule 12.0 Deposit for Jury Costs

In a civil case, the court shall fix an amount to cover the costs related to the jury, clerk of court, and sheriff. The court may not require that the bond be filed or the costs paid more than 180 days before trial. The failure to pay these costs timely will constitute a waiver of trial by jury.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003; amended November 3, 2008, effective January 1, 2009.

Comments

(a) La. Code Civ. Proc. art. 1734 provides that the jury bond must be filed no later than 60 days before trial. La. Code Civ. Proc. art. 1734.1 provides that the court may order, in lieu of the bond required in Article 1734, that a cash deposit for costs be made no later than 30 days prior to trial. Rule 12.0 provides further guidance by stating that the bond need not be filed or the costs need not be paid more than 180 days before trial. Of course, the jury bond may be filed at the time of filing, at the discretion of counsel.

(b) La. R.S. 13:3105 sets the compensation to jurors in civil cases in Orleans Parish at \$16.00 per day. The authorities grant leeway to the courts as to how long a juror may serve and the rate of compensation. La. R.S. 13:3049 states that jurors must be paid \$25.00 per day and that they should be reimbursed at a mileage rate not less than \$.16 a mile and not more than the rate in effect for state officials.

(c) See La. Code Civ. Proc. art. 1761, et seq., regarding the procedure for calling and examining jurors.

Rule 12.1 Central Jury Pool

There may be a central jury pool for civil cases. The central jury pool shall be administered by the Clerk of Court or the judicial administrator, if any has been appointed by the court, under the direct supervision of the court, in accordance with the following:

(a) Authorized personnel shall assemble the members of the general venire, present the orientation, call roll, and account for those members present and absent.

(b) The judges shall notify the Clerk of Court and the Clerk of Court shall notify the jury commission at least 90 days before the designated jury terms, which sections of the court will participate in each term. The jury commission shall select a general venire in a number directed by the judges. Authorized personnel shall randomly select from the general venire those persons who will comprise the central jury pool and shall determine the number of persons selected to compose the central jury pool based upon the number of civil jury trials remaining on the dockets.

(c) Authorized personnel shall select the required number of panels from the central jury pool. The panels shall be selected at random and indiscriminately from the central jury pool members then available. In civil cases, the number of jurors shall be determined by the judge presiding over the trial for which the panel is selected. If the need arises, the assigned judge may request additional persons from the central jury pool, who shall be selected at random.

(d) Persons selected to serve on the central jury pool panel and not selected to serve on a jury shall be returned to the central jury pool.

(e) The chief judge, or his or her designee, shall qualify the members of the central jury pool.

(f) Any person requesting to be excused from jury service shall present the reasons in writing to the court, the Clerk of Court, or to the judicial administrator when one has been appointed, who shall then communicate that request and the necessary information to the court, which shall determine whether to grant the request.

Adopted April 1, 2002, effective April 1, 2002.

Comment

See Supreme Court Rule XXV, Section 2, regarding Jury Service.

Chapter 13

CIVIL LITIGATION FILED BY INMATES

Rule 13.0 Petitions Filed by Offenders/Prisoners

(a) *Pro se* offender/prisoner litigants in the custody of the Department of Corrections must use the form IJR-1, "Petition for Judicial Review," available from the Department and the Clerk of Court for East Baton Rouge Parish to apply for Review of an Administrative Decision, excluding administrative decisions on delictual actions for injury or damages. See Appendix 9A. Pursuant to La. R.S. 15:1177, venue is proper only in the 19th Judicial District Court for prisoners/offenders in the custody or under the supervision of the Department of Corrections, unless the suit is based on delictual actions, in which case exclusive venue is set forth in La. R.S. 15:1184.

(b) Delictual actions for injury or damages filed by prisoner/offenders, whether in the custody of the Department of Corrections or the Sheriff, shall be filed in the original jurisdiction of a district court. Venue is addressed in La. R.S. 15.1184F.

(c) Referral of Matters Filed in the 19th Judicial District Court to Commissioners:

(1) Once one of the following is filed and randomly allotted to a section of court in compliance with the law, it shall be alternately referred to a commissioner for initial screening and further action in accordance with law:

(a) Administrative Appeals filed by an offender/prisoner, as defined in La. R.S. 15:1174, et seq. and La. R.S. 15:1181, et seq., against the Department of Corrections, including Petitions for judicial review (appeal) of an administrative decision, including but not limited to Prison Administrative Remedy Requests, Disciplinary Board Appeals, Lost Property Claims (that do not involve tortious conduct), Time Calculation or Good Time Complaints, even if urged as a Writ of Habeas Corpus, Duty Status Complaints, or any other complaints involving an internal prison grievance, and Parole Revocation Appeals;

(b) Ordinary civil suits by offenders/prisoners as defined in La. R.S. 15:1181 of the Prison Litigation Reform Act filed against the Sheriff of East Baton Rouge or any employee thereof, when based on a cause of action that

arose while the Plaintiff was incarcerated or in the custody of the Sheriff of East Baton Rouge or any employee thereof. Ordinary suits that require a jury trial and allotted to a commissioner will be referred back to the allotted judge for further action/proceedings;

(c) Applications for Post-Conviction Relief except Post-Conviction Relief Applications involving first degree murder convictions;

(d) Any other pleading/complaint filed by an offender/prisoner that is specifically referred in writing by a judge to a commissioner.

(d) Suits Subject to La. R.S. 15:1171-1179 (Corrections Administrative Remedy Procedure Act) or La. R.S. 15:1181-1191 (Prison Litigation Reform Act):

(1) Any offender/prisoner, as defined in La. R.S. 15:1171-1179 (Corrections Administrative Remedy Procedure Act), or La. R.S. 15:1181-1191 (Prison Litigation Reform Act), must initiate and exhaust the Administrative Remedy Procedure established by the Department of Corrections or the Parish Sheriff, if available, before filing an appeal or suit subject to the Corrections Administrative Remedy Procedure Act, La. R.S. 15:1171, et seq., and/or the Prison Litigation Reform Act, La. R.S. 15:1181, et seq., whichever is applicable.

(2) To show compliance with the law and this Rule, any suit filed by an offender/prisoner subject to La. R.S. 15:1171, et seq., or La. R.S. 15:1181, et seq., must have attached to the appeal or suit, a copy of the final agency decision complained of.

(3) The provision of this Section shall not apply to:

(a) Appeals of Judicial Decisions;

(b) Pending Criminal matters;

(c) Applications for Post Conviction Relief or Habeas Corpus Applications attacking the petitioner's conviction.

(e) Ordinary Proceedings Filed *Pro Se* by Offender/Prisoners Pursuant to La. R.S.

15:1181, et seq. (Prison Litigation Reform Act):

- (1) Exhaustion of Administrative Remedies, when available, is required prior to filing suit in the parish of proper venue. See La. R.S. 15:1177C (Corrections Administrative Remedy Procedure Act), and La. R.S. 15:1181 - 1191 (Prison Litigation Reform Act).
- (2) When an offender/prisoner files a *pro se* complaint/petition that is not subject to judicial review under La. R.S. 15:1177 the inmate is required to follow the procedures and law regarding civil complaints set forth in the Louisiana Code of Civil Procedure (La. C.C.P.), the Louisiana Civil Code (La. C.C.) and any other applicable law, as well as the Civil Rules of the court of proper venue, not in conflict with the Rules of this Section.
- (3) Any ordinary petition filed pursuant to Louisiana Rules for District Courts (La. Dist. Ct. R.) Rule 9.0 must specifically comply with La. C.C.P. arts. 851-893 and must set forth specific facts to support the elements of each claim pursued and must designate a physical address, not a post office box, for each party, sufficient for service of pleadings.
- (4) Discovery Limitations:
 - (a) No discovery may be filed until after the defendant's first appearance (filing of an answer or motion) in order to allow the Court to screen the petition, consider the Petitioner's "strike" status, set the costs due, consider the mandatory venue and to order service on the defendants or dismiss the suit in accordance with the Prison Litigation Reform Act, La. R.S. 15:1181, et seq.
 - (b) All discovery requests in prisoner suits must be filed into the court record by sending a copy to the clerk of court, in addition to being sent by mail to the opposing party or counsel therefore, and must include a certificate of compliance with this rule.
 - (c) Once the defendant has made an appearance (filing of an answer or motion), discovery in prisoner suits is governed by the La. C.C.P., La. C.C., La. Dist. Ct. R. and other applicable Louisiana law, subject to the restrictions

set forth in this section and pursuant to the Prison Litigation Reform Act, La. R.S. 15:1181, et seq.

(5) Any pretrial motion, rule, exception, etc., must have attached to it a memorandum of authorities in support thereof which shall include a declaration that a copy of same has been provided to the opposing party or his counsel at a specific address. Opposing briefs may be filed but must be received in the office of the assigned judge or commissioner, as the case may be, at least five (5) working days prior to the date of any hearing set. No motion, rule, exception, etc. shall be assigned for hearing until the above required memorandum of authorities, and the name and address of opposing counsel have been furnished to the judge or commissioner hearing the matter.

(6) The following are limitations on trial:

In accordance with statutory law, offenders/prisoners filing *In Forma Pauperis* may subpoena up to six (6) witnesses for trial, but only after a proper pretrial order has been completed by the plaintiff and approved by the court as required hereinafter. For additional witnesses, see La. C.C.P. art. 5185A(2)(a).

(7) The following are rules on pretrial procedures and orders:

(a) Unless otherwise provided herein or by law, no suit requiring a trial on the merits may be assigned a trial date except at pretrial conference. Any party desiring to assign a case for trial shall, after all issues have been joined, all contemplated motions, rules, exceptions, interrogatories, requests for admissions, or other discovery proceedings filed, make a written request for pretrial conference to the judge or commissioner to which the case has been assigned.

(b) The party requesting the pretrial conference shall certify in his request that all pretrial matters have been completed and that the matter is ready for trial. If the party requesting the conference has any motions/exceptions, discovery or other pretrial matters outstanding, such pretrial matters will be considered waived or withdrawn once a pretrial conference is waived or withdrawn once a pretrial conference is requested in writing.

(c) The *pro se* prisoner requesting a pretrial conference must complete and attach to his request for a pretrial conference, his completed portion of the *Pro Se* Prisoner-Plaintiff's Portion of the Pretrial Order, Appendix 9B hereto, and certify that he has provided opposing counsel with a copy of the completed Pretrial Order at a specific address. See Appendix 9C for Defendant's Portion of the Pretrial Order.

(8) Jury Trial Requests:

Any request for a jury trial and bond must be made in accordance with the requirements of the Louisiana Code of Civil Procedure and Louisiana District Court Rule 12.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2004, effective January 1, 2005; amended November 3, 2008, effective January 1, 2009.

Rule 13.1 Declaration of Inmate Counsel

If the suit was prepared or filed by or with the help or advice of inmate counsel substitute, counsel substitute's name and DOC number shall be legibly printed on the appropriate line on the face of the petition. Failure to comply with this requirement may result in delay in the service of and review of the complaint. If no counsel substitute was involved in the preparation or filing of the complaint, the plaintiff must print "NONE" in the blank for the inmate counsel substitute's name.

Adopted April 1, 2002, effective April 1, 2002.

Rule 13.2 *In Forma Pauperis* Inmate Suits

(a) La. R.S. 15:1186 governs *in forma pauperis* motions in actions filed pursuant to La. R.S. 15:1171, et seq. (Corrections Administrative Remedy Procedure Act) ("CARP") and La. R.S. 15:1181, et seq. (Prison Litigation Reform Act) ("PLRA").

(b) In ordinary civil suits governed by the PLRA, pursuant to La. R.S. 15:1186B(2), the order granting a prisoner's request to proceed *in forma pauperis* automatically stays all proceedings, including any service of process, until all costs of court or fees due the clerk by the prisoner are paid, and further, if prisoner does not pay the full court costs or fees

within three years from when incurred, the suit shall be considered abandoned and dismissed.

(c) Prisoners may not bring a civil action, or appeal a judgment in a civil action or proceeding, *in forma pauperis*, if the prisoner has, on three or more prior occasions while incarcerated or detained in any facility, brought an action or appeal in a state court that was dismissed on the grounds it was frivolous, malicious, failed to state a cause of action, or failed to state a claim upon which relief may be granted, pursuant to La. R.S. 15:1187. If a prisoner has at least three dismissals as described in La. R.S. 15:1187 that are not yet final, and further, if the prisoner is disqualified from proceeding as a pauper either in federal court by operation of 28 U.S.C. 1915(g) or in the courts of another state by operation of a similar law of that state, then the court on its own motion may, or on motion of a party shall, stay all proceedings in any other prisoner suit or appeal in which the prisoner is proceeding as a pauper until such time as the dismissals become final, unless the court finds that the prisoner is in imminent danger of serious physical injury.

(d) Actions not governed by the CARP or the PLRA are governed by La. C.C.P. 5181-5185. See also Louisiana Rules for District Courts, Rules 8.0-8.2.

(e) Louisiana Rules for District Courts, Rules 8.1 and 8.2 herein, apply to suits brought by inmates who proceed *in forma pauperis*.

Adopted November 3, 2008, effective January 1, 2009.

Comment

Text of former Louisiana District Court Rule 13.3, titled "Civil Rules Governing *In Forma Pauperis* Inmate Suits", is amended and redesignated as Rule 13.2(e), effective January 1, 2009.

Former Rule 13.2, *In Forma Pauperis* Affidavits Filed by Inmates in District Courts, redesignated as Rule 13.3, effective January 1, 2009.

Rule 13.3 *In Forma Pauperis* Affidavits Filed by Inmates in District Courts

To proceed *in forma pauperis*, an inmate must complete and file one of the following affidavits:

- (1) For proceedings in district courts, including Corrections Administrative Remedy Procedure Act (La. R.S. 15:1171-1179) appeals and Parole Revocation Appeals, use the form in Appendix 9D;
- (2) For appeals to Louisiana Circuit Courts of Appeal, use the form in Appendix 9E.

Adopted April 1, 2002, effective April 1, 2002 as Rule 13.2; amended November 3, 2008, effective January 1, 2009. Redesignated from Rule 13.2 to Rule 13.3, effective January 1, 2009.

Comment

Former Louisiana District Court Rule 13.2, *In Forma Pauperis* Affidavits filed by Inmates in District Courts, redesignated Rule 13.3, effective January 1, 2009.

Text of former Louisiana District Court Rule 13.3, Civil Rules Governing *In Forma Pauperis* Inmate Suits, redesignated as Rule 13.2E, effective January 1, 2009.

Rule 13.4 Parole Revocation Appeals

Parole is governed by La. R.S. 15:574.2, et seq. Venue for any action by an individual committed to the Department of Public Safety and Corrections contesting any action of the Board of Parole shall be in the Parish of East Baton Rouge pursuant to La. R.S. 15:574.11. Subject to the limitations set forth in La. R.S. 15:574.11, an offender/prisoner appealing the validity of his parole revocation must use the appellate form “Appeal of Parole Revocation” in Appendix 9F and attach to his petition a copy of the Order of Revocation, provided to him by the Parole Board. Service must be requested on the Parole Board only. Within thirty (30) days of service of the Petition on the Parole Board, Counsel for the Parole Board must file a copy of the appellate record of the parole revocation maintained by the Department/Parole Board, and provide the Petitioner with a copy of same. Any motions/exception to be heard prior to the merits of the appeal must be filed contemporaneously with the appellate record or within fifteen (15) days thereafter.

Thereafter, the matter will be set for hearing on any exceptions/motions filed and alternatively for oral argument on the appeal, upon notice by the court to the parties, unless the court orders the appeal heard on the briefs.

Adopted November 3, 2008, effective January 1, 2009.

Comment

Former Louisiana District Court Rule 13.2, *In Forma Pauperis*. Affidavits filed by Inmates in District Courts, redesignated as Rule 13.3, effective January 1, 2009.

TITLE III

RULES FOR CRIMINAL PROCEEDINGS IN DISTRICT COURTS

Chapter 14 ALLOTMENT OF CASES

Rule 14.0 Allotment of Cases

- (a) The clerk of court shall randomly allot all criminal cases, unless an exception is established by law or these rules. The method of random allotment established by each district court, or by each parish within a district where applicable, is described in Appendix 11. The method of randomly allotting traffic offenses prosecuted under Title 32 of the Louisiana Revised Statutes, wildlife offenses prosecuted under Title 56 of the Louisiana Revised Statutes, and appeals from courts of limited jurisdiction is described in Appendix 12.
- (b) In districts having a designated drug fast track court, except drug courts established pursuant to R.S. 13:5301-5304, et seq., all drug cases shall be allotted to the drug court. If the drug court has more than one division, the clerk shall randomly allot drug cases to the divisions of the drug court, by the method described in Appendix 11.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.1 Allotment - Defendant With More than One Felony Case

- (a) Unless a different method is set forth in Appendix 13, if a defendant has a felony case pending and previously allotted, any new felony arrest for that defendant shall be allotted to the division to which the pending felony was allotted. This felonies-following-felonies rule also applies to any pending felony arrests for a co-defendant with a new arrest and billed as a co-defendant.
- (b) For purposes of this rule, a felony case remains pending until any of the following events has occurred:
 - (1) the statute of limitations runs;

- (2) a change of booking is made, reducing the case to a misdemeanor;
- (3) a bill of information or indictment is filed or amended, reducing the case to a misdemeanor;
- (4) the District Attorney's office enters a *nolle prosequi* in a case; or
- (5) a finding of guilt (with sentence having been imposed), not guilty, or not guilty by reason of insanity is entered on the record.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.2 Motions Before Allotment

When a motion for a preliminary examination, a motion to suppress evidence, motion to fix or reduce bail, or any other petition or motion, including a petition for a writ of habeas corpus, is filed prior to the filing of an indictment or bill of information, the petition or motion shall be assigned a docket number and allotted in the manner established by Rule 14.0(a), unless the case has previously been assigned a docket number and allotted.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.3 Transfer of Allotted Case

Any case that has been allotted may be transferred from one division to another division for good cause, or by written consent of all parties, including the state, the defense and the court. Consent transfers must be by written order signed by both the transferring judge and the receiving judge.

If all parties do not consent, a show cause hearing shall be held, the burden to show good cause upon the moving party. The hearing shall be before a judge ad hoc, selected in the manner set forth for motions to recuse under Louisiana Code of Criminal Procedure Article 675.

Adopted April 1, 2002, effective April 1, 2002.

Rule 14.4 Transfer When a Bond Reduction or Preliminary Hearing is Pending

If, after the filing and fixing of a date and time for a bond reduction or preliminary hearing, it is discovered that the case has been improperly or inappropriately allotted and the case is to be transferred to another division, the division transferring the case shall transfer it but only after the designated date and time of the bond reduction or preliminary examination hearing. This rule does not prevent a judge from transferring pending motions to the proper division when a motion is improperly or inappropriately scheduled for hearing by a division for the purposes of forum shopping or when the receiving division agrees or desires to hear the motions.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 15 ASSIGNMENT OF CASES AND PRELIMINARY MOTIONS

Rule 15.0 Assignment of Cases, Filing of Motions, Pre-Trial and Status Conferences

The method of scheduling pre-trial and status conferences, and handling other pretrial matters in criminal cases, shall be determined by each district court as set forth in Appendix 14.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2004, effective January 1, 2005.

Rule 15.1 Filing and Service of Motions

All motions, *ex parte* or otherwise, must be filed with the clerk of court and served on all opposing parties, except as otherwise provided by law. Service on the district attorney shall be accomplished by mailing a copy to the district attorney, unless the court has adopted an alternate method of service. Those courts that have adopted an alternative method of service on the district attorney are listed in Appendix 15.

An indigent defendant may file *ex parte* motions, as allowed by law, to the allotted judge, but must provide notice of the motion to the state. The state may file an opposition to the hearing being held *ex parte* and/or to the substance of the motion.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2004, effective January 1, 2005.

Comment

See *State v. Touchet*, 642 So.2d 1213 (La. 9/6/94) and Code of Crim. Proc. art. 739.

Rule 15.2 Appointment of Counsel

Each district court shall set forth a method for appointing counsel for indigent defendants. The method established by each district is described in Appendix 16 to these rules.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 16 RECORDING OF PROCEEDINGS

Rule 16.0 Record of Proceedings

In all felony cases and in misdemeanor cases requiring the recording of testimony, the court shall provide a method for making a verbatim record of all proceedings in open court.

Adopted April 1, 2002, effective April 1, 2002.

Rule 16.1 Court Reporter

Upon request of counsel, the court reporter shall take all testimony and evidentiary hearings in misdemeanor cases.

Adopted April 1, 2002, effective April 1, 2002.

**Chapter 17 APPEALS FROM COURTS OF LIMITED JURISDICTION TO
DISTRICT COURT**

Rule 17.0 Transcript of Proceedings

A transcript, rather than a tape recording, of the proceedings in a court of limited jurisdiction must be supplied to the district court on the appeal.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.1 Matters Considered on Appeal

The following matters and no others shall be considered on appeal:

- (a) An error designated in the assignment of errors included in the record lodged with the court.
- (b) An error that is discoverable by a mere inspection of the pleadings and proceedings and without inspection of the evidence.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.2 Lodging of Appeal

When the appeal has been lodged, the clerk of the district court shall notify the appellant and/or his counsel that the appellate record has been lodged with the court and that briefs or memoranda must be filed within 20 days thereafter.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.3 Briefs

Appellant must submit a brief or memorandum to the district court within 20 days of the lodging of the appeal. The prosecuting attorney of the court from which the appeal is taken shall have 10 days thereafter to submit an answering brief or memorandum. The court, at its option, may decide the case on the briefs submitted or it may set the matter for oral argument. If the appellants fail to timely file a brief,

there shall be no oral argument and the assignments of error shall be considered abandoned.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.4 Allotment of Case

When lodged, the appeal shall be allotted according to the district's method of random allotment.

Adopted April 1, 2002, effective April 1, 2002.

Rule 17.5 Minute Entry

Within fifteen days after the reviewing court renders judgment, the clerk of the reviewing court will mail a certified copy of the minute entry reflecting the reviewing court's judgment to:

- (1) the judge and the clerk of the court of limited jurisdiction; and
- (2) the parties or their counsel of record.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Chapter 18 ARRAIGNMENT AND PLEAS

Rule 18.0 Waiver of Formal Arraignment

A defendant in a non-capital felony case may waive formal arraignment and enter a plea of not guilty without appearing in person. The motion must be in writing and must comply substantially with the form in Appendix 17.

Adopted April 1, 2002, effective April 1, 2002; amended June 2, 2003, effective July 1, 2003.

Comment

See La. Code Crim. Proc. art. 553.

Rule 18.1 Appearance by Audio-Visual Transmission

The court may authorize an incarcerated defendant in a non-capital case to appear for arraignment and enter a plea by way of simultaneous transmission through audio-visual electronic equipment.

Adopted April 1, 2002, effective April 1, 2002.

Comment

See La. Code Crim. Proc. Art. 551.

Chapter 19 SIMULTANEOUS PEREMPTORY CHALLENGES

Rule 19.0 Simultaneous Peremptory Challenges

As authorized by La. Code of Crim. Proc. art. 788, a system of simultaneous exercise of peremptory challenges is hereby adopted for those district courts shown in Appendix 18. At the conclusion of the examination of prospective jurors as provided in La. Code of Crim. Proc. art. 786, those prospective jurors who have not been excused for cause shall be tendered to the state and the defendant or defendants for simultaneous exercise of peremptory challenge in writing. State and defense challenges of same prospective juror(s), will be considered an exercise of a challenge by both the state and the defense.

Adopted April 1, 2002, effective April 1, 2002.

Chapter 20 WITHDRAWAL AS COUNSEL OF RECORD

Rule 20.0 Withdrawal of Counsel

All motions by defense counsel to be relieved as counsel of record shall be heard contradictorily with the accused and the state present. Ex parte motions to withdraw shall only be heard for good cause shown.

Adopted April 1, 2002, effective April 1, 2002; amended November 3, 2004, effective January 1, 2005.

Chapter 21 NOTICE TO STATE OF POST CONVICTION RELIEF PROCEEDINGS

Rule 21.0 Clerk Shall Notice State of Post Conviction Relief Proceedings

On an application for post conviction relief, the clerk shall give notice to all parties upon the entry of an order, ruling or judgment. The clerk shall also give notice to the state of any order to respond to a defendant's application for post conviction relief, and of any ruling rendered after any motion has been taken under advisement by the court.

Adopted April 1, 2002, effective April 1, 2002.

TITLE V

RULES FOR JUVENILE PROCEEDINGS IN DISTRICT COURTS AND IN JUVENILE COURTS FOR THE PARISHES OF EAST BATON ROUGE, ORLEANS, JEFFERSON AND CADDO

Chapter 40 PRELIMINARY PROVISIONS; JURISDICTION; DEFINITIONS

Rule 40.0 General Applicability of Louisiana Children's Code

Except as otherwise specified in the Louisiana Children's Code, all juvenile proceedings shall be governed by the provisions of the Louisiana Children's Code.

Adopted April 29, 2008, effective July 1, 2008.

Rule 40.1 Definitions and Abbreviations

Except where the context clearly indicates otherwise, as used in courts exercising juvenile jurisdiction:

“ASFA” means the Adoption and Safe Families Act of 1997, 42 U.S.C. §§ 601 et seq., P.L. 105-89.

“CASA” means Court Appointed Special Advocate as provided in Louisiana Children's Code Article 424 et seq.

“CINC” means Child in Need of Care proceedings pursuant to Title VI of the Louisiana Children's Code.

“Clerk” means the court's clerk of court.

“Court” means the court exercising juvenile jurisdiction over the matter, or the judge, hearing officer, or traffic referee acting in a section thereof.

“Case Manager” means a court staff person, who monitors the case flow and tracks cases to ensure compliance with statutory guidelines.

“Chief Judge” means the judge serving as the Chief Administrative Officer of the court.

“Children’s Code” and “Ch.C.” means the Louisiana Children’s Code, as amended.

“District Attorney” means the chief prosecutor for that parish and includes all assistants to that prosecutor.

“DHH” means the Louisiana Department of Health and Hospitals.

“DPSC” and “DOC” means the Louisiana Department of Public Safety and Corrections.

“DSS” means the Louisiana Department of Social Services.

“Duty Judge” means the judge handling preliminary matters for the court.

“FINS” means Families in Need of Services, both the legal process and the service delivery program as provided in Title VII of the Louisiana Children’s Code.

“Hearing Officer” means an attorney appointed by the court on a full or part-time basis to hear cases and to make recommendations to the court, as allowed by law.

“ICPC” means the Interstate Compact on the Placement of Children as set forth in Chapter 2 Title XVI of the Louisiana Children’s Code.

“Informal Adjustment Agreement” or “IAA” means the form of diversion procedure set forth in Titles VI, VII and VIII of the Louisiana Children’s Code.

“Judge” means a duly elected judge of that court exercising juvenile jurisdiction or any person appointed or assigned to serve in that capacity by the Louisiana Supreme Court.

“Number/Gender” the singular includes the plural, the plural includes the singular, and the masculine includes the feminine, when consistent with these rules.

“OCS” means the office of community services for the State of Louisiana and is a subdivision of DSS. OCS investigates and provides services in all abuse and neglect cases. OCS is the placement agency for all children in its custody.

“OYS” means the office of youth services for the State of Louisiana. OYS investigates and advises the court in status offender and delinquency cases by providing parole and probation supervision of those children in its custody. OYS is the placement agency for children in its custody, who have been adjudicated FINS or delinquent.

“Party” means a child who is the subject of a court proceeding, or the parent, guardian, or legal custodian of such child; or any person designated by any applicable law as a party in a given case.

“Petition” means the legal document containing the allegations upon which the court’s jurisdiction is based. In civil proceedings before the court, a petition also includes the cause of action upon which the petitioner’s claim is based.

“Probation Officer” means a representative of the state or parish probation office providing supervision services to the court.

”R.S.” means the Louisiana Revised Statutes Annotated.

“Reserved” means a number has been reserved, set aside, for any future rules relative to the topic and is a practice consistent with the Louisiana Children’s Code.

“Traffic Referee” means an attorney appointed by the court exercising juvenile jurisdiction to hear all traffic cases involving juveniles except those proceedings under R.S. 14:1 et seq.

“UCCJA” means the Uniform Child Custody Jurisdiction Act pursuant to R.S. 13:1701 et seq. and Louisiana Children’s Code Article 310.

“UCCJEA” means the Uniform Child Custody Jurisdiction and Enforcement Act pursuant to R.S. 13:1801 et seq.

“UIFSA” means the Uniform Interstate Family Support Act pursuant to Louisiana Children’s Code Article 1301 et. seq.

“URESА” means the Uniform Reciprocal Enforcement Support Act pursuant to R.S. 13:1641-1698, which was repealed in 1993.

Adopted April 29, 2008, effective July 1, 2008.

Comments

(a) Caddo Parish Juvenile Court also uses the following definitions:

(1) "Department head" means the Judicial Administrator, Clerk, Chief Probation Officer, and Superintendent of the Detention Home.

(2) "Detention Home" means the Caddo Parish Juvenile Detention Home.

(3) "Judicial Officer" means a Judge, Hearing Officer or Juvenile Traffic Referee of the Court.

(4) "Juvenile Justice Complex" means the Caddo Parish Juvenile Justice Complex located at 1835 Spring Street in Shreveport, Louisiana.

(5) "Parish Commission" means the Caddo Parish Commission.

(b) Orleans Parish Juvenile Court also uses the following definitions:

(1) "CPD" means the Child Protection Division in Orleans Parish Juvenile Court.

(2) "OPD" means the Office of Public Defender of the Parish of Orleans.

(c) East Baton Rouge Juvenile Court also uses the following definition:

(1) "O.P.D." means the Office of Public Defender of the Parish of East Baton Rouge, and includes all Assistant Public Defenders (P.D.). See Appendix 24 for further definitions.

(d) Jefferson Parish Juvenile Court also uses the following definitions:

(1) "DJS" means the Department of Juvenile Services for the Parish of Jefferson. DJS investigates and advises the Court in all adjudicated delinquency and family in need of service cases, providing probation supervision for those children not in the custody of the DPSC/OYS. Through a contract with Family Services Society of Greater New Orleans, DJS provides monitoring services of non-adjudicated family in need of services cases.

(2) "I.D.B." means the Indigent Defender Board for the Parish of Jefferson.

Rule 40.2 Jurisdiction

(a) Exclusive, original jurisdiction of juvenile court

A court exercising juvenile jurisdiction shall have exclusive original jurisdiction as set forth in Ch.C. Art. 302, et seq.

(b) Division of concurrent juvenile jurisdiction between district, parish and/or city courts

Juvenile courts have concurrent subject matter jurisdiction with courts of general jurisdiction over certain issues, including child custody, child support and certain enumerated adult crimes. The nature of the proceeding involving that subject matter, not the subject matter itself, is determinative of which court properly exercises jurisdiction in accordance with Title III of the Louisiana Children's Code.

Adopted April 29, 2008, effective July 1, 2008.

Comment

Matters over which courts may have concurrent jurisdiction include the commission of certain criminal acts by minors [Ch.C. Art. 303(1), domestic abuse assistance proceedings (Ch.C. Art. 303(9)), custody matters (Ch.C. Art. 309, 310), child support (Ch.C. Art. 311), and certain criminal proceedings involving children (Ch.C. Art. 312)].

CHAPTER 41 COURT ORGANIZATION AND SESSIONS

Rule 41.0 General Organization of Court; Divisions or Sections of Court

The purpose of the structure of the court is to aid in the efficient operation of the court, and the resolution of matters which come before the court in a fair, impartial and timely manner.

Courts may by *en banc* order divide into divisions or sections for the purpose of allotting matters within the court's jurisdiction. Those courts that have done so, and their respective methods for assigning judges to divisions or sections, are indicated in Appendix 20.

Adopted April 29, 2008, effective July 1, 2008.

Rule 41.1 Court Administration

(a) Dates of Court

The holidays observed by each juvenile court, in addition to legal holidays, are set forth in Appendix 21 to these rules.

(b) Duty Judges

Each court may designate one or more of its members to act as a duty judge. The identity of each duty judge shall be available in a manner deemed appropriate by the court. If the court chooses to use multiple duty judges to perform various functions, the delineation of each duty judge's duties shall also be prominently displayed. The length of term and duties of the duty judge shall be at the sole discretion of the judges in each court sitting *en banc*. For those courts that have designated duty judges, the office hours for performance of his or her duties, and the duties assigned, are listed in Appendix 22.

(c) Judicial Administrators

The court *en banc* may appoint and fix the salary of a judicial administrator to assist the court in fulfilling its administrative obligations. Those courts that have appointed an administrator are listed in Appendix 23.

Adopted April 29, 2008, effective July 1, 2008.

Comments

Previous rules of court adopted by individual judicial districts often included various rules dealing with judges, such as selection of a chief judge; courts sitting en banc; duties and powers of judges; duty judges; random allotment; recusal, transfer and consolidation; accessibility and judicial accounts. Many of these rules duplicated articles of the Louisiana Constitution, applicable Revised Statutes, or Supreme Court of Louisiana decisions. Furthermore, many of the rules dealt with the internal administration of the court rather than with the interaction of counsel and litigants with the judicial process. No provisions duplicating existing law have been included in these rules.

Rule 41.2 Procedure

Specific procedures mandated by a court exercising juvenile jurisdiction are set forth in Appendix 24.

Adopted April 29, 2008, effective July 1, 2008.

CHAPTER 42 GENERAL RULES AND PROCEDURES

Rule 42.0 One Family/One Judge Rule

Unless a different method of allotment is set forth in Appendix 25, if a juvenile or the mother or father of any child or children has a juvenile case pending and previously allotted, any new juvenile matter shall be allotted so that all juvenile matters related to the new filing are presided over in one division of court.

Adopted April 29, 2008, effective July 1, 2008.

Comment

See Louisiana Supreme Court Rule XXXIII, Part I, Section 2.

Rule 42.1 Delay Reduction; Continuances

(a) All motions for continuance shall be in writing and filed at the earliest possible date. Such motions are set in the same manner as other motions. Continuances shall be granted only for good legal cause shown. The court may, however, entertain an oral motion for a continuance in exceptional circumstances, as the ends of justice require. The reason for any continuance shall be included in the court record.

(b) If a continuance is sought *ex parte*, the movant shall certify in the motion that all parties have been notified and have no objection. Parties may be notified through counsel of record.

(c) Counsel are responsible for monitoring the status of their case, arranging for reissuance of subpoenas, and otherwise assuring that their case is ready for trial.

(d) No continuances and/or extensions of time shall be permitted which may result in non-compliance with either the Children's Code and/or federal ASFA legislation or regulations.

(e) Whenever necessary, cases may be taken under advisement, but shall not remain without decision for a period in excess of thirty (30) days without the knowledge and consent of the attorneys representing the parties at interest. Cases under advisement more than 30 days shall be reported to the Supreme Court as required by Louisiana Supreme Court General Administrative Rules, Section 2.

(f) In the event that a continuance is granted or a delay permitted that exceeds the maximum allowable times established by the Children's Code, the Court is mandated by Supreme Court Rule XXXIII, Part II to report such a continuance within ten (10) days to the Louisiana Supreme Court, along with the reasons for the delay, and a copy of the order.

Adopted April 29, 2008, effective July 1, 2008.

Comments

(a) Orleans Parish Juvenile Court requires that a continuance be filed not less than seventy-two (72) hours prior to the scheduled hearing.

(b) Caddo Parish Juvenile Court requires the following:

1. A continuance must be filed at least five (5) days prior to the

scheduled hearing.

2. A continuance of an adjudication hearing may be granted only after filing of a written motion with notice to opposing parties and upon showing of good cause arising from extraordinary circumstances. If granted by the Court, the Court shall issue written reasons reciting the particular facts justifying the continuance, identifying the mover, and refixing the adjudication hearing no more than five days after the initial hearing date.

3. A continuance of an evidentiary hearing may be granted only after filing of written motion with notice to opposing parties and upon showing of good cause arising from extraordinary circumstances. If granted by the Court, the Court shall issue written reasons reciting the particular facts justifying the continuance, identifying the mover, and refixing the adjudication hearing at the earliest reasonable available time after the initial hearing date.

(c) Jefferson Parish Juvenile Court also requires:

1. No continuance will be granted based solely upon the non-appearance of a party's witness if the absent witness was not properly subpoenaed to appear by the party moving for the continuance.

2. Continuances shall only be granted in accordance with the provisions of the Children's Code regarding continuances and delays in permanency proceedings (Child in Need of Care, Involuntary Termination of Parental Rights, and any adoptions stemming from such matters.)

(d) East Baton Rouge Juvenile Court also requires:

1. All cases shall be tried on the date set unless the trial is continued by order of the Court.

2. Prior to filing a motion for continuance, all parties shall be notified and the Court shall thereafter be advised by the moving party if any party objects.

3. Continuances must be filed at least twenty-four (24) hours before the

scheduled hearing.

Rule 42.2 Standardization

(a) Wherever possible, without hindering due process or judicial independence and to further access to justice, the court will make efforts to standardize its procedures and forms.

(b) All minute entries prepared by the clerk and submitted to the court for approval shall contain standardized terminology and comply with the Children's Code and federal ASFA legislation and regulations.

Adopted April 29, 2008, effective July 1, 2008.

Rule 42.3 Records and Information Sharing

(a) Except as otherwise provided by Ch.C. Art. 407, all juvenile proceedings are confidential and closed to the public. Access to any public proceedings may be restricted according to available space in each courtroom as well as any security needs.

(b) Except as otherwise provided by Ch.C. Art. 412, all juvenile records are to remain confidential. Access to records, not otherwise prohibited by law, may be permitted for good cause shown pursuant to a motion for disclosure addressed to the judge.

(c) No reference to any juvenile matter which is closed to the public shall be made in open court by any court officer, including attorneys. Only docket numbers or non-identifying information may be referred to in open court.

(d) Those matters on the juvenile docket which are not private and confidential, such as any trial of an adult in juvenile court, criminal neglect of family matters, child support proceedings, and any other proceedings specifically authorized by law to be public, may be disclosed by the court, court personnel, the clerk of court or his deputies to any party or their attorney, unless specifically prohibited by court order.

(e) This rule in no way is meant to impinge upon statewide juvenile justice reform efforts for information sharing among agencies entitled and/or required by law to do so.

Comment

(a) In Jefferson Parish Juvenile Court:

1. A form motion for disclosure is available from the Office of the Clerk of Court for Jefferson Parish Juvenile Court.
2. When a record has been removed for review it shall be replaced with a signed, dated slip indicating the file number of the case, who is using the file, and where the file can be located.

(b) In East Baton Rouge Juvenile Court:

1. Records in the office of the Clerk of Court may be removed only for the use of the Court or with written leave of Court, or as allowed by law.
2. A form motion is available from the Clerk's office located at the Juvenile Court.

Rule 42.4 Attorneys

(a) Where counsel is appointed by the court, the clerk of court shall notify him of his appointment by serving such notice along with a copy of the petition, as provided by law. Once an attorney has appeared, he shall receive copies of all notices required by law.

(b) An attorney, unless appointed by the court, shall file a formal notice of enrollment or sign his name on the record indicating his representation.

(c) After counsel enters an appearance or accepts an appointment, representation shall continue through all stages of the proceedings until the case is closed, unless withdrawal of representation is specifically allowed by the court for compelling reasons. Whenever a parent in an action for involuntary termination of parental rights moves the court for appointment of counsel, the clerk of court shall bring the court any related CINC file. If the

appointment of counsel is appropriate, the court shall appoint the same counsel who represented the parent in the CINC proceeding, except where a compelling reason would preclude such appointment.

(d) If an attorney desires to withdraw as counsel of record he must file a written motion with the court to this effect stating his reasons therefore, which motion shall be filed not later than ten (10) days prior to the date of the hearing. If the motion is not filed timely, or for other good and sufficient reason, the court may deny the motion and ignore the reasons therefore (except when such reasons conflict with the best interest of the client) and require counsel to remain in the case and represent his client at the hearing. The motion shall state the client's current address and shall include a copy of written notice to the client that the lawyer is no longer representing him and apprizing the client of the procedural status of the case. The movant shall give notice of the motion and its setting to the client and all parties.

(e) Each attorney practicing before the court shall furnish to the clerk a daytime business telephone number, a municipal street address where the attorney may be served with process, and a mailing address if different. This requirement is ongoing and must be updated immediately upon change.

(f) Counsel shall abide by the Rules of Professional Conduct in any communications with represented parties. Legal documents purporting to waive rights of represented parties should include the signature of that party's counsel.

(g) An attorney appointed to represent an absentee shall be present at trial and shall both defend the absentee and testify concerning efforts to communicate with him.

(h) All attorneys of record in matters scheduled for hearing shall be available at the time the case is called. If an attorney finds it necessary to leave the courtroom or adjacent areas, he shall inform the appropriate court personnel and indicate where he may be located.

(i) All attorneys shall be qualified in accordance with the requirements of the Louisiana Supreme Court General Administrative Rules, and R.S. Title 15 as applicable.

Adopted April 29, 2008, effective July 1, 2008.

Rule 42.5 Alternative Dispute Resolution; General Rules - (Reserved)

Rule 42.6 Intake (Reserved)

**CHAPTER 43 DEPENDENCY PROCEEDINGS [CHILD IN NEED OF CARE
("CINC") AND JUDICIAL CERTIFICATION FOR
ADOPTION/TERMINATION OF PARENTAL RIGHTS]**

Rule 43.0 Differentiated Case Management - (Reserved)

Rule 43.1 Concurrent Planning - (Reserved)

Rule 43.2 Alternate Dispute Resolution - (Reserved)

Rule 43.3 Instantner/Removal/Hold Orders

All instantner/removal/hold orders shall be handled pursuant to Ch.C. Arts. 617, et seq.

Adopted April 29, 2008, effective July 1, 2008.

Rule 43.4 Placement of Children in Custody

(a) Prior to adjudication when DSS is the custodian of a child, should a child be moved from one placement to another, DSS shall inform the court of the change of placement within twenty-four (24) hours.

(b) In order to protect the statutory and constitutional liberty and due process rights of the child to placement in the least restrictive, most family-like setting suitable to the needs of the child, the custodial agency shall provide written notice to the court within twenty-four (24) hours of a placement change for the child to a less family-like or more restrictive setting than previously approved by the court in the case plan. Disposition from the last court approved case plan shall be filed in accordance with law.

(c) When there has been a CINC adjudication and parental rights have been terminated, either by termination proceedings or by a voluntary act of surrender, the six (6) month review hearing may be consolidated with the permanency placement review.

(d) If a child is placed in a mental health treatment facility, the custodial agency shall inform the court within twenty-four (24) hours, and the court shall appoint an attorney from

the Mental Health Advocacy Service to represent the child pursuant to Ch.C. Art. 607(C).

Adopted April 29, 2008, effective July 1, 2008.

Rule 43.5 Reports

(a) All reports and evaluations pertaining to a dispositional hearing shall be submitted to the court, in writing, no later than seventy-two (72) hours prior to the scheduled hearing. When OCS has been granted custody of the child, the reports shall contain all requirements set forth in Ch.C. Art. 675.

(b) The initial case plan developed by OCS shall be filed with the court prior to or at the time of the pre-hearing conference or within sixty (60) days of the entry into the custody of OCS.

(c) All reports pertaining to CINC reviews shall be in writing and submitted to the court no later than ten (10) calendar days prior to the review hearing. The report will be in the form set forth in Ch.C. Art. 675.

(d) At the case review hearing, OCS shall submit a report to the court, in writing, no later than ten (10) calendar days prior to the hearing. The report will relate information regarding the placement status of the child.

(e) OCS shall forward copies of all reports and case plans to all attorneys of record, unrepresented parties, and CASA on the same date of the filing of the report with the court. If for any reason the court continues a scheduled hearing for more than a thirty (30) day period, OCS shall prepare and send an update letter to all attorneys of record, unrepresented parties, CASA and the court, at least three (3) days prior to the hearing.

Adopted April 29, 2008, effective July 1, 2008.

Comments

(a) Caddo Parish Juvenile Court requires:

1. Objections to DSS report and recommended case plan or other responses to DSS reports shall be written and filed in the record at least five (5) days prior to the hearing with copies submitted to the Court and all counsel of record.

2. Failure to comply with this rule (stated in Comment 1, above) may result in sanctions against the offending party, or counsel, and a waiver of the right to raise the issues at hearing unless good cause is shown.

(b) East Baton Rouge Juvenile Court requires:

1. All court reports by OCS shall be filed with the Juvenile Court Docket Clerk. OCS shall forward copies to all attorneys of record, unrepresented parties, and CASA at least ten (10) days prior to the scheduled Disposition Hearing. See Appendix 24.

2. Copies shall be forwarded by OCS to all attorneys of record, unrepresented parties and CASA at the same time the case plan is filed with the Court.

Rule 43.6 CASA (Court Appointed Special Advocate)

(a) The court acknowledges that the appointment of a Court Appointed Special Advocate (CASA) may be in the best interest of a child who is the subject of a child protection case. Appointments shall be made on the criteria that are, from time to time, established by the CASA governing body, the CASA program and/or the court.

(b) A CASA should be appointed at the continued custody hearing or as soon thereafter as possible. A copy of the order shall immediately be forwarded to CASA.

(c) Whenever possible, after a CASA accepts an appointment, that advocate's involvement with the case should continue through all stages of the proceedings until the case has been dismissed.

Adopted April 29, 2008, effective July 1, 2008.

Comments

(a) Orleans Parish Juvenile Court requires that each CASA should have responsibility for only one case, and may be appointed at the continued custody hearing or as soon thereafter as possible.

(b) In the Twenty-Eighth Judicial District Court, the CASA shall be entitled to access to all information from all sources which the law permits.

CHAPTER 44 DELINQUENCY PROCEEDINGS

Rule 44.0 Transfer of Cases - (Reserved)

Rule 44.1 Reports

Reports to the court regarding recommendations for disposition, including any required supervision plans and service plans, and reports pertaining to review hearings shall be submitted to the court in writing at least three (3) working days prior to the scheduled hearing date.

Adopted April 29, 2008, effective July 1, 2008.

Comment

Ch.C. Art. 891 requires that a copy of the predisposition report be provided to the district attorney and attorney for the child at least three (3) days prior to the scheduled disposition.

Rule 44.2 Alternative Dispute Resolutions - (Reserved)

Rule 44.3 Progressive Sanctions - (Reserved)

CHAPTER 45 FAMILIES IN NEED OF SERVICES ("FINS") PROCEEDINGS

Rule 45.0 Informal Families in Need of Services ("FINS") Process

When required by the court, reports to the court regarding the monitoring of non-adjudicated FINS shall be submitted to the court monthly.

Adopted April 29, 2008, effective July 1, 2008.

Comment

FINS is an attempt to meet the needs of children and their families and an attempt to keep the family out of the judicial system, to the greatest extent possible, by establishing a family service plan and coordinating the provision of services to the family.

Rule 45.1 Formal FINS Process - (Reserved)

Rule 45.2 Reports

Reports to the court regarding recommendations for disposition and reports pertaining to review hearings for adjudicated FINS shall be submitted to the court in writing at least three (3) working days prior to the scheduled hearing date.

In the event that the FINS predisposition report recommends custody to any agency, the reporting officer shall immediately provide to the proposed custodial agency a copy of the report, all supporting documentation, all records, and notice of their right to be present at the hearing.

Adopted April 29, 2008, effective July 1, 2008.

Comments

(a) Ch.C. Art. 773 requires only that a predisposition report be provided to the court prior to the disposition hearing.

(b) This rule provides for the timeliness of the notification requirements set forth in Ch.C. Art. 775(D).

Rule 45.3 Family In Need of Services Assistance Program ("FINSAP") Compliance (Reserved)

CHAPTER 46 ADOPTION PROCEEDINGS

Rule 46.0 Filing of Pleadings; Required Exhibits

(a) General Applicability

All adoption proceedings shall conform to the requirements of the Children's Code, other applicable laws, and all applicable Court Rules.

(b) Filing of Pleadings

All court proceedings must be initiated by a written pleading of a party or attorney. The pleading may be a letter, petition, formal motion, or form rule. The written request must set forth in general terms the relief sought by the moving party, or the category of hearing which is being requested (i.e., review, contempt, etc.) as well as the names and contact information of all relevant parties and the docket number of the case.

(c) ICPC Approval

Approval of an adoptive child's placement shall be in accordance with the Interstate Compact on the Placement of Children (ICPC), as set forth in Title XVI of the Children's Code. Written evidence of the ICPC approval of such placement shall be filed with the court prior to the granting of judgment in an adoption proceeding.

Adopted April 29, 2008, effective July 1, 2008.

Rule 46.1 Uncontested Adoptions

Petitioners and counsel shall be present in court and prepared to proceed at the date and time fixed for the hearing. The hearing may be conducted in chambers at the discretion of the judge.

Counsel shall submit the original decree of adoption to the court.

Adopted April 29, 2008, effective July 1, 2008.

Rule 46.2 Contested Adoptions; Appeals - (Reserved)

Rule 46.3 Continuances - (Reserved)

Rule 46.4 Reports

Confidential adoption reports from the Department of Social Services are due at a reasonable time prior to date of the hearing for the judge's review.

Adopted April 29, 2008, effective July 1, 2008.

Rule 46.5 Curators ad hoc; Duties, Procedures, Fees

(a) When a curator successfully locates a missing or absent parent and is provided with an address for the absent parent, the curator shall send the appropriate notice of the surrender or adoption proceedings to the absent parent as is required by law.

(b) Fees may be assessed by the clerk of court in adoption proceedings as provided by law.

Adopted April 29, 2008, effective July 1, 2008.

Comment

The duties of curators depend on the proceedings in which they are appointed. For example, curator duties are specified in Ch.C. Art. 644 for CINC cases, in Ch.C. Art. 1024 for terminations, in Ch.C. Art. 1136 for surrenders, and in Ch.C. Arts. 1205, 1227, and 1250 for adoptions.

CHAPTER 47 CHILD SUPPORT PROCEEDINGS

Rule 47.0 Expedited Process

(a) All court proceedings shall be initiated by a written request. The writing may be a letter, formal motion, or form rule. The written request shall set forth in general terms the relief sought by the moving party or the category of hearing which is being requested (i.e., reduction, contempt, etc.), including the names of all relevant parties and the docket number of the case.

(b) If any party disagrees with the recommendation of the Hearing Officer, the said party may object in writing in accordance with Ch.C. Art. 423(F). The writing may be by letter or by motion.

(c) The recommendation of the Hearing Officer may be transmitted in open court, in chambers, or by mail. If transmitted by mail, the notice shall be sent to the last address provided by the party and the date of transmittal is the date of mailing, as reflected on the notice filed in the record.

(d) When the person owing the support (designated by UIFSA as "Respondent") resides within the jurisdiction of a Louisiana court exercising juvenile jurisdiction and the petitioner resides in another state, such cases shall be designated as "Responding UIFSA." Any such cases which were initiated prior to January 1, 1996, shall be designated as "Responding URESA."

(e) When the person seeking support (designated as "Petitioner/Complaining Witness") resides within the jurisdiction of a Louisiana court exercising juvenile jurisdiction and the Respondent resides in another state, such case shall be designated as "Initiating UIFSA." Any such cases which were initiated prior to January 1, 1996, shall be designated as "Initiating URESA."

(f) In all cases where the parties have agreed to accept service by mail, said service for all proceedings shall be sent to the parties by U.S. Mail at the address in the court record for each party. Each party is responsible to notify the court in writing of any change of address. Service will be deemed good and sufficient if it is mailed to the last address provided by the party. Failure of a party to appear based upon said service by mail will be basis for issuing an Attachment.

Adopted April 29, 2008, effective July 1, 2008.

Rule 47.1 Required Information

(a) Both parties in a court ordered support matter are responsible for notifying the court in writing through the Regional Support Enforcement Office of the Department of Social Services, office of family services and/or the appropriate division of the District Attorney's Office of any change of address or place of employment.

(b) When rules are filed alleging contempt for failure to pay support as ordered, the Regional Support Enforcement Services Office and/or the appropriate division of the District Attorney's Office shall procure a computer printout of the defendant's account to assist the court in determining the proper status of the account. Both parties are to provide proof of

support paid and/or received during the period of time in question.

(c) At all hearings to initially set support or modification of an existing order, both the defendant and the person seeking the order of support or modification shall bring with them to court a copy of their two (2) most recent state and federal tax returns, two (2) months worth of the most recent paycheck stubs with a year-to-date gross earnings or receipts and expenses if self-employed, proof of the cost for medical insurance premiums to insure the child or children only, and proof of child care expenses, or certification/evidence of state or federal benefits. Each party shall provide to the presiding judicial officer and the opposing party a worksheet pursuant to R.S. 9:315, et seq., a verified income statement showing gross income and adjusted gross income, and documentation of current and past earnings.

Adopted April 29, 2008, effective July 1, 2008.

Rule 47.2 Administrative Fee

In child support enforcement proceedings, each district may impose upon the obligor an administrative fee as allowed by R.S. 46:236.5.

Adopted April 29, 2008, effective July 1, 2008.

Rule 47.3 Payment; Collection Procedures

(a) Payment and collection of support shall be in accordance with R.S. 46:236.5 et seq., and any other applicable laws.

(b) The defendant's failure to appear for a bond hearing, after notice, will be deemed as acquiescence by the defendant to the court's forfeiture of the bond for any arrearage due by the defendant.

(c) On or after April 1, 2000, all Title IV-D, AFDC (Social Security Act) and in all Title IV-D, Non-AFDC (Social Security Act) obligors or payors shall make any and all payments for support, including any additional administrative fee amount of up to five percent (5%), payable to the DSS. Such payments shall be made by money order and shall be mailed directly to DSS, P.O. Box 260222, Baton Rouge, LA 70826-0222. DSS shall collect and remit the court ordered administrative fee of up to five percent (5%) by contract with the court.

Adopted April 29, 2008, effective July 1, 2008.

Rule 47.4 Custody and Visitation - (Reserved)

CHAPTER 48 TRAFFIC PROCEEDINGS

Rule 48.0 Traffic Referees

A traffic referee is an attorney appointed by the court to hear traffic cases specified in Ch.C. Art. 953.

Adopted April 29, 2008, effective July 1, 2008.

Rule 48.1 Traffic Procedure

(a) The Juvenile Traffic Referee shall have the authority and duties set forth in Ch.C. Art. 422 and Arts. 951, et seq.

(b) The court may promulgate a table of traffic dispositions, including costs and requirements to attend traffic school.

Adopted April 29, 2008, effective July 1, 2008.

Rule 48.2 Fines, Fees and Costs

The court may promulgate a table of fines, fees and costs to be charged in traffic cases, not inconsistent with local ordinances and state statutes in addition to or in lieu of other penalties to be imposed on juvenile traffic offenders.

Adopted April 29, 2008, effective July 1, 2008.

CHAPTER 49 OTHER PROCEEDINGS

Rule 49.0 Mental Health Proceedings

All minors who are the subject of Mental Health Proceedings under Title XIV of the Children's Code shall have the right to counsel, and indigent minors in these proceedings shall have the right to court appointed counsel in accordance with law.

Adopted April 29, 2008, effective July 1, 2008.

Rule 49.1 Voluntary Transfer of Custody

(a) In a voluntary transfer of custody proceeding, the court shall transfer custody of a child from a parent to a non-parent, only. As between parents, either legal or non-legal, custody must be addressed either through the District Court or through a Provisional Custody by Mandate as provided by law.

(b) With leave of court, a voluntary transfer of custody proceeding may be filed in a pending matter except as specifically prohibited by law. Otherwise, petitions for voluntary transfer of custody shall be filed in the manner required by Title XV, Chapter 3 of the Children's Code. If a voluntary transfer of custody is filed in any open juvenile matter which has never been formally dismissed by the State, notice shall be given to the State of the request for transfer of custody.

Adopted April 29, 2008, effective July 1, 2008.

Comment

See R.S. 9:951, et seq.

Rule 49.2 Misdemeanor Prosecution of Adults - (Reserved)

Rule 49.3 Marriage of Minors

(a) For the purpose of marriage, the court shall retain jurisdiction over all minors unless the minor has been previously emancipated.

(b) When a minor under the age of sixteen (16) wishes to marry, the clerk of court may issue a marriage license only if the following documents are produced.

(1) Written waiver of minority signed by a juvenile court judge of the parish where the minor resides or where the marriage is to be performed.

(2) Written consent to the marriage by both of the minor's parents, tutors, or legal custodian. Exceptions to the requirement that both parents' consent to the minor's marriage exists when one parent is deceased, when the parents

are divorced and one parent has sole custody, when only one parent is indicated on the birth certificate, or when the juvenile court exercising jurisdiction over the proceeding signs a written waiver of parental consent.

(3) A certified copy of the minor's birth certificate, unless waived by the court exercising jurisdiction over the proceeding.

(4) Proof that at least one (1) of the parties resides in that parish or the marriage is to be performed in that parish.

(c) Both of the minor's parents must consent to the marriage of the minor if the parents are presently married, or if the parents are divorced and/or judicially separated and no order of custody for the minor has been produced.

(d) If a situation exists whereby consent of both parents is needed, but the whereabouts of one parent is unknown, the court may, on a case by case basis, waive the absent parent's consent.

(e) For good reason shown and if it is in the best interest of the minor, the court may waive the seventy-two (72) hour waiting period required between the issuance of the marriage license and the performance of the marriage ceremony.

(f) Notwithstanding any provision of law to the contrary, the court may grant a minor permission to marry should the court find that there are compelling reasons for the marriage and that it is in the best interest of the minor.

Adopted April 29, 2008, effective July 1, 2008.

Comment

Authority for judicial authorization of minors' marriages is found in Chapter 6 of Title XV of the Children's Code and in R.S. 9:221 et seq.

Rule 49.4 Abortions - (Reserved)

Rule 49.5 Domestic Abuse Assistance - (Reserved)

Rule 49.6 Special Court Orders/Proceedings (Interstate Compacts, Terminally Ill Children, Other) - (Reserved)

Rule 49.7 Expungements

(a) If a form for expungement is provided by the court exercising juvenile jurisdiction, any motion for expungement shall utilize that form.

(b) A person seventeen (17) years of age or older who has been the subject of a juvenile court proceeding, appearing in proper person, or his attorney, may file a Motion for Expungement. The parents of the former juvenile may not file the motion, nor may any other person. If information regarding the case is needed to file the Motion for Expungement, the mover shall file a Motion for Disclosure with the court exercising juvenile jurisdiction.

Adopted April 29, 2008, effective July 1, 2008.

CHAPTER 50 APPEALS AND WRITS

Rule 50.0 Transcripts

(a) In all cases, transcripts of the proceedings will be prepared by the court reporter only upon the attorney's request and judicial authorization.

(b) Unless ordered otherwise by the court, the time allowed for preparation of transcripts on appeals taken in delinquency, CINC, and FINS proceedings shall conform to the requirements Chapter 9 of Title III of the Children's Code. The time allowed for preparation of transcripts on appeals taken pursuant to involuntary termination of parental rights, surrenders and adoption proceedings shall conform to the requirements of Titles X, XI, and XII, respectively, of the Children's Code.

(c) Unless ordered otherwise by the court, the time allowed for preparation of transcripts on appeals taken in proceedings concerning support of family shall conform to the requirements of Title XIII of the Children's Code.

(d) Costs for the preparation of transcripts shall be fixed pursuant to a schedule adopted by the court en banc and published at the court.

Adopted April 29, 2008, effective July 1, 2008.

Rule 50.1 Time Limitations

(a) Appeals taken on delinquency, CINC, and FINS proceedings shall conform to the requirements of Chapter 9 of Title III of the Children's Code.

(b) Appeals taken pursuant to involuntary termination of parental rights, surrenders and adoption proceedings shall conform to the requirements of Titles X, XI, and XII, respectively, of the Children's Code.

(c) Appeals taken in proceedings concerning child support shall conform to the requirements of Title XIII of the Children's Code.

Adopted April 29, 2008, effective July 1, 2008.

CHAPTER 51 OTHER RULES

Rule 51.0 Other Rules - (Reserved)