

## **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 the Louisiana Children's Code
- 40.1 Definitions and Abbreviations
- 40.2 Jurisdictions

#### **CHAPTER 41. COURT ORGANIZATION AND SESSIONS**

##### **Rule**

- 41.0 General Organization of Court; Divisions or Sections of Court
- 41.1 Court Administration; Duty Judge; Mediation
- 41.2 Procedure

#### **CHAPTER 42. GENERAL RULES AND PROCEDURES**

##### **Rule**

- 42.0 One Family/One Judge Rule
- 42.1 Delay Reduction; Continuances
- 42.2 Standardization
- 42.3 Records and Information Sharing
- 42.4 Attorneys
- 42.5 Alternative Dispute Resolution; General Rules (Reserved)
- 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)
- 43.1 Concurrent Planning (Reserved)
- 43.2 Alternate Dispute Resolution (Reserved)
- 43.3 Instanter/Removal/Hold Orders
- 43.4 Placement of Children in Custody
- 43.5 Reports
- 43.6 CASA (Court Appointed Special Advocates)

## CHAPTER 44. DELINQUENCY PROCEEDINGS

### **Rule**

- 44.0 Transfer of Cases (Reserved)
- 44.1 Reports
- 44.2 Alternative Dispute Resolution (Reserved)
- 44.3 Progressive Sanctions (Reserved)

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

### **Rules**

- 45.0 Informal FINS Process
- 45.1 Formal FINS Process (Reserved)
- 45.2 Reports
- 45.3 Families in Need of Services Assistance Program ("FINSAP") Compliance (Reserved)

## CHAPTER 46. ADOPTION PROCEEDINGS

### **Rule**

- 46.0 Filing of Pleadings; Required Exhibits
- 46.1 Uncontested Adoptions
- 46.2 Contested Adoptions; Appeals (Reserved)
- 46.3 Continuances (Reserved)
- 46.4 Reports
- 46.5 Curators *ad Hoc*; Duties, Procedures, Fees

## CHAPTER 47. CHILD SUPPORT PROCEEDINGS

### **Rule**

- 47.0 Expedited Process
- 47.1 Required Information
- 47.2 Administrative Fee
- 47.3 Payment; Collection Procedures
- 47.4 Custody and Visitation (Reserved)

## CHAPTER 48. TRAFFIC PROCEEDINGS

### **Rule**

- 48.0 Traffic Referees
- 48.1 Traffic Procedure
- 48.2 Fines, Fees and Costs

## CHAPTER 49. OTHER PROCEEDINGS

### **Rule**

49.0 Mental Health Proceedings

49.1 Voluntary Transfer of Custody

49.2 Misdemeanor Prosecution of Adults (Reserved)

49.3 Marriage of Minors

49.4 Abortions (Reserved)

49.5 Domestic Abuse Assistance (Reserved)

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

49.7 Expungements

## CHAPTER 50. APPEALS AND WRITS

### **Rule**

50.0 Transcripts

50.1 Time Limitations

## CHAPTER 51. OTHER RULES

### **Rule**

51.0 Other Rules (Reserved)

## **CHAPTER 40. PRELIMINARY PROVISIONS; JURISDICTION; DEFINITIONS**

### **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.

### **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.

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

### **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.

## **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.

## 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

### 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.

### 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.

## 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.

### 41.2 Procedure

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

## CHAPTER 42. GENERAL RULES AND PROCEDURES

### 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.

#### Comment

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

### 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.

### **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.

## **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.

## **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.

#### **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.

#### **42.5 Alternative Dispute Resolution; General Rules – (Reserved)**

#### **42.6 Intake (Reserved)**

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

**43.0 Differentiated Case Management - (Reserved)**

**43.1 Concurrent Planning - (Reserved)**

**43.2 Alternate Dispute Resolution – (Reserved)**

**43.3 Instanter/Removal/Hold Orders**

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

**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).

**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.

### **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.

### **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.

## **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**

### **44.0 Transfer of Cases – (Reserved)**

### **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.

#### **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.

### **44.2 Alternative Dispute Resolutions - (Reserved)**

### **44.3 Progressive Sanctions – (Reserved)**

## **CHAPTER 45. FAMILIES IN NEED OF SERVICES (“FINS”) PROCEEDINGS**

### **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.

#### **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.

### **45.1 Formal FINS Process – (Reserved)**

## **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.

### **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).

## **45.3 Family In Need of Services Assistance Program (“FINSAP”) Compliance (Reserved)**

## **CHAPTER 46. ADOPTION PROCEEDINGS**

### **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.

## **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.

## **46.2 Contested Adoptions; Appeals – (Reserved)**

## **46.3 Continuances – (Reserved)**

## **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.

## **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.

### **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**

### **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.

#### **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.

#### **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.

### **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.

### **47.4 Custody and Visitation – (Reserved)**

## **CHAPTER 48. TRAFFIC PROCEEDINGS**

### **48.0 Traffic Referees**

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

### **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.

### **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.

## **CHAPTER 49. OTHER PROCEEDINGS**

### **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.

### **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.

#### **Comment**

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

### **49.2 Misdemeanor Prosecution of Adults – (Reserved)**

### **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.

### **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.

#### **49.4 Abortions - (Reserved)**

#### **49.5 Domestic Abuse Assistance - (Reserved)**

#### **49.6 Special Court Orders/Proceedings (Interstate Compacts, Terminally Ill Children, Other) – (Reserved)**

#### **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.

## **CHAPTER 50. APPEALS AND WRITS**

#### **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.

### **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

## **CHAPTER 51. OTHER RULES**

### **51.0 Other Rules – (Reserved)**