

MISSOURI RULES OF COURT
RULES OF PRACTICE AND PROCEDURE IN JUVENILE COURTS

*** THIS DOCUMENT REFLECTS ALL CHANGES RECEIVED THROUGH SEPTEMBER 1, 2004 ***

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RULE 110. GENERAL PROVISIONS

110.01. Applicability of Rules

Rules 110 through 128 shall govern practice and procedure in the juvenile and family courts under *sections 210.125, 210.160, 210.166, 210.700 to 210.760, RSMo*, and chapter 211, RSMo.

110.02. Authority for Rules

Rules 110 through 128 are promulgated pursuant to the authority granted this Court by section 5 of article V of the Constitution of Missouri and supersede all statutes and existing court rules inconsistent there-with. They are intended to provide for the just determination of proceedings in courts as that term is defined in Rule 110.05. These rules shall be construed to assure simplicity and uniformity in judicial procedure and fairness in the administration of justice and to conduce to the welfare of the juvenile and the best interests of the state.

110.03. Repealed by order dated Dec. 9, 1997, effective Jan. 1, 1999

110.04. Procedure When Rules not Applicable

If no procedure is specifically provided in these rules, the court shall be governed by the practice and procedure customary in proceedings in equity, and by Rules 41 through 101 to the extent not inconsistent with these rules.

110.05. Definitions

a. As used in Rules 110 through 128, unless the context requires a different meaning:

(1) "administrative judge" means the administrative judge of the family court or, in circuits having one judge sitting as family court judge or juvenile division judge, the judge of the family court or juvenile division;

(2) "commissioner" means commissioner of the court;

(3) "county" means any county of the state and the city of St. Louis;

(4) "court" means a juvenile division of the circuit court or a division of the family court when hearing matters that would be heard in a juvenile division of the circuit court, or a judicial officer acting for the court;

(5) "custodian" includes parent, guardian of the person, and any person having legal or actual custody of a juvenile;

(6) "detention" means the taking and retention of the person of a juvenile in judicial custody in connection with proceedings under subdivision (2) or (3) of subsection 1 of *section 211.031, RSMo*;

(7) "detention facility" means a place of temporary care for juveniles in judicial custody in connection with proceedings under subdivision (2) or (3) of subsection 1 of *section 211.031, RSMo*, and includes facilities that are physically confining, but does not include a jail or other adult detention facility unless the juvenile is age seventeen years or older;

(8) "family court" means a division of the circuit court operating as a family court as defined in chapter 487, RSMo;

(9) "judge" means a judge of the court;

(10) "judicial custody" means taking or retention of custody of the person of a juvenile in either protective custody or detention;

(11) "judicial officer" means either the judge or commissioner of the court;

(12) "juvenile" means a person under twenty-one years of age who is subject to the jurisdiction of the court;

(13) "Juvenile Code" means chapter 211, RSMo, as amended;

(14) "juvenile court" means the juvenile division of a circuit court in a circuit that has not established a family court as defined in chapter 487, RSMo;

(15) "juvenile officer" includes deputy juvenile officer and other court personnel the court has authorized to exercise the powers of the juvenile officer;

(16) "legal custody" means the right to the care, custody and control of a juvenile and the duty to provide food, clothing, shelter, ordinary medical care, education, treatment and discipline to a juvenile;

(17) "municipal ordinance" means an ordinance duly adopted by any city, town, village or county of the state;

(18) "parent" means either a natural parent or a parent by adoption, whose parental rights have not been terminated;

(19) "party" means a juvenile who is the subject of a court proceeding, a custodian of the juvenile except a foster parent, the juvenile officer, and any other person denominated by statute or court order as a party in the proceedings;

(20) "person" includes natural persons, corporations, and agencies of government;

(21) "placed in foster care" means placement of a juvenile in the care and custody of an agency or institution authorized by law to care for children or to place them in family homes;

(22) "protective custody" means the taking and retention of the person of a juvenile in judicial custody in connection with proceedings under *section 210.125* or subdivision (1) of subsection 1 of *section 211.031, RSMo*;

(23) "reasonable efforts" means those efforts an ordinarily careful, prudent, and diligent person would make under the same or similar circumstances;

(24) "secure detention" means any public or private residential facility used for the temporary placement of any juvenile if such facility includes construction fixtures designed to physically restrict the movements and activities of juveniles held in such facility;

(25) "temporary protective custody" means temporary placement by the juvenile officer within a hospital, medical facility, foster care facility or such other suitable custody as authorized by the court of a juvenile alleged to have been abused or neglected; provided, however, that such custody shall not be within a secure detention facility;

(26) "These rules" means Rules 110 to 128.

b. The singular includes the plural, the plural the singular, and the masculine the feminine, when otherwise consistent with these rules.

RULE 111. CUSTODY AND DETENTION

111.01. When Juvenile may be Taken into Judicial Custody

a. A juvenile may be taken into judicial custody:

(1) pursuant to an order of the court; *or*

(2) pursuant to the laws of arrest applicable to adults if being taken into detention; or

(3) by a law enforcement officer or a physician who has reasonable cause to believe that a juvenile is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and such person has reasonable cause to believe that harm or threat to life may occur before a court could issue a protective custody order or before a juvenile officer could take the juvenile into temporary protective custody; or

(4) by a juvenile officer if there is reasonable cause to believe that the juvenile is without proper care, custody, or support and that temporary protective custody is necessary to prevent personal harm to the juvenile.

b. The taking of a juvenile into judicial custody is not an arrest.

c. The jurisdiction of the court attaches from the time the juvenile is taken into judicial custody.

111.02. Procedure upon Taking Juvenile into Judicial Custody

a. Any person taking a juvenile into judicial custody immediately shall notify the juvenile officer and shall make reasonable efforts to notify the juvenile's custodian.

b. A written report shall be made to the juvenile officer stating why the juvenile was taken into judicial custody and, if the juvenile is not released, why the juvenile was not released.

c. When a juvenile is taken into judicial custody, the juvenile shall not remain in custody but shall be released at once to the juvenile's custodian or some other suitable person, unless:

(1) the court has ordered the juvenile to be in detention; or

(2) temporary detention has been authorized pursuant to Rule 111.06; or

(3) emergency protective custody, temporary protective custody or protective custody has been authorized pursuant to Rules 111.11, 111.12 or 111.13.

d. If the juvenile is released in accordance with this Rule 111.02, the court may impose other conditions relating to activities of the juvenile and the person to whom the juvenile is released. The court shall be notified in writing of any conditions imposed by the juvenile officer. If additional conditions are imposed on the activities of the juvenile, the juvenile shall be notified in writing that failure to adhere to the conditions may result in the court imposing more restrictive conditions or ordering the detention of the juvenile.

e. The person to whom a juvenile is released may be required to sign a written promise to produce the juvenile when ordered by the court.

f. If the juvenile is not released and detention is ordered or authorized, the juvenile shall immediately be taken to the juvenile officer or a person acting for the juvenile officer or to a detention facility designated by court order pursuant to Rule 111.03, and the written report required by Rule 111.02b shall be made to the juvenile officer.

g. If a juvenile in protective custody is not released, any party may request a protective custody hearing pursuant to Rules 111.13 and 111.14.

111.03. Designation of Detention Facility

a. Each court shall by order designate the detention facility or facilities to which juveniles shall be taken when within judicial custody. Copies of the order shall be made available to all law enforcement agencies within the territorial jurisdiction of the court.

b. Pending disposition of the case, the court may order in writing the detention of the juvenile in one of the following places:

(1) A juvenile detention facility;

(2) A shelter care facility, subject to the supervision of the court;

(3) A suitable place of detention maintained by an association having for one of its objects the care and protection of children;

(4) Such other suitable custody as the court may direct.

c. A juvenile under the age of seventeen years shall not be detained in a jail or other adult detention facility.

d. A detention facility shall be operated to provide for:

(1) housing and physical spaces for each juvenile consistent with the physical and emotional needs of the juvenile;

(2) the continued availability of adequate personnel capable, by training or experience, of maintaining the purposes of the facility;

(3) the educational, moral, medical, physical and mental well-being of the juvenile;

- (4) the protection of the juvenile from physical and emotional harm from other juveniles, from themselves, and from other reasonably anticipated dangers; and
- (5) the preservation and protection of the legal rights of the juvenile.

APPENDIX. STANDARDS FOR OPERATION OF A JUVENILE DETENTION FACILITY

SECTION 1. PHYSICAL PLANT

The construction of new facilities or the remodeling of an existing structure shall incorporate the following standards during design and construction.

Essential Elements

- 1.1. The facility is geographically located so as to be reasonably accessible to law enforcement agencies, the court, community resources, attorneys and family members of juveniles who may be held therein.
- 1.2. The facility is designed and constructed to maximize communication and interaction between personnel and juveniles.
- 1.3. Emergency exits are suitable for prompt evacuation.
- 1.4. Dormitory units do not exceed twenty (20) juveniles.
- 1.5. Sleeping rooms have at least seventy (70) square feet of floor space for single occupancy and at least one hundred (100) square feet of floor space for double occupancy.
- 1.6. Sleeping rooms have natural lighting and a bed above floor level. Toilet and wash basin facilities are in the room or readily accessible by direct communication to facility personnel.
- 1.7. An indoor activity area consisting of day space, dining area, educational space, visiting facilities and exercise area, excluding sleeping rooms, equal to at least one hundred (100) square feet per juvenile.
- 1.8. Adequate secure storage facilities for the juvenile's personal belongings.
- 1.9. Adequate storage for surplus facility clothing, bedding and supplies.
- 1.10. Proper storage space for chemical agents and restraining devices is provided in a secure area readily accessible only to authorized personnel.

SECTION 2. ADMINISTRATION

Essential Elements

- 2.1. The facility shall have a published policy statement that describes its purpose, programs and services.
- 2.2. An operations manual shall be made available to all employees detailing the policies and procedures for the operation of the facility.
- 2.3. The facility shall have an organizational chart clearly outlining the lines of authority and accountability.
- 2.4. A daily population report shall be maintained on every juvenile in the facility to include, but not be limited to: date admitted, caseworker assigned and accumulated days of stay.
- 2.5. The facility shall have a plan for the routine examination and replacement of equipment.
- 2.6. The facility administration shall prepare a plan that provides for direct and continuous supervision of all service providers, not being staff, in those areas where contact with juveniles is possible.
- 2.7. The facility shall have procedures for the reporting of any allegation of child abuse.
- 2.8. The facility shall compile a quarterly report that shall include, but not be limited to, detention statistics that reflect the total usage, average daily population, male/female occupancy, program services delivered, and fiscal accounting. This information shall then be compiled into an annual report.
- 2.9. The facility administration shall establish criteria for evaluating the overall performance of the facility.

2.10. The facility's planning, budgeting and program management functions shall be interrelated and linked directly to clear, measurable objectives.

2.11. The facility shall establish procedures for inventory control of property, supplies, and other assets.

2.12. The facility shall have procedures for the receipt, security, and disbursement of all monies, including that in the possession of a newly admitted juvenile to the facility, to include but not be limited to:

- (a) Internal controls,
- (b) Petty cash procedures,
- (c) Bonding, and
- (d) Employee expense reimbursement.

Generally accepted accounting practices shall be employed for the handling of such monies.

2.13. Policy shall specify the relevance of any research project to be conducted and the benefits desired therefrom. Juveniles shall not be used for medical, pharmaceutical or cosmetic research, and participation in any authorized form of research shall be voluntary.

SECTION 3. PERSONNEL MANAGEMENT

Essential Elements

3.1. Policies for the selection, retention and promotion of all personnel.

3.2. A personnel policy manual which includes but is not limited to:

- (a) Organization,
- (b) Recruitment policies and procedures,
- (c) Job qualifications, descriptions and responsibilities,
- (d) Prior and in-service training,
- (e) Employee evaluation,
- (f) Full-time, part-time and emergency employment,
- (g) Disciplinary procedures,
- (h) Probationary service,
- (i) Grievance procedures,
- (j) Personnel records,
- (k) Benefits,
- (l) Holidays, leave and work scheduling,
- (m) Retirement,
- (n) Resignation and termination,
- (o) Staff-Juvenile relations, and
- (p) Equal employment opportunity provisions.

3.3. Potential candidates for employment undergo a thorough background investigation including a check of: references, criminal records and central registry of suspected child abuse and neglect reports.

3.4. All employees undergo a physical examination prior to assignment and as required thereafter.

3.5. The personnel policy manual is available to all employees and is reviewed annually and updated accordingly.

SECTION 4. PROGRAMS AND SERVICES

Essential Elements

4.1. Procedures for the delivery of all programs and services consistent with the juvenile's rights.

4.2. Individual and group counseling available and provided for all juveniles as deemed appropriate by facility staff.

4.3. The provision of an education program by the local school district as required by law for all juveniles held beyond their detention hearings or seventy-two hours, whichever occurs first. Every attempt should be made to maintain continuity with the juvenile's local/home educational program.

4.4. Juveniles have access to programs and services in the areas of:

- (a) Religion,
- (b) Mental health,
- (c) Crisis intervention, and
- (d) Medical services.

4.5. Facilities utilizing volunteers provide an orientation program for the volunteers specifying duties and obligations and delineating lines of authority, responsibility and accountability.

SECTION 5. TRAINING AND STAFF DEVELOPMENT

Essential Elements

5.1. An annually updated orientation and training program that documents prior and in-service training for personnel and volunteers.

5.2. New child care personnel receive during their first forty (40) hours of employment orientation/familiarization training that includes the items listed below. Additional training on specific items shall be completed as soon as possible, but within the first year of employment. Said orientation and training shall include:

- (a) Orientation to the overall philosophy, purpose and goals of the facility,
- (b) Working conditions and regulations,
- (c) Responsibilities and rights of employees,
- (d) Intake and booking,
- (e) Security and operations,
- (f) Emergency procedures,
- (g) Crisis intervention,
- (h) Communication skills,
- (i) Juveniles' rights, rules and discipline,
- (j) Use of force and/or restraints,
- (k) First aid, and
- (l) Handicapped and special needs youth.

5.3. Until all orientation and training requirements have been met, new child care workers are teamed with properly trained co-workers.

5.4. All child care personnel receive a minimum of twenty-four (24) hours of updated and specialized training per year to reinforce and enhance their ability to meet the requirements of their specific duties.

5.5. Volunteers and support staff receive orientation and updated training appropriate to their respective duties and obligations.

(Adopted Sept. 11, 1990, eff. July 1, 1991.)

SECTION 6. INTAKE AND ADMISSIONS

Essential Elements

6.1. Orientation for newly admitted juveniles at each stage of the intake and admission process. Orientation includes notification of rights, review of detention purpose and procedures, and advisory on rules and expectations of the facility.

6.2. Procedures governing the admission process for juveniles shall include:

- (a) Verification of authority to detain,
- (b) Complete search of juveniles and their possessions,
- (c) Notification of custodians,
- (d) Shower and visual inspection,
- (e) Issuance of freshly laundered clothing,
- (f) Securing of all personal clothing, possessions, and monies,
- (g) Initial medical screening,
- (h) Recording of personal data and information, and
- (i) Assignment to primary residential unit/room.

6.3. Procedures that assure that all personal property and monies in the possession of each newly admitted juvenile is properly identified, receipt recorded, and secured until the juvenile is released or discharged for transfer.

6.4. Procedures that provide that each juvenile upon admission is properly screened for injuries or possible signs of abuse or neglect.

6.5. Juveniles suspected of being under the influence of alcohol or drugs may only be admitted to the facility after being medically examined by a qualified physician and cleared for admission.

6.6. Procedures that provide that every juvenile admitted is properly informed, from the point of intake and admission and throughout the detention experience, of their rights, responsibilities, and expectations, and of procedures for reporting any concern or complaint.

SECTION 7. JUVENILE RIGHTS

Essential Elements

7.1. Juveniles shall not be subject to discrimination based on race, color, national origin, sex, creed or handicap.

7.2. The provision of a safe and healthful environment includes:

- (a) Twenty-four (24) hour supervision by trained, professional staff and/or volunteers,
- (b) Clean and orderly surroundings,
- (c) Toilet, bathing, and hand washing facilities,
- (d) Lighting, ventilation, and heating, and
- (e) Clean clothing, bedding and mattresses.

7.3. Participation in educational and recreational activities.

7.4. Participation in religious services of the juvenile's choice on a voluntary basis, subject to the safety, security and control needs of the facility.

7.5. The right to determine the length and style of their own hair, including facial hair, if desired, except where such restrictions are deemed necessary for health or safety reasons.

7.6. Procedures for the possession and use of personal items.

7.7. Juveniles shall not be subject to corporal or unusual punishment, mental abuse, or the punitive restriction of daily living needs.

7.8. Procedures for the reporting of any allegation of child abuse or neglect to the state child abuse/neglect hot line for the independent investigation of any such complaints.

7.9. Written grievance procedures provided to the juvenile upon admission to the facility.

SECTION 8. COMMUNICATION PROVISIONS

Essential Elements

8.1. Procedures provided to juveniles and their custodians governing the right of communication between the juvenile, the juvenile's custodians, counsel and significant others.

8.2. A provision for contract visits between the juvenile and the juvenile's custodians consistent with the safety and security requirements of the facility. Visitors must be registered upon entry to the facility and may be subject to a security scan or search consistent with specific procedures.

8.3. Procedures for access and use of a telephone by newly admitted juveniles and residents of the facility.

8.4. Procedures to govern any necessary screening of correspondence or packages consistent with the well being of the juvenile, peers, personnel or the facility.

8.5. Juveniles may communicate without screening with counsel or the assigned officer of the court.

8.6. The provision of postage sufficient for weekly correspondence as indicated above.

8.7. Procedures for the forwarding of first class mail following the juveniles release or transfer.

SECTION 9. RULES AND DISCIPLINE

Essential Elements

9.1. Rules of conduct that specify prohibited activity within the facility and outline the possible range of disciplinary actions that can be taken when a rule is violated.

9.2. Rules of conduct specifying prohibited activity are to be made available to each new resident and posted conspicuously in the facility. Staff should help residents to understand each rule.

9.3. The use of written disciplinary reports when there is reason to believe a juvenile has committed a major violation of facility rules and regulations or has persistently engaged in minor violations. Disciplinary reports shall include:

- (a) Specific rules or regulations violated,
- (b) A formal statement of the offense,
- (c) A narrative report of the event, to include:
 - 1) who was involved,
 - 2) what occurred, and
 - 3) time and location,
- (d) Witnesses--personnel or other juveniles,
- (e) Disposition of any physical evidence,
- (f) Immediate action taken, including the use of any mechanical or physical restraint,
- (g) Date and time report is made, and
- (h) Signature of reporting personnel.

9.4. Discipline shall not include the use of corporal punishment, physical or mechanical restraint, mental abuse, or the loss of daily living needs.

9.5. Whenever room restriction or confinement is imposed, the juvenile shall not be restricted or confined in excess of twenty-four (24) hours unless the facility superintendent or the superintendent's designee has reviewed the juvenile's status. A review shall occur every twenty-four (24) hours to determine the continued need for room restriction or confinement. During such restriction or confinement:

(a) Staff have personal contact with the juvenile at intervals not to exceed fifteen (15) minutes, with immediate staff availability at all times,

(b) A counselor or the juvenile's deputy juvenile officer visits the juvenile as soon as possible but at least within twenty-four (24) hours after the juvenile's removal from the general program, and

(c) A log is maintained recording the time restriction/confinement was authorized, persons visiting the juvenile, the person authorizing release from restriction/confinement, and the time of such authorization.

9.6. Should room confinement in excess of twenty-four (24) hours be imposed, juveniles shall be informed of the reasons for such action, be allowed an appeal of such action before an independent authority, and given assistance in presenting his or her position, if requested.

9.7. Alleged law violations by a juvenile are to be reported to the juvenile office for their investigation or referral to the appropriate law enforcement agency.

SECTION 10. JUVENILE RECORDS

Essential Elements

10.1. Policy regarding juvenile records, related logs and reports to include procedures on content, access and use, confidentiality, preservation and security and destruction.

10.2. Admissions records completed on each juvenile entering the facility to include the following data:

- (a) Day, date and time of admission (and release),
- (b) Name (last, first, initial, nickname, alias, aka) and case number,
- (c) Date, place of birth and age, gender and race,
- (d) Address of resident and phone number,
- (e) Name, relation, address and phone number of custodians,
- (f) Reason for admission, specific offenses,
- (g) Name, ID, department of delivering agent,
- (h) Assigned juvenile officer or agency worker,
- (i) Legal counsel,
- (j) Inventory of all personal possessions and monies,
- (k) Medical screening history and condition of health, and
- (l) Date and signatures of individuals completing the admission.

10.3. Responsible personnel shall enter, date, and sign all required data in the appropriate records, logs and reports.

10.4. Detention records to include:

- (a) A completed admission record,
- (b) Log of telephone calls--day, date, time, number, name and relation,
- (c) Log of visitors--day, date, name, relation,
- (d) Copies of case reports (medical, school, incidents, actions, grievances),
- (e) A log of current court appearances and relevant detention orders,
- (f) Copies of agency referrals, visits, and placements, and

(g) A copy of current order for release or transfer.

10.5. Procedures to assure compliance with confidentiality for all records, and for regulating access and use to individuals only with authorized approval of court based on legitimate, clear need to know or as allowed by law.

SECTION 11. SECURITY AND CONTROL

Essential Elements

11.1. Security and control procedures to include:

- (a) Admission and exit through all security perimeter entrances, exterior doors, and interior doors,
- (b) A designation by the facility superintendent of doors to be kept locked,
- (c) Maintenance of a permanent, written log recording:
 - 1) significant and emergency situations,
 - 2) regular inspection and maintenance of security devices, and
 - 3) daily inspection by line staff and regular inspection by the facility's superintendent of every area in the facility to ensure security and safety for all personnel and juveniles,
- (d) Searches of the facility and juveniles to control contraband,
- (e) The control and use of keys,
- (f) The control and use of tools, medical implements and culinary equipment,
- (g) Handling escapes, runaways, and unauthorized absences,
- (h) Emergency procedures in the event of a fire, disturbance, or the taking of a hostage, and
- (i) Transporting of juveniles outside the facility and from one jurisdiction to another.

11.2. An 8:1 juvenile to staff ratio, with at least two child care workers on duty at all times. During the day, adequate staffing should be available to provide programs in the facility.

11.3. All movement by juveniles is regulated by staff.

11.4. Explicit written procedures for the use of mechanical restraints. The use of mechanical restraints is limited to instances when a juvenile is uncontrollable and poses a serious and evident danger to him or herself and/or others, and during transportation when necessary to assure public safety. Except during transportation, mechanical restraints shall not be utilized for longer than thirty minutes, unless documented authorization is obtained from the facility administrator and follow-up is sought from a psychologist or medical personnel as indicated.

11.5. The use of physical restraint shall be limited to instances of self-protection, protection of others, prevention of property damage, or prevention of escapes.

11.6. The use of either mechanical or physical restraint shall never be applied as punishment.

11.7. Documentation shall be made of any situation requiring the use of any mechanical or physical restraint including: reason, persons involved, date and time, length, and authorization.

11.8. In searching the person of a juvenile, visual searches (visual observation of a juvenile without clothing) shall be done without specific authorization only upon entry to the facility. At all other times, such searches shall be based upon specific grounds.

11.9. A communication system both within the facility and between it and the community that is operational at all times.

11.10. An emergency power source that is regularly inspected and repaired or replaced as necessary.

11.11. A designated area for the securing of firearms. Firearms should not be permitted beyond this area except in emergency situations. Juveniles shall not have access to this designated area.

SECTION 12. SAFETY AND EMERGENCY PROCEDURES

Essential Elements

12.1. Provisions for periodic inspections by qualified fire and safety inspectors. Administrative personnel should perform regular inspections of the facility.

12.2. Policy and procedures must be reviewed at least annually with qualified fire and safety inspectors to ensure their effectiveness and coordination with local emergency services.

12.3. An emergency power source to ensure maintenance of essential services in the event primary service is interrupted.

12.4. Procedures for the prompt release of juveniles from locked areas in the event of an emergency. An alternative system for release must be provided.

12.5. Personnel are to be thoroughly trained in emergency procedures.

12.6. All child care personnel shall be trained in basic first aid and cardiopulmonary resuscitation.

12.7. Procedures to control access to and use of flammable, toxic, and caustic materials.

12.8. The use of flame retardant, nontoxic materials and furnishings in the sleeping quarters.

SECTION 13. HYGIENE AND SANITATION

Essential Elements

13.1. Annual inspection of the facility by qualified health and sanitation professionals and for the regular inspection of the facility by staff and administration.

13.2. A housekeeping plan that provides for the control of vermin and pests.

13.3. Juveniles are to be showered upon admission and issued clean clothing to include: socks, underwear, and outerwear suitable to the sex of the juvenile.

13.4. Clean socks, underwear, and towels to be issued daily, and clean outerwear at least three (3) times per week.

13.5. Daily showers of juveniles.

13.6. Procedures to govern the distribution of all articles necessary to provide for proper personal hygiene.

13.7. Issuance of clean bedding and linens and sufficient blankets to provide comfort under existing temperatures. Linens shall be exchanged at least weekly or as often as may be directed by health reasons.

13.8. Bedding, linens, and clothing that exceeds that required when at maximum population.

13.9. Hair care services available to juveniles.

13.10. Juveniles' personal clothing is to be cleaned and, when necessary, disinfected after admission and before storage or before allowing the juvenile to retain and wear.

SECTION 14. MEDICAL SERVICES

Essential Elements

14.1. Medical and health care services coordinated by the facility's administrative authority and the designated medical personnel.

14.2. Procedures for the proper delivery of health care services to include medical, dental, and psychiatric services, subject to periodic review by the appropriate medical and health care professionals.

14.3. When provided within the facility, medical and health care services require the designation and availability of space, equipment, supplies, and materials. On a regular basis, such materials and supplies shall be regularly inspected and kept current by the designated medical and/or health care personnel.

14.4. A comprehensive physical and medical screening policy developed by the facility's administrative authority and the designated medical and health care personnel requiring the examination of newly admitted youth within five days of admission. Medical history and other significant background information shall be sought and obtained from the child, parents, and/or referring party upon admission.

14.5. Procedures for the identification of youth in need of special care who exhibit physical, medical, or emotional problems, including suicidal tendencies and/or contagious diseases; and detailed procedures outlining the appropriate course of action, including transfer to other medical and/or psychiatric facilities, if indicated.

14.6. Any employee suspected of having a communicable disease must have a medical examination prior to further contact with juveniles detained in the facility; the results of such examination to be kept in strict adherence to the confidentiality rules applicable to medical records.

14.7. Procedures requiring that every juvenile upon admission be properly informed, in writing, of the procedures to be followed to obtain medical services.

14.8. Procedures for the immediate notification of a juvenile's custodian and the detention superintendent of any serious illness, injury, surgery, or death.

14.9. Procedures for emergency 24-hour medical, dental, and psychiatric care as may be needed.

14.10. The proper training of facility staff in first aid, cardiopulmonary resuscitation, and emergency medical services as deemed appropriate by the facility's designated medical authority.

14.11. Procedures for the management, storage, and dispensing of all pharmaceuticals and medical supplies.

14.12. Use of any drugs and/or other pharmaceutical substance for the purpose of management and control of juveniles shall be prohibited unless medically prescribed by a licensed physician. Use of such substances for experimentation and/or research is also strictly prohibited.

14.13. Procedures to assure that medical screening and/or services provided are properly documented and recorded in a medical health file for each juvenile that is under the control of the family's supervising physician or health care consultant.

14.14. Obstetrical and gynecological services as indicated for female youth in residence.

14.15. Procedures for the transfer of copies of written medical instructions and/or records to the juvenile's custodian or transfer authority, as applicable, upon release from the facility.

SECTION 15. FOOD SERVICES

Essential Elements

15.1. A system of dietary allowance that is reviewed on a regular basis by a qualified food specialist to ensure compliance with nationally recommended food allowances.

15.2. Menus that are planned in advance and substantially adhered to.

15.3. Accurate records maintained on all meals served, including menu and number.

15.4. Documented special diets prescribed by medical or dental personnel or clergy, must be provided as specified.

15.5. A minimum of three meals, at least one of which shall be hot, provided at designated times during each 24-hour period.

15.6. A single menu for each meal provided to juveniles and personnel eating within the facility except for special prescribed diets required by item 15.4 above.

15.7. The use of meals as a reward or punishment is prohibited.

SECTION 16. RELEASE

Essential Elements

16.1. Procedures for release of a juvenile including:

- (a) Verification of release authority,
- (b) Notification of custodian or transfer authority for purposes of release,
- (c) Return of personal property and cash, and
- (d) Instructions on forwarding of first class mail and packages.

16.2. Procedures for the transfer of copies of written medical instructions and/or records to the juvenile's custodian, or transfer authority, upon release from the facility.

111.04. Presentation of Juvenile to Juvenile Officer of Detention Facility

a. When a juvenile in detention is presented to the juvenile officer, the juvenile officer may, unless the court has ordered detention of the juvenile, release the juvenile pursuant to Rule 111.02 or may take the juvenile to a detention facility and there authorize the juvenile's detention in accordance with Rule 111.06.

b. When a person other than the juvenile officer presents a juvenile in detention to a detention facility operated exclusively for the detention of juveniles, the person in charge of the detention facility may release the juvenile pursuant to Rule 111.02, unless the court or the juvenile officer has ordered or shall order that the juvenile be in detention.

c. When a juvenile is presented to a detention facility, the person in charge of the detention facility shall promptly inform the juvenile officer of the county in which the facility is located and the county requesting or authorizing detention that the juvenile has been received by the facility and why the juvenile was taken into judicial custody.

d. If the person in charge of the detention facility is unable to locate a juvenile officer entitled to be informed within a reasonable time, such person shall inform the juvenile officer's judge that the juvenile has been presented to the facility and why the juvenile was taken into judicial custody.

e. Upon being informed that a juvenile is in detention, the juvenile officer or judge shall consider the circumstances and shall thereupon either direct the juvenile to be released or authorize the juvenile to be held in the detention facility or some other appropriate facility in accordance with Rules 111.06 and 111.07.

111.05. Notice Upon Admission to Detention Facility

a. When a juvenile is admitted to a detention facility, the juvenile shall immediately be informed by the juvenile officer or the person in charge of the facility of:

- (1) the reason for detention;
- (2) the right to a detention hearing under Rule 111.07 and Rule 111.08; and
- (3) rights during detention under Rule 111.10.

b. The juvenile officer or the person in charge of the detention facility shall notify the juvenile's custodian as soon as practicable that the juvenile is held in the detention facility, and inform the custodian of the reason for the juvenile's detention and the juvenile's rights set forth in Rule 111.05a. Such communication shall be made in person, if practicable, or by telephone or otherwise.

c. A written notice substantially in the form set forth in Rule 128.06, setting forth the right to remain silent, the right to counsel, the right to a detention hearing, and the rights during detention shall be given by the juvenile officer or the person in charge of the detention facility to a juvenile in person and to the juvenile's custodian in person or by mail.

111.06. Temporary Detention

a. A juvenile who has been taken into detention shall not be held in detention for a period of more than twenty-four hours unless the court has authorized detention pursuant to Rule 111.07. A juvenile in detention shall be released only to the juvenile's custodian or other suitable person.

b. Temporary detention of a juvenile for a period not to exceed twenty-four hours may be authorized by the juvenile officer and, if the detention is in a facility operated exclusively for the detention of juveniles, by the person in charge of the detention facility. The authorization may be in writing or given orally and, if given orally, shall be reduced to writing as soon as practicable.

c. When the juvenile officer or person in charge of a detention facility has authorized temporary detention, that person shall as soon as practicable notify the judge of the person authorizing temporary detention that the juvenile is being detained.

d. Temporary detention of a juvenile for a period beyond twenty-four hours may be authorized only by order of the court pursuant to Rules 111.07 or 111.08. If no court order for detention of the juvenile has been made when the period of temporary detention expires, the juvenile shall be released.

111.07. Court Action Upon Notice that Juvenile is in Detention

a. When the court is informed that a juvenile is in detention, it shall examine the reasons therefore and shall immediately:

(1) order the juvenile released pursuant to Rule 111.02; or

(2) order the juvenile continued in detention until a detention hearing is held pursuant to Rule 111.08. An order to continue the juvenile in detention shall be entered only upon the filing of a petition or motion to modify and a determination by the court that probable cause exists to believe that the juvenile has committed acts specified in the petition or motion that brings the juvenile within the jurisdiction of the court under subdivision (2) or (3) of subsection 1 of *section 211.031, RSMo.*

b. A juvenile alleged to come within the jurisdiction of the court under subdivision (2) of subsection 1 of *section 211.031* shall not be held in secure detention for that allegation for a period greater than twenty-four hours, excluding Saturdays, Sundays and legal holidays, unless the court finds pursuant to a probable cause hearing held within that twenty-four hour period, that the juvenile has violated the conditions of a court order that sets forth specific conditions of behavior for the juvenile and consequences of violation of such conditions and that:

(1) the juvenile has a record of willful failure to appear at court proceedings; or

(2) the juvenile has a record of violent conduct resulting in physical injury to self or others; or

(3) the juvenile has a record of leaving a court-ordered placement, other than secure detention, without permission. The provisions of this Rule 111.07b shall not apply to a juvenile who either has been taken under jurisdiction of the court pursuant to, been adjudicated pursuant to, or is currently charged with a violation under subdivision (3) of subsection 1 of *section 211.031, RSMo.*

c. A juvenile shall not remain in detention for a period greater than twenty-four hours unless the court orders a detention hearing. If such hearing is not held within three days excluding Saturdays, Sundays and legal holidays, the juvenile shall be released from detention unless the court for good cause orders the hearing continued.

d. The detention hearing shall be held within the judicial circuit at a date, time and place convenient to the court.

e. Notice of the date, time and place of a detention hearing, and of the right to counsel, shall be given to the juvenile and the juvenile's custodian in person, by telephone, or by such other expeditious method as is available.

111.08. Detention Hearing

a. At the detention hearing the court shall determine whether the juvenile and the juvenile's custodian have been informed of the right to counsel. If not, the court shall inform the juvenile and the juvenile's custodian of the right to counsel. The court may continue the hearing to enable counsel to be obtained if the right to counsel is not waived.

b. At the detention hearing the court shall receive evidence relevant to the necessity for detention of the juvenile. Any written reports or social records offered to the court at the detention hearing shall be made available to all parties at or prior to the hearing. At the conclusion of the hearing the court shall:

(1) order the juvenile released pursuant to Rule 111.02; or

(2) order the juvenile continued in detention pending further proceedings. The juvenile shall not be continued in detention unless the court finds that detention is required:

(a) to protect the juvenile; or

- (b) to protect the person or property of others; or
- (c) because the juvenile may flee or be removed from the jurisdiction of the court; or
- (d) because the juvenile has no custodian or suitable adult to provide care and supervision for the juvenile and return the juvenile to the court when required; or
- (e) because the juvenile is a fugitive from another jurisdiction and an official of that jurisdiction has required the juvenile detained pending return to that jurisdiction.

c. If the court orders the juvenile continued in detention pending further proceedings, such order of detention shall be reviewed by the court every thirty days thereafter until order of disposition.

111.09. Release from Detention upon Change of Circumstances

a. A juvenile in a detention facility under order of the court may be released upon a determination that a change of circumstances makes continued detention unnecessary.

b. A written request for the release of the juvenile from detention, setting forth the changed circumstances may be filed by the juvenile, by the juvenile's custodian or by the juvenile officer.

c. Based upon the facts stated in the request, the court may grant or deny the request without a hearing or may order that a hearing be held at a date, time and place as determined by the court. Notice of the hearing shall be given to the juvenile, the juvenile's custodian or counsel for the custodian and the juvenile officer prior to the hearing. At the hearing, upon receiving evidence, the court may grant the request and release the juvenile to the juvenile's custodian or other suitable person or may deny the request and remand the juvenile to the detention facility.

111.10. Rights During Detention

a. When a juvenile is taken to a detention facility or delivered to a juvenile officer, the juvenile may immediately telephone the juvenile's custodian and counsel. Thereafter, the juvenile shall be allowed to telephone the juvenile's custodian and counsel at reasonable intervals. The court may establish rules regulating the time and frequency of such subsequent telephone calls.

b. When a juvenile is admitted to a detention facility, the juvenile's custodian and counsel may make an initial visit at any time. After the initial visit, the juvenile may be visited by counsel at any reasonable time and by the juvenile's custodian during the visiting hours of the detention facility, which shall be regularly scheduled at least three days per week unless otherwise ordered by the court. The court may establish rules permitting visits by other persons.

c. If the juvenile refuses to see the juvenile's custodian, no visits by the custodian shall be allowed unless authorized by the court or the juvenile officer.

d. Except for the juvenile's custodian, the juvenile's counsel, the juvenile officer, and other authorized personnel of the court, no person shall interview or interrogate a juvenile held in a detention facility unless approval therefor has first been obtained from the court or the juvenile officer.

e. When a juvenile in custody is represented by counsel no person may interview or interrogate the juvenile concerning the violation of a state law or municipal ordinance by the juvenile unless in the presence of counsel or with the consent of counsel.

111.11. Emergency Protective Custody

a. A juvenile may be taken into emergency protective custody by a law enforcement officer or a physician who has reasonable cause to believe that the juvenile is in imminent danger of suffering serious physical harm or a threat to life that may occur before a court could issue a protective custody order or before a juvenile officer could take the juvenile into temporary protective custody.

b. Any person taking a juvenile into emergency protective custody shall immediately notify the juvenile officer of the court of the county in which the juvenile is located of such action, shall notify the division of family services of such action and make a reasonable attempt to advise the parents, guardians or others legally responsible for the juvenile's care. As soon as practicable, but not later than twelve hours after taking the juvenile into emergency protective custody, such person shall file with the juvenile officer a written statement that sets forth the identity of the juvenile and the facts and circumstances that gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the juvenile. The jurisdiction of the court attaches from the time the juvenile was taken into emergency protective custody.

c. For purposes of this Rule 111.11, "emergency protective custody" means temporary placement by a law enforcement officer or physician within a hospital, medical facility, emergency foster care facility or such other suitable custody as authorized by the court of a juvenile alleged to have been abused or neglected; provided, however, that such custody shall not be within a secure detention facility. Emergency protective custody shall not exceed twelve hours.

111.12. Temporary Protective Custody

a. Upon receipt of written notification from a law enforcement officer or a physician that a juvenile has been taken into emergency protective custody pursuant to Rule 111.01a(3), the juvenile officer may, unless the court has ordered protective custody of the juvenile, release the juvenile pursuant to Rule 111.02 or may take the juvenile into temporary protective custody.

b. A juvenile may be taken into temporary protective custody by a juvenile officer if there is reasonable cause to believe that the juvenile is without proper care, custody or support and that temporary protective custody is necessary to prevent personal harm to the juvenile.

c. When the juvenile officer has taken a child into temporary protective custody, the juvenile officer as soon as practicable shall notify the court that the juvenile is in temporary protective custody.

d. Temporary protective custody of a juvenile for a period not to exceed twenty-four hours may be authorized by the juvenile officer. A juvenile who has been taken into temporary protective custody by the juvenile officer shall not be held for a period of more than twenty-four hours unless the court has authorized extended temporary protective custody or protective custody pursuant to Rule 111.13.

e. If the time for temporary protective custody has expired and the court has not authorized protective custody, the juvenile shall be released to the juvenile's custodian or other suitable person.

111.13. Court Action upon Notice that Juvenile is in Protective Custody

a. An order for protective custody shall be entered only:

(1) upon the filing of a petition or motion to modify, and

(2) upon a determination by the court that probable cause exists to believe that:

(a) the facts specified in the petition or motion to modify bring the juvenile within the jurisdiction of the court under subdivision (1) of subsection 1 of *section 211.031, RSMo*, and

(b) the conditions requiring protective custody continue to exist.

b. When the court is presented with a petition or motion to modify requesting that the juvenile be placed or continued in protective custody, it shall examine the reasons therefor and shall immediately:

(1) appoint a guardian ad litem; and

(2) determine and make a finding on whether continuation of the juvenile in the home is contrary to the juvenile's welfare; and

(3) either:

(a) order the juvenile released pursuant to Rule 111.02; or

(b) order the juvenile continued in protective custody.

c. Upon written motion and good cause shown, the court may extend temporary protective custody for a period not to exceed twenty-four hours.

d. If the juvenile is continued in protective custody, the court shall hold a protective custody hearing within three days, excluding Saturdays, Sundays, and legal holidays, of the date the juvenile is taken into protective custody pursuant to Rules 111.11, 111.12 or 111.13.

111.14. Protective Custody Hearing

a. The juvenile officer shall give notice orally or, if possible, in writing of the date, time and place of the protective custody hearing. Notice shall be provided to all parties, including the parents, guardian or custodian, children's division or other legal custodian, and the guardian ad litem. The court-appointed special advocate for the juvenile and the current foster parents, or any pre-adoptive parent or relative currently providing care for the juvenile, shall also be provided with such notice.

b. The inability of the juvenile officer to notify any party or other individual designated in this Rule 111.14 of the protective custody hearing or the absence of any party or such individual at the protective custody hearing shall not prevent the court from conducting the protective custody hearing as scheduled.

c. Upon the motion of any party or upon its own motion, the court may continue the protective custody hearing to a date not later than fourteen days from the date the juvenile is taken into protective custody. Any continuance shall be supported by written findings or specific findings on the record detailing the extenuating circumstances justifying the continuance.

d. At the protective custody hearing, the court shall inform the juvenile's parents or custodian of the right to counsel.

e. The protective custody hearing shall be held on the record. The procedure to be followed at the hearing shall be determined by the court and may be as formal or informal as the court considers appropriate, consistent with constitutional and statutory requirements. The court may take testimony or receive evidence. Any written reports or social records offered to the court at the protective custody hearing shall be available to all parties at or prior to the protective custody hearing.

f. At the protective custody hearing, the court shall determine and make findings on the following issues:

(1) whether the juvenile can safely return home immediately; and

(2) either:

(a) whether the children's division made reasonable efforts to prevent, or eliminate the need for, removal of the juvenile from the home; or

(b) whether an emergency required the juvenile to be taken into protective custody and that, as a result, the children's division is deemed to have made reasonable efforts to prevent removal of the juvenile from the home; and

(3) whether continuation of the juvenile in the home is contrary to the juvenile's welfare.

g. At the protective custody hearing, the court also shall consider and enter orders as appropriate on the following issues:

(1) whether the court has appointed a guardian ad litem for the juvenile;

(2) whether to appoint a court-appointed special advocate for the juvenile;

(3) whether the parents or custodian of the juvenile are entitled to appointed counsel;

(4) whether the parent requires a guardian ad litem because of the parent's age or mental status;

(5) whether the paternity of the juvenile has been previously established;

(6) whether any absent parent or custodian of the juvenile has received notice of the protective custody hearing;

(7) whether there are appropriate relatives or kinship providers with whom the juvenile can be placed;

(8) whether the proposed placement for the juvenile is the most appropriate placement, consistent with the best interests and needs of the juvenile;

(9) whether arrangements should be made for visitation by the juvenile with the parents or custodian, siblings and other family members;

(10) whether disruption of the juvenile's schooling can be avoided;

(11) whether the juvenile has special needs that should be assessed to determine if services may need to be immediately provided;

(12) whether the children's division has offered services to the juvenile's parents or custodian; and

(13) whether the juvenile is an Indian child as defined in 25 U.S.C. section 1903.

h. At the conclusion of the protective custody hearing, the court shall:

(1) order the juvenile released pursuant to Rule 111.02; or

(2) order the juvenile continued in protective custody pending further proceedings.

111.15. Release from Protective Custody upon Change of Circumstances

a. A juvenile in protective custody may be released upon a determination that a change of circumstances makes protective custody unnecessary.

b. A written request for the release of the juvenile from protective custody, setting forth the changed circumstances, may be filed by the juvenile, the juvenile's custodian, the guardian ad litem or the juvenile officer.

c. Based upon the facts stated in the request, the court may grant or deny the request without a hearing or may order that a hearing be held at a date, time and place as determined by the court. Notice of the hearing shall be given to the juvenile, the juvenile's custodian or counsel for the custodian, the guardian ad litem and the juvenile officer prior to the hearing. At the hearing, upon receiving evidence, the court may grant the request and release the juvenile to the juvenile's custodian or other suitable person or the court may deny the request and continue the juvenile in protective custody.

RULE 112. PRELIMINARY INQUIRY

112.01. Preliminary Inquiry

a. Information that could bring a juvenile within the jurisdiction of the court shall be referred to the juvenile officer. Such information including the name and address of the informant shall be in writing and, unless impracticable, shall be signed by the informant.

b. The juvenile officer shall make a preliminary inquiry and, if it appears therefrom that the juvenile is within the jurisdiction of the court, the juvenile officer shall either:

(1) make informal adjustment of the matter under Rule 113; or

(2) file a petition pursuant to Rule 114.

c. If it does not appear to the juvenile officer that the juvenile is within the jurisdiction of the court, the juvenile officer, if practicable, shall so notify the informant. Thereupon the informant or any other person may bring the matter directly to the attention of the judge of the court, by presenting to the judge the information in writing. If it appears to the judge that the information could bring the juvenile within the jurisdiction of the court, the judge may order the juvenile officer to take further action, including making a further preliminary inquiry, or making informal adjustment, or filing a petition.

RULE 113. INFORMAL ADJUSTMENT

113.01. Informal Adjustment

Informal adjustment shall include the giving of counsel and advice to the juvenile and the juvenile's custodian by the juvenile officer and other appropriate persons and may include, with the consent of the juvenile if fourteen years of age or older and with the consent of the custodian, supervision by the juvenile officer and the temporary placement of the juvenile with persons other than the custodian in a manner consistent with *section 453.110.2, RSMo*. Referrals may be made to public and private agencies that may provide beneficial guidance or services to the juvenile and the juvenile's custodian.

113.02. Notice to parties

a. When it is determined to make an informal adjustment, the juvenile officer shall request the juvenile and the juvenile's custodian, by letter, telephone or otherwise, to attend a conference at a designated date, time and place.

b. At the time the request to attend the conference is made, the juvenile and the juvenile's custodian shall be informed that attendance at the conference is voluntary and that they may be represented by counsel at the conference.

113.03. Informal Adjustment Conference

a. If the juvenile and the juvenile's custodian appear at the informal adjustment conference without counsel, the juvenile officer shall inform them at the commencement of the conference of the right to counsel under Rule 116.01 and the right of the juvenile to remain silent. If either the juvenile or the custodian indicates a desire to be represented by counsel after being informed under Rule 113.03b, the juvenile officer shall adjourn the conference to afford opportunity to secure counsel.

b. The informal adjustment conference shall proceed substantially in the following manner. The juvenile officer shall inform the juvenile and the juvenile's custodian:

(1) that information has been received concerning the juvenile that appears to establish the jurisdiction of the court to act under the Juvenile Code;

(2) that the juvenile officer intends to discuss with them:

(A) recommendations for action or conduct in the interests of the juvenile to correct the conditions of behavior or environment that may exist;

(B) continuing conferences and contacts with the juvenile and the custodian by the juvenile officer or other authorized persons; and

(C) the juvenile's general behavior, home and school environment, and other facts bearing upon the proposed informal adjustment;

(3) that during the informal adjustment process no petition will be filed;

(4) that the informal adjustment process is voluntary with the juvenile and the custodian, and that they may withdraw from informal adjustment at any time;

(5) that if the juvenile or the custodian denies that the court has jurisdiction to act under the Juvenile Code, or wishes the facts to be determined by the court at a hearing, no further efforts will be made to arrive at informal adjustment; and

(6) that the juvenile officer may terminate the effort at informal adjustment at any time and there-upon may dismiss the juvenile without further proceedings or may file a petition in the court.

c. The provisions of Rule 113.03b are intended to be advisory in nature and may be used as guidelines in conducting the informal adjustment interview. Modifications of these procedures to meet differing circumstances are not prohibited.

d. Following the initial conference, subsequent conferences may be scheduled by the juvenile officer during the informal adjustment process.

113.04. Termination of Informal Adjustment

a. The juvenile officer may either terminate the informal adjustment process and dismiss the juvenile without further proceedings or terminate the informal adjustment process and file a petition in the court if at any time:

(1) it appears that the juvenile and the juvenile's custodian have received the maximum benefit from the informal adjustment process;

(2) the juvenile or the juvenile's custodian declines to participate further in the informal adjustment process;

(3) the juvenile or the juvenile's custodian denies the jurisdiction of the court to act under the Juvenile Code;

(4) the juvenile or the juvenile's custodian expresses a desire that the facts be determined by the court;

(5) the juvenile or the juvenile's custodian fails without reasonable excuse to attend scheduled conferences;

(6) the juvenile or the juvenile's custodian appears unable or unwilling to benefit from the informal adjustment process;

(7) the juvenile officer becomes apprised of new or additional information that makes it appear that further efforts at informal adjustment would not be in the best interests of the juvenile or of society; or

(8) other sufficient reasons exist for terminating the informal adjustment process.

b. The informal adjustment process shall not continue beyond a period of six months from its commencement unless extended by the court for an additional period not to exceed six months by an order entered prior to the expiration of the original six month period.

c. Upon termination of the informal adjustment process and dismissal of the juvenile without further proceedings, the juvenile officer shall notify the juvenile and the juvenile's custodian thereof and report such action to the court.

RULE 114. PETITION

114.01. Style and Content of Petition

a. The petition shall be entitled "In the Interest of ____, (*Male*) (*Female*), Age ____.

b. The petition may be filed upon information and belief, and shall set forth plainly and concisely, with reasonable particularity:

(1) the full name, birth date, and residence of the juvenile in whose interest the petition is filed;

(2) the name and residence of:

(A) the juvenile's parents;

(B) the juvenile's legal guardian, if there be one;

(C) any person or agency in whose custody the juvenile may be;

(D) the juvenile's nearest relative, if no parents or guardian be known; and

(E) the juvenile's spouse, if any;

(3) the facts that bring the juvenile within the jurisdiction of the court, including the date, place and manner of the acts alleged and the law or standard of conduct, if any, allegedly violated by the acts; and

- (4) any other pertinent data or information.
- c. The petition shall be filed in the office of the clerk of the court.

114.02. Amendment of Petition

The petition may be amended by leave of court at any time. When the petition is amended the court shall grant the parties such additional time to prepare as may be necessary to provide a full and fair hearing.

114.03. Responsive Pleadings and Motions

No party shall be required to file a responsive pleading. A party may file

- (1) a pleading responsive to the petition at any time prior to the hearing or at the commencement thereof; and
- (2) a motion at any appropriate time.

RULE 115. SERVICE OF PROCESS AND SUBPOENA

115.01. Summons and Service of Petition

a. When a petition is filed and a date for hearing has been set pursuant to Rule 119.01, the clerk of the court shall issue a summons directing the juvenile to be present at the hearing and, unless the court orders otherwise, require the custodian of the juvenile to appear at the hearing and to bring the juvenile. If the juvenile is in a detention facility, the court shall direct that the juvenile be brought to the hearing.

b. Service of summons shall be made personally upon a juvenile twelve years of age or older. Service upon a juvenile less than twelve years of age shall be made pursuant to Rule 115.05.

c. Service of summons shall be made personally upon the parents of the juvenile and upon the person having actual custody of the juvenile; provided that, if personal service cannot be had upon such persons, service of summons shall be made by registered or certified mail to their last known address. Service of summons upon other parties may be made personally or by registered or certified mail to their last known address. Personal service under this Rule 115.01c shall be made in the manner provided in Rule 54.13. The inability to service any party under this Rule 115.01c shall not deprive the court of jurisdiction to proceed.

d. Personal service shall be effected upon the juvenile and, when required, upon the juvenile's custodian at least twenty-four hours before the time set for hearing. Registered or certified mail shall be mailed at least five days before the time of the hearing.

e. Service of summons may be made by the sheriff or the juvenile officer or, if ordered by the court, any other suitable person.

115.02. Form and Content of Summons

The summons shall state the date, time and place of the hearing. It shall be substantially in the form set forth in Rule 128.11. A copy of the petition shall be served with the summons.

115.03. Summons May Order Juvenile Taken Into Judicial Custody

If the court determines probable cause to believe:

(1) that the juvenile is without proper care, custody or support and that immediate protective custody is necessary to prevent personal harm to the juvenile; or

(2) that the juvenile has committed acts that would bring the juvenile within the jurisdiction of the court under subdivisions (2) or (3) of subsection 1 of *section 211.031 RSMo*;

the court may order by endorsement upon the summons that the person serving the summons take the juvenile into judicial custody and immediately deliver the juvenile to the juvenile officer.

115.04. Service and Filing of Other Pleadings, Motions and Notices

All written pleadings subsequent to the original petition, all motions other than those that may be heard ex parte, and all notices and other papers that are required to be served upon the parties shall be served upon each of the other parties affected thereby and filed with the court, in the manner set forth in Rule 43.01.

115.05. Service upon Juvenile Under Twelve Years of Age

a. Service of the petition, motions, notices and other papers upon a juvenile less than twelve years of age shall be effected by making such service upon the juvenile's custodian.

b. If the interests of a juvenile less than twelve years of age appear to conflict with those of the juvenile's custodian, the court shall appoint a guardian ad litem to represent the interests of the juvenile and to receive service.

115.06. Waiver of Service by Custodian

a. A custodian may waive service of summons by executing a written waiver. At the time of waiver a copy of the petition shall be given to the custodian.

b. Appearance at the hearing by a custodian shall constitute a waiver by the custodian of service of summons.

115.07. Witness--Subpoena

A party is entitled to compulsory process for any necessary witness and, upon request of a party or the judge, the clerk of the court shall issue a subpoena stating the date, time and place of appearance.

RULE 116. REPRESENTATION BY COUNSEL

116.01. Right to Counsel

a. A party is entitled to be represented by counsel in all proceedings.

b. The court shall appoint counsel for a juvenile prior to the filing of a petition if a request is made therefor to the court and the court finds that the juvenile is subject to juvenile proceedings and that the juvenile making the request is indigent.

c. When a petition has been filed, the court shall appoint counsel for the juvenile when necessary to assure a full and fair hearing.

d. When a petition has been filed and the juvenile's custodian appears before the court without counsel, the court shall appoint counsel for the custodian if it finds:

(1) that the custodian is indigent; and

(2) that the custodian desires the appointment of counsel; and

(3) that a full and fair hearing requires appointment of counsel for the custodian.

- e. Counsel shall be allowed a reasonable time in which to prepare to represent the client.
- f. Counsel shall serve for all stages of the proceedings, including appeal, unless relieved by the court for good cause shown. If no appeal is taken, services of counsel are terminated following the entry of an order of disposition.
- g. The juvenile and the juvenile's custodian may be represented by the same counsel except where a conflict of interest exists. Where it appears to the court that a conflict exists, it shall order that the juvenile and the juvenile's custodian be represented by separate counsel, and it shall appoint counsel if required by Rule 116.01c or Rule 116.01d.
- h. When a petition has been filed, a juvenile may waive the right to counsel only with the approval of the court.
- i. Waiver of counsel by a juvenile may be withdrawn at any stage of the proceeding, in which event the court shall appoint counsel for the juvenile if required by Rule 116.01c.
- j. Where the services of a public defender or legal aid society are available, the court may appoint counsel therefrom to represent any indigent juvenile or custodian. In all cases where counsel is appointed for the juvenile, the court may assess a reasonable attorney fee and any reasonable and necessary expenses of counsel as costs in the case. In the discretion of the court such costs may be adjudged against the custodian of the juvenile or the informing witness as provided by law, or as otherwise provided by law.

116.02. Appearance by Counsel

- a. Counsel shall enter an appearance on behalf of a party in the proceeding by filing a written notice of appearance with the court, by filing a pleading, motion or notice signed by counsel, or by appearing in open court and advising the court that counsel is representing a party.
- b. After counsel has entered an appearance, counsel shall be served with copies of all subsequent pleadings, motions, and notices required by rule or statute to be served on the party counsel represents.
- c. Counsel may withdraw only with leave of court and in a manner consistent with Rule 4 and any applicable local court rules.

RULE 117. RULES APPLICABLE TO ALL HEARINGS

117.01. Presence and Exclusion of Parties

- a. Except as provided in this Rule 117.01, the juvenile and the juvenile's custodian shall have the right to be present at all times during any hearing.
- b. In any hearing where after proper service or notice has been made the juvenile or the juvenile's custodian fails to appear, the court may commence the hearing without the presence of the juvenile or the custodian, except that the hearing may not be commenced without the presence of the juvenile:
 - (1) in a hearing under Rule 118 to determine whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code; or
 - (2) in a hearing under Rule 119 upon a petition alleging that the behavior of the juvenile brings the juvenile within the jurisdiction of the court under the provisions of subdivisions (2) or (3) of subsection 1 of *section 211.031, RSMo.*
- c. In any hearing the court may in its discretion exclude the juvenile from any part of the hearing where it appears that exclusion is in the best interest of the juvenile, except:
 - (1) in a hearing under Rule 118 to determine whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code; or
 - (2) in a hearing under Rule 119 upon a petition alleging that the behavior of the juvenile brings the juvenile within the jurisdiction of the court under the provisions of subdivisions (2) or (3) of subsection 1 of *section 211.031, RSMo.*
- d. Except as otherwise provided by law, in any hearing the court may exclude the juvenile's custodian from any part of the hearing where it appears that exclusion is in the best interests of the juvenile.

e. In determining whether to proceed without the presence of the juvenile or the juvenile's custodian, the court shall consider, among other things, the age and emotional maturity of the juvenile, the relationship between the juvenile and the juvenile's custodian, the nature and probable value of the evidence that may be presented, and whether the juvenile or the juvenile's custodian has expressly requested to be present during the hearing or during the presentation of the evidence.

f. This Rule 117.01 shall not restrict the power of the court to exclude any unruly or disruptive person from the hearing where such exclusion is necessary to the orderly conduct of the court proceedings.

g. After the commencement of a hearing with the juvenile present, the subsequent voluntary absence of the juvenile shall not prevent the court from conducting the hearing to a conclusion.

117.02. Admission to Hearings

Except as otherwise provided by law, the court may, consistent with the welfare of the juvenile and the objectives of the Juvenile Code, admit to hearings persons with a direct interest in a given case or in the work of the court and exclude any persons from hearings.

117.03. Record of Proceedings

A complete record of all testimony shall be kept by stenographic reporting, by mechanical or electronic device, or by some combination thereof. Exhibits and other tangible evidence shall be preserved by the party offering the same unless otherwise directed by the court.

117.04. Rules of Evidence

At all hearings involving adjudication of the allegations of a petition the rules of evidence applicable to proceedings in equity shall govern.

117.05. Repealed by order dated December 9, 1997, eff. January 1, 1999

RULE 118. DISMISSAL TO ALLOW PROSECUTION UNDER GENERAL LAW

118.01. Order for Hearing

When the petition alleges that a juvenile has committed an act for which the juvenile may be transferred to the court of general jurisdiction and prosecuted under the general law, the court, at any time prior to the commencement of a hearing on the allegations of the petition, shall, when required by law, and may, upon its own motion or upon motion by the juvenile officer, the juvenile or the juvenile's custodian, order that a hearing be held for the purpose of determining, in the discretion of the court, whether the juvenile is a proper subject to be dealt with under the provision of the Juvenile Code. When the order for a hearing is made, the court shall set the date, time and place thereof.

118.02. Notice of Hearing

a. When a hearing is ordered under Rule 118.01, written notice thereof shall be given to the juvenile and the juvenile's custodian in the same manner as provided for service of summons in Rule 115.01. Notice of the hearing may be waived by the custodian in accordance with Rule 115.06.

b. Notice shall be substantially in the form set forth in Rule 128.23. It shall contain a statement that the purpose of the hearing is to determine whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile

Code and that, if the court finds that the juvenile is not a proper subject, the petition will be dismissed to allow prosecution of the juvenile under the general law.

118.03. Investigation

a. When the court orders a hearing under Rule 118.01, the juvenile officer shall make an investigation to aid the court in determining whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code.

b. A written report of the investigation, including all social records, shall be made to the court and, prior to the hearing, may be made available to the parties and shall be made available to counsel or others as provided by law.

c. The court may order that a supplemental investigation be made by the juvenile officer and a written report thereof filed and may continue or adjourn the hearing to afford opportunity to complete the supplemental investigation. Prior to the hearing, the report of any supplemental investigation may be made available to the parties and shall be made available to counsel and others as provided by law.

118.04. Dismissal Hearing

a. If after a hearing has been ordered under Rule 118.01 it shall appear to the court that the juvenile is not represented by counsel, counsel shall be appointed for the juvenile if required by Rule 116.01.

b. At the hearing the court shall receive evidence relating to whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code. The juvenile officer who prepared the report of investigation may be examined by counsel and other witnesses may be examined and other evidence received.

c. In reaching its decision the court shall consider all evidence relevant to whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code, including but not limited to, the factors set forth in *section 211.071.6, RSMo.*

d. After the conclusion of the hearing, if the court finds that the juvenile is not a proper subject to be dealt with under the provisions of the Juvenile Code, it shall order the petition dismissed to permit the juvenile to be prosecuted under the general law and shall include in its order the reasons for its decision. A copy of the petition and order of the dismissal shall be sent to the prosecuting attorney.

e. If the court does not dismiss the petition to permit the juvenile to be prosecuted under the general law, it shall set a date for the hearing upon the petition, in accordance with Rule 119.01.

RULE 119. HEARING ON PETITION

119.01. Scheduling the Hearing

a. If the juvenile who is the subject of the petition or motion to modify is in detention, the hearing to adjudicate the petition or motion to modify shall be scheduled for the earliest possible date.

b. If the juvenile who is the subject of the petition or motion to modify is in protective custody, the following hearings shall be held:

(1) within 3 days of the date the juvenile is taken into protective custody, excluding Saturday, Sunday and legal holidays, a protective custody hearing as provided in Rule 111.14; and

(2) within 60 days of the date the juvenile is taken into protective custody, an adjudication hearing; and

(3) within 90 days of the date the juvenile is taken into protective custody, a dispositional hearing.

c. If the juvenile who is the subject of the petition or motion to modify is in the legal custody of the children's division, the following hearings shall be held:

(1) every 90 to 120 days after the dispositional hearing during the first twelve months in which the juvenile is in the custody of the children's division, a dispositional review hearing regarding the reunification efforts made by the division;

(2) within 12 months of the date the juvenile is taken into protective custody and at least annually thereafter, a permanency hearing unless the court has previously determined that the children's division is not required to make reasonable efforts to reunify the family. If such determination was made, the permanency hearing shall be held within 30 days of such determination and at least annually thereafter; and

(3) as often as necessary after each permanency hearing but at least every 6 months during the period in which the juvenile remains in the children's division's custody, a post-permanency hearing.

d. Upon conclusion of each hearing, the juvenile officer shall provide written notice to all parties of the date, time and place of the next scheduled hearing. The court-appointed special advocate for the juvenile and the current foster parents, or any pre-adoptive parent or relative providing care for the juvenile, shall also be provided with such notice. Mailed notice shall not be required for any party or other individual designated in this Rule 119.01 to whom notice of the next subsequent hearing was provided by court order upon conclusion of the immediately preceding hearing.

119.02. Order of Proceedings

a. The order of proceedings should be as follows:

(1) First, the court shall determine that the juvenile and the juvenile's custodian have been informed of the substance of the petition.

(2) Second, if the juvenile has appeared without counsel the court shall explain to the juvenile the right to counsel under Rule 116.01 and shall assign counsel if required by Rule 116.01.

(3) Third, if the petition alleges that the juvenile has violated a state law or municipal ordinance and the juvenile is not represented by counsel, the court shall explain to the juvenile the juvenile's right to remain silent.

(4) Fourth, the court may inquire:

(A) of the juvenile as to whether the juvenile admits or denies any of the allegations in the petition that the behavior of the juvenile is injurious to the juvenile's welfare or to the welfare of others or that the juvenile has violated a state law or municipal ordinance; or

(B) of the juvenile and the juvenile's custodian in any other case, whether they admit or deny any or all of the allegations of the petition.

(5) Fifth, if the facts admitted are sufficient to authorize the court to act under the Juvenile Code, the court may make a finding that the allegations of the petition have been established by admissions or may receive evidence to corroborate the admissions.

(6) Sixth, if no allegations are admitted or those admitted are insufficient to authorize the court to act under the Juvenile Code, the court shall receive evidence upon the allegations of the petition.

(7) Seventh, when the evidence has been received upon the allegations of the petition, the court shall determine whether the allegations of the petition have been established in accordance with the appropriate standard of proof.

(A) If the allegations of the petition have not been so established, the court shall enter a judgment dismissing the petition.

(B) If the allegations have been established, the court shall make a finding upon which it exercises its jurisdiction over the juvenile.

(8) Eighth, when the court finds that the allegations of the petition have been established, the court may order the submission of a social study or supplemental social study pursuant to Rule 119.05. The court may continue the hearing until a later date pending receipt of the social study; provided that, when the juvenile is in detention or protective custody, the court may not continue the hearing for more than thirty days unless a further continuance is agreed to by counsel for the juvenile.

(9) Ninth, the court shall receive evidence and other relevant data offered concerning disposition or treatment that should be ordered for the juvenile.

(10) Tenth, the court shall enter a judgment directing the action that shall be taken regarding the juvenile.

b. The parties shall in all proceedings under this Rule 119.02 be afforded the opportunity to cross-examine witnesses, to testify, to present evidence, and to present arguments to the court concerning the weight, credibility, and effect of the evidence.

119.03. Presentation of Evidence

In all cases under Rule 119 in which the allegations of the petition are denied, the evidence shall be elicited by counsel for the juvenile officer. If the juvenile officer has no court-appointed counsel, the court shall, if practicable, designate counsel, who may be the prosecuting attorney or an assistant prosecuting attorney.

119.04. Order Terminating Proceedings

The court may at any time terminate the proceeding and dismiss the petition if it finds such action to be conducive to the welfare of the juvenile and in the best interests of the state.

119.05. Social Study

a. The court may order that in any case or in any class of cases a social study be made including an investigation and evaluation of the habits, surroundings, conditions and tendencies of the juvenile. The study shall be made by the juvenile officer or other person designated by the court.

b. When not otherwise provided, the court may upon its own motion or upon the request of any party order that a social study be prepared. The order may specify the time within which the social study shall be completed and submitted to the court.

c. At any time the court may order a supplemental social study to be made.

d. If the allegations of the petition are denied, the social study shall not be considered by the court prior to the determination whether the allegations of the petition have been established as prescribed by Rule 119.02a(7).

e. The social study and any supplements thereto may be made available to the parties and shall be made available to counsel.

119.06. Judgment

a. The judgment shall include the disposition or treatment of the juvenile.

b. When a judgment is entered, the clerk shall serve a copy of the judgment entry and notice of entry of judgment substantially in the form recommended in Rule 128.21 by mail in the manner prescribed in Rule 43.01 or by hand delivery upon every party affected thereby including those not present.

c. If the judgment orders the juvenile who comes within the jurisdiction of the court under subdivision (1) of subsection 1 of *section 211.031, RSMo*, placed in foster care, the judgment shall include determinations required by *section 211.183, RSMo*, and that:

(1) reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home;

(2) reasonable efforts have been made to make it possible for the juvenile to return to the juvenile's home; and

(3) continuation of the juvenile in the juvenile's home would be contrary to the welfare of the juvenile.

d. If the judgment otherwise orders placement of the juvenile outside of the juvenile's home, the court may order that the juvenile be taken into custody for the purpose of making such placement.

119.07. Amendment of Judgment

a. Upon motion of any party made not later than ten days after entry of judgment, the court may amend or correct the judgment.

b. The court retains control over judgments during the thirty-day period after entry of judgment and may vacate, reopen, correct or amend its judgment for good cause within that time. After the filing of notice of appeal and before the filing of the transcript on appeal in the appellate court, the court, after expiration of such thirty-day period, may vacate or amend the judgment upon stipulation of the parties accompanied by a withdrawal of the appeal.

119.08. Post Dispositional Review

a. When a juvenile has been placed in foster care by the court, the court shall hold a dispositional review hearing within twelve months next following the initial foster care placement and, if the juvenile remains in foster care, the court shall hold dispositional review hearings annually thereafter.

b. After each dispositional review hearing, the court shall determine whether the juvenile should be continued in foster care or should be returned to a parent, guardian or relative or proceedings should be instituted to terminate parental rights and legally free the juvenile for adoption and shall record any actions taken. In making its determination, the court may consider:

(1) whether a case plan has been approved by the court and, if so, whether all parties to the plan are in compliance therewith;

(2) whether there is continuing necessity for the placement;

(3) whether the placement continues to be appropriate;

(4) whether any existing case plan should be modified;

(5) whether the possibility exists of establishing a date by which the juvenile may likely be returned to a parent, guardian or relative or termination of parental rights proceedings commenced to free the juvenile for adoption.

(6) such other factors as are relevant to the individual needs of the juvenile.

c. Written notice of each dispositional review hearing shall be given to the juvenile, the juvenile's custodian and guardian ad litem at least ten days immediately preceding the hearing.

119.09. Modification of Judgment and Termination of Jurisdiction

a. A judgment of the juvenile court under which the court retains jurisdiction over the juvenile may be modified or such jurisdiction terminated at any time on the court's own motion.

b. A judgment in which the court retains jurisdiction may be modified after a dispositional review hearing as follows:

(1) If a record of the hearing was kept as provided in Rule 117.03, based upon findings from the hearing; or

(2) If a record of the dispositional review hearing was not kept as provided in Rule 117.03, based upon findings from a subsequent hearing held to develop information obtained at the dispositional review hearing if a record of the subsequent hearing is kept as provided in Rule 117.03.

c. Any party may at any time petition the court in writing for a modification of the judgment or for termination of jurisdiction. The court may deny the petition without hearing or may, in its discretion, conduct a hearing upon the issues raised by the motion and may make any orders relative to the issues as it deems proper.

d. When any judgment is modified, notice of the modified judgment shall be given every party as prescribed by Rule 119.06b.

RULE 120. APPEALS

120.01. Appeals

- a. An appeal shall be allowed as provided by statute.
- b. Neither the filing of a notice of appeal nor the filing of any motion subsequent to the judgment shall act to stay the execution of a judgment unless the court enters an order staying execution.

RULE 121. TERMINATION OF PARENTAL RIGHTS

121.01. Termination, When

If a petition is filed pursuant to *section 211.447, RSMo*, and if the court finds after the hearing held pursuant to *section 211.477, RSMo*, that termination is in the best interest of the juvenile, and that the statutory conditions for termination exist, the court may terminate the rights of a parent to a juvenile.

121.02. Style and Content of Petition

The petition for termination of parental rights shall be in the form provided by Rule 114.01.

RULE 122. RIGHTS OF JUVENILES

122.01. Annulled by L.1995, S.B. No. 268, § F, eff. Aug. 28, 1995

122.02. Juvenile Court Records to be Confidential

The records of the court as well as all information obtained and social records prepared in the discharge of official duty for the court shall be kept confidential and shall be open to inspection only by order of the judge of the court or as otherwise provided by statute.

122.03. Law Enforcement Records of Juveniles to be Kept Separate

All records of juveniles made and retained by law enforcement officers and agencies shall be kept separate from the records of other persons and shall not be open to inspection or their contents disclosed or distributed, except by order of the judge of the court or as otherwise provided by law. This Rule 122.03 shall not apply to all such records of the juvenile in a case in which the court has dismissed the petition under Rule 118.04 to permit prosecution under general law. The term "record," as used in this Rule 122.03, shall include but is not limited to fingerprints and photographs of the juvenile.

122.04. Sealing of Court File and Destruction of Records

The court may, either upon its own motion or upon application by the juvenile or his representative, or upon application by the juvenile officer, enter an order to destroy all social histories, records and information, other than the official court file, and may enter an order to seal the official court file, except as otherwise provided by law as well as to

seal all law enforcement officers' records at any time after the juvenile has reached his seventeenth birthday, if the court finds that it is in the best interest of the juvenile that such action or any part thereof be taken, unless the jurisdiction of the court is continued beyond the juvenile's seventeenth birthday, in which event such action or any part thereof may be taken by the court at any time after the closing of the juvenile's case.

122.05. Notification of Rights

Prior to in-custody interrogation, the juvenile shall be advised by the juvenile officer or by a designee trained by the juvenile officer that the juvenile has the right to remain silent, that the juvenile has the right to an attorney and if the juvenile is unable to afford an attorney that one will be provided, that whatever the juvenile says to the juvenile officer or court personnel can be used in later proceedings, that if the juvenile does talk the juvenile has the right to stop talking at any time and that whatever the juvenile says to the police or persons other than the juvenile officer or court personnel may be used against the juvenile if the juvenile is prosecuted as an adult.

RULE 123. PHYSICAL AND MENTAL EXAMINATION

123.01. Physical and Mental Examination of Juvenile

a. At any time after a petition has been filed, the court may order that the juvenile be examined by a physician, psychiatrist or psychologist appointed by the court to aid the court in determining:

- (1) any allegation in the petition relating to the juvenile's mental or physical condition;
- (2) the juvenile's competence to participate in the proceedings;
- (3) whether the juvenile is a proper subject to be dealt with by the juvenile court; or

(4) any other matter relating to the adjudication or disposition of the case, including the proper disposition or treatment of the juvenile.

b. The services of a public or private hospital, institution, or psychiatric or health clinic may be used for the purpose of examination under this Rule.

123.02. Physical and Mental Examination of Custodian

a. Prior to adjudication and after hearing the court may order examination by a physician, surgeon, psychiatrist or psychologist of a person whose ability to care for a juvenile who is before the court is in question.

b. After adjudication the court may order examination by a physician, surgeon, psychiatrist or psychologist of a person whose ability to care for a juvenile who is before the court is in question.

RULE 124. SEARCH WARRANTS

124.01. Search Warrants

Application for search warrant in connection with a juvenile proceeding may be made to the court.

RULE 125. TRANSFER OF SUPERVISION

125.01. Transfer of Proceedings or Supervision

Transfers of proceedings or supervision shall be governed by *section 211.031, RSMo.*

RULE 126. DISQUALIFICATION OF JUDICIAL OFFICER

126.01. Change of Judicial Officer

a. A change of judicial officer of the court shall be ordered:

(1) when the judicial officer of the court is interested, related to a party, or otherwise disqualified under Rule 51.07;
or

(2) upon application of a party. The application need not allege or prove any cause for such change of judicial officer and need not be verified.

b. The application must be filed within five days after a trial date has been set, unless the trial judicial officer has not been designated within that time, in which event the application must be filed within five days after the trial judicial officer has been designated. If the designation of the trial judicial officer occurs less than five days before trial, the application must be filed prior to commencement of any proceedings on the record.

c. For purposes of this Rule 126.01, a supplemental petition and a motion to modify a prior order of disposition under chapter 211, RSMo, shall not be deemed to be an independent civil action unless the judicial officer designated to hear the motion is not the same judicial officer that heard the previous action.

d. If one application has been made by a party other than the juvenile officer, no further application shall be permitted except an application of a party whose interests conflict with the interest of the party making the prior application.

126.02. Powers and Duties of Special Judicial Officer

A judicial officer sitting in the court in place of a disqualified judicial officer shall, throughout the proceeding and until termination of the case, possess all the powers and perform all the duties of the regular judicial officer. If it is found that the allegations of the petition have been established, further hearings in the case may be held at such place convenient to the parties within or without the circuit as the special judicial officer may determine.

RULE 127. JUVENILE COURT COMMISSIONERS

127.01 to 127.09. Repealed by orders dated Jan. 28, 1998, and March 24, 1998, eff. Sept. 1, 1998

The repealed rules, which pertained to the juvenile court commissioners, were adopted by an order dated Dec. 9, 1975, and amended by orders dated June 24, 1986 and Feb. 2, 1995.

See, now, Rule 129, Family Court Commissioners.

RULE 128. FORMS

128.01. Order to Take Juvenile into Judicial Custody

State of Missouri

County of ...

ss

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

THE STATE OF MISSOURI TO: ANY PEACE OFFICER OR JUVENILE OFFICER IN THE STATE OF MISSOURI

You are hereby ordered to take into judicial custody, who is alleged to be within the jurisdiction of this court, for the reason that ... and to bring that person forthwith before this court to be here dealt with in accordance with law, and pending appearance in this court that person shall be held in ... and you, the officer serving this order, shall immediately make return hereof to this court.

WITNESS THE HONORABLE, Judge, of said court and the seal thereof, issued in the county and state aforesaid on this ... day of, 19..

...

Judge of the Family

Court/Circuit

Court, Juvenile Division

RETURN

Served the within order in my County of ... and in the State of Missouri on this ... day of, 19...

...

...

128.02. Authorization for Temporary Detention

State of Missouri

County of ...

ss

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

AUTHORIZATION FOR TEMPORARY DETENTION

Date: ...

Time: ...

..., juvenile officer of ... County, Missouri, hereby authorizes the temporary detention of ... in the authorized juvenile detention facility at ... for the reason that ...

...

Juvenile Officer

128.03. Notice to Judge that Juvenile is in Detention

State of Missouri

County of ...

ss

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

NOTICE THAT JUVENILE IS IN DETENTION

To The Honorable, Judge of the Family Court/Circuit Court, Juvenile Division of ... County, Missouri:

....., (*male*)(*female*), age, a juvenile, was taken into custody at, Missouri, at ... o'clock....m. on the ... day of, 19... for the reason that ... and is now being held in detention at the juvenile detention facility at ...

The juvenile's address is ... and the name and address of the juvenile's custodian is .

Date:, 19...

...

Juvenile Officer/Detention

Center Supervisor

128.04. Orders for Detention of Juvenile

a. Order of Detention Prior to Detention Hearing

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

ORDER OF DETENTION

It appearing to the court (*based upon information furnished the court by the juvenile officer (including affidavits, written statements and reports)*) that probable cause exists to believe that the juvenile committed acts that would bring the juvenile within the jurisdiction of the court under subdivision (2) or (3) of subsection 1 of *section 211.031, RSMo*, and that the detention of ... is required pending the hearing upon (a) petition (*filed*) (*to be filed*) in this cause for the reason that ...

And it further appearing that said juvenile should be detained under the custody of this court at ...

THEREFORE it is ordered that ... be detained at ... pending further order of this court.

...

Judge of the Family

Court/Circuit Court,

Juvenile Division

Date: ...

Time: ...

b. Order for Secure Detention of Juvenile Following Probable Cause Hearing Pursuant to Rule 111.07b

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

ORDER OF DETENTION

It appearing to the court based upon evidence presented during a probable cause hearing held pursuant to Rule 111.07b that the juvenile has violated the conditions of a court order that sets forth specific conditions of behavior for the juvenile and consequences thereof and that:

- ___ a. The juvenile has a record of willful failure to appear at court proceedings, or
- ___ b. The juvenile has a record of violent conduct resulting in physical injury to self or others, or
- ___ c. The juvenile has a record of leaving a court-ordered placement, other than secure detention, without permission.

And it further appearing that said juvenile should be detained in secure detention under the custody of this court at ...

THEREFORE it is ordered that ... be detained at ... pending further order of this court.

...
Judge of the Family

Court/Circuit Court, Juvenile

Division

Date: ...

Time: ...

c. Order of Detention Following Detention Hearing

In The Family Court/Circuit Court, Juvenile

Division, of ...

County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No ...

ORDER OF DETENTION

It appearing to the court based upon information furnished the court through evidence offered in connection with the above captioned cause at a detention hearing held this day that the detention of ... is required pending the hearing upon (a) petition filed in this cause for the reason that ...

And it further appearing that said juvenile should be detained under the custody of this court at ...

THEREFORE it is ordered that ... be detained at ... pending further order of this court.

...
Judge of the Family

Court/Circuit Court, Juvenile Division

Date: ...

Time: ...

128.05. Notice of Detention Hearing

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

NOTICE OF DETENTION HEARING

To, Juvenile
....., Custodian
...
...

Notice is hereby given that on the ... day of, 19....., at ... o'clock ...m., in the Courtroom of the Honorable ... Judge of the Family Court/Circuit Court, Juvenile Division, of ... County, Missouri, located at, a hearing will be held to determine whether ... should be continued in detention pending a hearing by the court upon the petition filed in the juvenile's interest.

You are requested to attend this detention hearing and to present evidence concerning the necessity for continued detention of the juvenile. You have a right to be represented by an attorney at the hearing.

...
Judge of the Family
Court/Juvenile Division
Clerk of the Family
Court/Juvenile Division
Juvenile Officer

Note on Use: Notice of the detention hearing should be served upon the juvenile and the juvenile's custodian.

128.06. Notice Upon Admission to Detention Facility

NOTICE UPON ADMISSION TO DETENTION FACILITY

You are hereby notified that when a juvenile is admitted to a detention facility the juvenile has the following rights under the law:

1. The juvenile has the right to remain silent. This means that the juvenile does not have to answer any questions or make any statements unless the juvenile desires to do so. If the juvenile decides not to remain silent, the juvenile has the right to stop talking at any time.
2. The juvenile has the right to consult with and be represented by an attorney. An attorney may be requested at any time. If the juvenile wishes, the juvenile will be given the opportunity to telephone an attorney. If the juvenile is unable to hire an attorney, a court will appoint one to represent the juvenile without cost to the juvenile.
3. The juvenile has the right to a detention hearing before the court to determine whether detention is necessary. A detention hearing will be held within three days, excluding Saturdays, Sundays and legal holidays. At such hearing the juvenile may be represented by an attorney.
4. The juvenile may immediately make a telephone call to the juvenile's custodian and attorney. A juvenile may make further telephone calls to the juvenile's custodian and attorney at reasonable times.
5. The juvenile's custodian and the juvenile's attorney may visit the juvenile. The first visit may be made at any time. After the first visit, the custodian may visit the juvenile during visiting hours, and the juvenile's attorney may visit the juvenile at any reasonable time.
6. If the juvenile refuses to see the custodian, the custodian may visit the juvenile only if authorized by the judge or juvenile officer.
7. No person other than a custodian, attorney, juvenile officer or member of the juvenile division/family court staff may interview or question a juvenile in detention unless authorized by the judge or juvenile officer.
8. If the juvenile is represented by an attorney, no person may interview or question a juvenile unless agreed to by the juvenile's attorney or unless the attorney is present.

9. If the juvenile has committed an act for which a juvenile may be transferred to the court of general jurisdiction and prosecuted under the general law, the court may permit the juvenile to be prosecuted as an adult. In such a case, anything the juvenile says may be used against the juvenile in a criminal proceeding.

128.07. Authorization for Temporary Protective Custody

State of Missouri

County of ...

ss

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

AUTHORIZATION FOR TEMPORARY PROTECTIVE CUSTODY

Date: ...

Time: ...

....., juvenile officer/deputy juvenile officer of ... County, Missouri, hereby authorizes temporary protective custody of ... at ... for the reason that there is reasonable cause to believe that the juvenile is without proper care, custody or support and that temporary protective custody is necessary to prevent personal harm to the juvenile.

...

Juvenile Officer/Deputy Juvenile Officer

128.08. Notices That Juvenile is in Temporary Protective Custody

a. Notice To Judge That Juvenile Is In Temporary Protective Custody

State of Missouri

County of ...

ss

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

NOTICE THAT JUVENILE IS IN TEMPORARY PROTECTIVE CUSTODY

To The Honorable, Judge of the Family Court/Circuit Court, Juvenile Division of ... County, Missouri:

....., (*male*) (*female*), age, a juvenile, was taken into custody at, Missouri, at ... o'clockm. on the ... day of, 19...., for the reason that ... and is now being held in temporary protective custody at: ... The juvenile's address is ... and the name and address of the juvenile's custodian is ...

Date:, 19...

...

Juvenile Officer/Deputy Juvenile Officer

b. Notice To Parties That Juvenile Is In (Temporary) Protective Custody

State of Missouri

County of ...

ss

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

To, Juvenile, Custodian

.....,

.....,

You are hereby notified that, a juvenile, has been taken into (*temporary*) protective custody of the Family Court/Circuit Court, Juvenile Division, of ... County, Missouri. Upon notification to the Juvenile Officer or Judge of the Court at, you will be granted a protective custody hearing to determine if, the juvenile, shall remain in protective custody pending final disposition of the matter.

Judge of the Family

Court/Juvenile Division

Clerk of the Family

Court/Juvenile Division

Juvenile Officer

128.09. Orders of Protective Custody of Juvenile

a. Order of Protective Custody Prior to Protective Custody Hearing

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No ...

ORDER OF PROTECTIVE CUSTODY

It appearing to the court based upon the (*petition*)(*motion to modify*) filed and information furnished the court by the juvenile officer (*including affidavits, written statements and reports*) that probable cause exists to believe that the juvenile is without proper care, custody or support because the facts specified in the (*petition*)(*motion to modify*) bring the juvenile within the jurisdiction of the court under subdivision (1) of subsection 1 of *section 211.031, RSMo*, and that protective custody is necessary to prevent personal harm to the juvenile, And it further appearing that said juvenile should be held under the custody of this court at

THEREFORE it is ordered that ... be held in protective custody at ... pending further order of this court.

...

Judge of the Family

Court/Circuit Court,

Juvenile Division

Date: ...

Time: ...

b. Order of Protective Custody Following Protective Custody Hearing:

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest, (*Male*)(*Female*), Age ...

No ...

ORDER OF PROTECTIVE CUSTODY

It appearing to the court based upon information furnished the court through evidence offered in connection with the above-captioned cause at a protective custody hearing held this day that the continued protective custody of ... is required pending the hearing upon (a) petition filed in this cause for the reason that ...

And it further appearing that said juvenile should be held under the protective custody of this court at;

THEREFORE it is ordered that ... be held in protective custody at ... pending further order of this court.

...

Judge of the Family

Court/Circuit Court,

Juvenile Division

Date: ...

128.10. Notice of Protective Custody Hearing

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

NOTICE OF PROTECTIVE CUSTODY HEARING

To, Juvenile, Custodian

...

...

Notice is hereby given that on the ___ day of, 19...., at ... o'clock ...m, in the Courtroom of the Honorable, Judge of the Family Court/Circuit Court, Juvenile Division, of ... County, Missouri, located at, a hearing will be held to determine whether ... should be continued in protective custody pending a hearing by the court upon the petition filed in the juvenile's interest.

You are requested to attend this protective custody hearing and to present evidence concerning the necessity for continuing the juvenile in protective custody. You have a right to be represented by an attorney at the hearing.

...

Judge of the Family

Court/Juvenile Division

Clerk of the Family

Court/Juvenile Division

Juvenile Officer

Note on Use: Notice of the protective custody hearing should be served upon the juvenile, the juvenile's custodian and the juvenile officer.

128.11. Notification by Law Enforcement Officer that Juvenile was Taken into Custody and Released

NOTIFICATION THAT JUVENILE WAS TAKEN INTO CUSTODY AND RELEASED, 19...

To, juvenile officer of ... County, Missouri:, (*male*)(*female*), age, a juvenile of, Missouri was taken into custody by the undersigned at, Missouri, at ... o'clock ...m on the ... day of, 19..., for the reason that ... and was thereafter released to the juvenile's custodian,, of, Missouri.

...

Note on Use: Whenever a juvenile is taken into custody and released without being turned over to the juvenile officer, juvenile detention facility, or family court/juvenile division, notice must be given in writing to the juvenile officer, stating the name and address of the juvenile and the reason the juvenile was taken into custody.

128.12. Notice of Informal Adjustment Conference

NOTICE OF INFORMAL ADJUSTMENT CONFERENCE

Date: ...

To: ...

Custodian of:

You and the above-named juvenile are requested to appear for an informal adjustment conference before, juvenile officer of ... County at ... on, 19..., at ... o'clock....m.

The purpose of the conference is to discuss ..., which is alleged to bring the juvenile,, within the jurisdiction of the family court/juvenile division of the circuit court.

Attendance at this Conference is voluntary; however, your failure to attend may result in a petition being filed in the family court/juvenile division. You and the juvenile may be represented by an attorney at the conference.

...

Juvenile Officer

Note on Use: Rule 113.02 does not require written notice of an informal adjustment conference, but if such notice is given this form is suggested.

128.13. Notice of Termination of Informal Adjustment

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*)(*Female*), Age ...

No. ...

NOTICE OF TERMINATION OF INFORMAL ADJUSTMENT, 19...

TO:, Juvenile.

....., Custodian

...

You are hereby notified that the informal adjustment process of the Family Court/Juvenile Division of ... County, Missouri, which began on, 19... has been terminated by the juvenile officer for the reason that:

...

Juvenile Officer

Note on Use: The notice of termination should state the reason for termination as set forth in Rule 113.04 and should state whether the termination is final, or whether further action is contemplated.

128.14. Petition

In The Family Court/Circuit Court,
Juvenile Division, of
County, Missouri

In the Interest of

No.

(Male)(Female), Age

PETITION

Now comes _____ and states to the court:

1. This petition is filed in the interest of _____, a juvenile born on _____, and who resides at _____.

2. The name of the juvenile's father is _____ who resides at _____.

The name of the juvenile's mother is _____ who resides at _____.

The name of the juvenile's legal guardian, nearest known relative or spouse is _____ who resides at _____.

The juvenile is in the custody of _____, whose address is _____.

4. The juvenile, _____, is within _____ County, Missouri and is in need of care and treatment because: _____.

5. The juvenile, _____, resides or was found to be in _____, County, Missouri, or _____.

6. The juvenile is in such condition or surroundings that the juvenile's welfare requires that the juvenile's custody be immediately assumed by the court, for the reason that _____.

The juvenile (is)(is not) now in detention/protective custody.

WHEREFORE, petitioner prays that the court make and enter such judgment as the court shall find to be necessary in the interests of the juvenile.

Note on Use: The petition should set out in detail and with particularity the facts constituting the basis for jurisdiction under *section 211.031, RSMo*. The appropriate paragraph in 5 should be completed.

128.15. Summons

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of ..., (Male)(Female), Age ...

No ...

SUMMONS

To::

You are hereby notified that a petition has been filed in the Family Court/Circuit Court, Juvenile Division of ... County, Missouri, alleging that the above named juvenile is subject to the jurisdiction of the court for the reasons set forth in the petition, a copy of which is attached hereto.

You are ordered to appear before this court at ... on, the ... day of, 19 ... at ... o'clock, for a hearing on the petition, and to have the juvenile with you then and there.

Witness my hand and the seal of said court this ... day of, 19...

...

Clerk of the Court

ORDER TO TAKE JUVENILE INTO CUSTODY

To the Person Serving This Summons:

You are hereby directed to take into your custody immediately the above-named juvenile,, and to deliver the juvenile without delay to the juvenile officer of ... County, Missouri, so that the juvenile may be placed in judicial custody at ... pending further order of the court.

Witness my hand and the seal of this court this ... day of, 19...

...

Judge of the Family

Court/Circuit Court, Juvenile

Division

TO THE JUVENILE OR CUSTODIAN

You are to be present with the juvenile at all hearings in this cause, as your right to the custody and control of the juvenile will then be determined.

This summons must be served upon you at least twenty-four hours before the time set for the hearing, unless you have signed a waiver of service.

The hearing may be set over to a later time at your request, if the court finds you have a good reason for the request.

If at the first hearing the allegations in the petition are denied, the court may set this case for trial at a later date.

You have the following rights:

(1) The allegations in the petition are not assumed to be true but must be proved by competent evidence presented to the court.

(2) You have a right to have an attorney present to assist you at all court hearings, or you may waive your right to an attorney. If you do desire to be represented by an attorney, you should begin now to obtain services of an attorney. If you cannot afford to pay an attorney and you wish to have an attorney to represent you, the court has the power to appoint an attorney to represent you, without charge. However, in the event the court does appoint a public defender or other appointed counsel for the juvenile, the court may, after notice and hearing, order the custodian to make reimbursement for all or part of the cost of representation of the juvenile. You should make known to the court your desire to have an attorney appointed for you.

(3) When a petition is filed, the court is required to give you written notice of the date of hearing by summons, unless you have signed a waiver of service, in which case you may be notified by mail of the time and place of the hearing.

(4) If a statement or testimony is given by you, it may be used against you in court. You have a right to question any witness who appears at the hearing and to bring with you any witnesses. If you request, the court will order persons to be present as your witnesses.

(5) At the end of the hearing when the court has reached a decision, you have the right to appeal the court decision to the Missouri appellate court.

(6) If the petition alleges an offense that would be an offense for which the juvenile may be transferred to the court of general jurisdiction and prosecuted under the general law, the court may conduct a hearing to determine whether the juvenile should be dealt with by the juvenile division, or whether the juvenile should be proceeded against as an adult, under the general law.

(7) If the court finds the facts in the petition to be true, it may make orders affecting the juvenile and the juvenile's custodian concerning the care, custody and control of the juvenile, and the court may commit the juvenile to an institution.

RETURN

I certify that I have duly executed this summons by serving a copy of the same upon ... at, Missouri, at ... o'clock.....m. the ... day of, 19 ...

...

Note on Use: If the court orders that the juvenile be taken into custody immediately, or if the juvenile is already in judicial custody, the last phrase of the second paragraph of the summons should be stricken.

128.16. Waiver of Service of Summons by Custodian

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (Male) (Female), Age ...

No. ...

WAIVER OF SERVICE OF SUMMONS BY CUSTODIAN

I,, hereby waive service of summons as required by law in this cause, acknowledge receipt of a copy of the petition, which has been filed in the court herein, enter my appearance as a party to this cause, and consent that a hearing be held by the court on the ... day of, 19....., at ... o'clock ...m., or any date and time to which the hearing may be continued by the court. I further acknowledge that I have been informed of my right to be represented by an attorney in this case.

...

Custodian

Note on Use: Only the custodian of the juvenile may waive service of summons. The juvenile may not waive service nor may the custodian waive service for the juvenile.

128.17. Finding of Jurisdiction

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (Male) (Female), Age ...

No. ...

FINDING OF JURISDICTION

Now on this ... day of, 19....., there being present, juvenile officer of ... County, and, attorney for the juvenile officer, and, the juvenile and ... and, the juvenile's custodian, and, attorney for the juvenile, and evidence being received by the court, the court finds that the allegations of the petition have been established in that ... and that the court has jurisdiction over the juvenile pursuant to *section 211.031*, (insert number of subdivision) RSMo.

...

Judge of the Family

Court/Circuit Court

Juvenile Division

Note on Use: Rule 119.02a requires the court, after receiving admissions or other sufficient evidence, to make a finding upon which it exercises its jurisdiction over the juvenile, or to dismiss the petition if the allegations thereof are not established. Preferably, this finding should not simply reiterate the allegations of the petition but should state concisely the facts as found by the court. Only when a finding of jurisdiction is made may the court receive evidence and make its determination concerning the disposition to be made in the case.

128.18. Order and Judgment of Disposition

Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*) (*Female*), Age ...

No. ...

ORDER AND JUDGMENT OF DISPOSITION

Now on this ... day of, 19...., there being present, juvenile officer of ... County and ... attorney for the juvenile officer, and, the juvenile and ... and ... the juvenile's custodian, and ... attorney for the juvenile, and the court having received evidence having found (*on the ... day of, 19....*) that the allegations of the petition were established in that ... and that therefore it had jurisdiction over the said juvenile, and the court having received further evidence concerning the need of said juvenile for care and treatment, and it being found that said juvenile is in need of care and treatment which can be furnished by placing:

a. the juvenile in the custody of the juvenile's custodian in the juvenile's own home under the supervision of the court; or

b. the juvenile in the custody of ... for placement at ... under the supervision of the court under subdivision (1) of subsection 1 of *section 211.031, RSMo.*, and the division of family services (*has made reasonable efforts to prevent or eliminate the need for removal of the juvenile*) (*has made reasonable efforts to make it possible for the juvenile to return home*) as follows:, and

(1) Removal of the juvenile from the juvenile's parent, guardian or custodian is necessary to protect the juvenile for the following reasons:, and

(2) The following services were available to the family before the juvenile was removed:, and

(3) The following efforts were made to provide those services relevant to the needs of the family before the removal of the juvenile:, and

(4) Those efforts did not prevent removal of the juvenile because: ... and

(5) Efforts made to prevent the removal of the juvenile were reasonable, based upon the needs of the family and juvenile; or

c. the juvenile in the custody of ... for placement at ... under the supervision of the court under subdivisions (2) or (3) of subsection 1 of *section 211.031, RSMo.*

IT IS ORDERED, ADJUDGED AND DECREED that the court (*take*)(*continue*) jurisdiction over the juvenile and said juvenile be placed in the custody of (*the juvenile's custodian in the juvenile's own home at, Missouri.*) (*... for placement at ... in, Missouri*) under the supervision of this court until further order of the court, and that while under such supervision the juvenile shall be subject to the rules of supervision established by this court.

...

Judge of the Family

Court/Circuit Court Juvenile

Division, of ...

County, Missouri

Note on Use: If the juvenile is placed outside the family home reasonable efforts must be made by the Division of Family Services to prevent or eliminate the need for such removal and, in its order of disposition, the court is required to make certain findings as specified in *section 211.183, RSMo*. Select the appropriate option a., b., or c. above for inclusion in the court's disposition judgment.

128.19. Order and Judgment of Disposition Committing Juvenile to Custody of Division of Youth Services

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of ... (*Male*)(*Female*), Age ...

No. ...

ORDER AND JUDGMENT OF DISPOSITION COMMITTING JUVENILE TO CUSTODY OF DIVISION OF YOUTH SERVICES

Now on this ... day of, 19....., there being present, juvenile officer of ... County and ... attorney for the juvenile officer and ... the juvenile, and ... and ... the juvenile's custodian, and ... attorney for the juvenile, and the court receiving evidence having found that the allegations of the petition were established in that ... and that therefore it had jurisdiction over the said juvenile, and the court having received further evidence concerning the need of said juvenile for care and treatment and it being found that said juvenile is in need of care and treatment and suitable community based treatment services (*do not exist*)(*have proven ineffective*);

IT IS ORDERED, ADJUDGED AND DECREED that the court (take)(continue) jurisdiction over the juvenile and said juvenile be committed to the legal and physical custody of the division of youth services, there to remain until ... or until discharged by law, to be dealt with in all respects as provided by law, and that the said juvenile forthwith be delivered to the custody of the division of youth services. The juvenile is to be detained in ... until the commitment has been executed. When the juvenile is received by the Division of Youth Services, jurisdiction over the juvenile is terminated.

...

Judge of the Family

Court/Circuit Court, Juvenile

Division

128.20. Commitment to Custody of Division of Youth Services

In The Family Court/Circuit Court Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*) (*Female*), Age ...

No. ...

COMMITMENT TO CUSTODY OF DIVISION OF YOUTH SERVICES

The State of Missouri to:, juvenile officer of ... County, Missouri:

WHEREAS, in a proceeding in the Family Court/Circuit Court, Juvenile Division, of ... County, Missouri, on the ... day of, 19....., the court having inquired into the need for care and treatment of, a juvenile over whom the court had previously assumed jurisdiction, who was then and there present, and the court having found that said juvenile to be in need of training, school care, custody and discipline; and

WHEREAS, the court entered an order and judgment of disposition committing the said juvenile,, to the custody of the division of youth services, there to remain until ... or until discharged by law;

THEREFORE, you are hereby commanded to take the said ... and deliver ... to the custody of the division of youth services, there to remain in compliance with said order of this court, and to make a return thereof to this court.

...

Judge of the Family
Court/Circuit Court, Juvenile
Division

128.21. Notice of Entry of Judgment

In The Family Court/Circuit Court Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*) (*Female*), Age ...

No. ...

NOTICE OF ENTRY OF JUDGMENT

To: ...

You are hereby notified that on the ... day of, 19....., the Family Court/Circuit Court, Juvenile Division, of ... County, Missouri made and entered the following judgment in this case:

You are further notified that you may have a right of appeal from this judgment under Rule 120.01 and *section 211.261, RSMo*, which provides that:

- a. An appeal shall be allowed to the juvenile from any final judgment made under the Juvenile Code and may be taken on the part of the juvenile by the custodian.
- b. An appeal shall be allowed to a custodian from any final judgment made under the Juvenile Code that adversely affects the custodian.
- c. Notice of appeal shall be filed within thirty days after entry of final judgment.
- d. Neither the filing of a notice of appeal nor the filing of any motion subsequent to the judgment shall act to stay the execution of a judgment unless the court enters an order staying execution.

...

Clerk of the Court

CERTIFICATE OF SERVICE

The undersigned certifies that on or about ... a copy of this notice was (*mailed to, at*) (*hand delivered to*)

...

Clerk of Court

Note on Use: Rule 119.06b requires that the clerk of the court serve a copy of the court's judgment by mail or by hand delivery upon every party affected thereby including those not present.

128.22. Motion to Modify Previous Order of Disposition

In The Family Court/Circuit Court, Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*) (*Female*), Age ...

No. ...

MOTION TO DISMISS PETITION TO ALLOW PROSECUTION OF JUVENILE UNDER GENERAL LAW

Now comes,, juvenile officer of ... County, Missouri, by and through the attorney for the juvenile officer, and moves that the court hold a hearing under *section 211.071, RSMo*, to determine whether the above-named juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code and as grounds for that motion states that:

1. The petition filed in this cause is attached hereto and made a part hereof.
2. The alleged acts by the juvenile constitute (*an offense*) (*offenses*) that if committed by an adult would be the (*felony*) (*felonies*) of:

...

WHEREFORE, petitioner prays that the court:

(a) Inquire into whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code, including but not limited to: (1) whether the offense alleged involved viciousness force or violence; (2) whether the offense alleged is part of a repetitive pattern of offenses that indicate that the juvenile may be beyond rehabilitation under the Juvenile Code; (3) the record of the juvenile; (4) the programs and facilities available to the court; and (5) such other criteria as are specified in *section 211.071, RSMo*; and

(b) After such hearing find either that such juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code and deny the motion or that such juvenile is not a proper subject to be dealt with under the provisions of the Juvenile Code, and enter an order that the petition be dismissed and that said juvenile may be prosecuted under the general law.

128.23. Notice of Hearing Upon Motion to Modify Previous Order of Disposition

In The Family Court/Circuit Court Juvenile Division, of ... County, Missouri

In the Interest of, (*Male*) (*Female*), Age ...

No. ...

NOTICE OF HEARING ON MOTION TO DISMISS TO ALLOW PROSECUTION OF JUVENILE UNDER GENERAL LAW

To ...

Notice is hereby given that a motion has been filed in the Family Court/Circuit Court, Juvenile Division, to dismiss the petition heretofore filed in the interest of, a juvenile, to allow said juvenile to be prosecuted under the general law. A copy of the motion to dismiss is attached hereto.

The court has ordered that a hearing be held on said motion to dismiss, on, the ... day of, 19...., at, ...m., at, ... Missouri.

The purpose of the hearing is to determine whether the juvenile is a proper subject to be dealt with under the provisions of the Juvenile Code, and if the Court finds that the juvenile is not a proper subject, the petition will be dismissed to allow prosecution of the juvenile under the general law.

You have a right to have an attorney present to assist you at the hearing, or you may waive your right to an attorney. If you do desire to be represented by an attorney, you should begin now to obtain services of an attorney. If you cannot afford to pay an attorney and wish to have an attorney to represent you, the court has the power to appoint a public defender or other appointed counsel. The court may, after notice and hearing, order the custodian to make reimbursement for all or part of the cost of representation of the juvenile.

You have a right to question any witness who appears at the hearing and to bring with you any witness. If you request, the court will order persons to be present as your witnesses.

....

Judge/Clerk of the Court

128.24. Order Modifying Previous Order of Disposition

In The Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri

In the Interest of . . . , (Male) (Female), Age . . .

No. . . .

Now on this . . . day of . . . , 19 . . . , there being present . . . , juvenile officer of . . . County, Missouri and . . . , attorney for the juvenile officer, and . . . , the juvenile, and . . . and . . . the juvenile's custodian, and . . . attorney for the juvenile, and the court hearing the motion of the juvenile officer to dismiss the petition heretofore filed in the interest of the juvenile, to allow the juvenile to be prosecuted under the general law, and the court receiving evidence upon said motion, and the report of the investigation required by *section 211.071, RSMo*, and being fully advised in the premises, the court finds:

1. The petition filed in this cause alleges that the juvenile has committed (*an offense*) (*offenses*) that would be if committed by an adult, to-wit:
2. The juvenile is . . . years of age, having been born on the . . . day of . . . , 19
3. The juvenile is not a proper subject to be dealt with under the provisions of the Juvenile Code for the reasons:

WHEREFORE, it is ordered that the petition filed in this case be and the same is hereby dismissed, and that the juvenile may be prosecuted under the general law for the offense(s) alleged in said petition.

. . . .

Judge of the Family

Court/Circuit Court

Juvenile Division

Date:

Time:

Notes on Use: The order dismissing the petition must state the reasons for the decision. A copy of the order, together with the petition, must be sent to the prosecuting attorney. The report of the investigation required by section 211.071, RSMo, also may be sent to the prosecuting attorney. The order needs to be dated and timed in order to establish commencement of the length of time the juvenile may be detained in juvenile detention following the entry of the court's order, which is no more than 20 hours.

128.25. Motion to Modify Previous Order of Disposition

In The Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri

In the Interest of . . . , (Male) (Female), Age . . .

No. . . .

MOTION TO MODIFY PREVIOUS ORDER OF DISPOSITION

Now comes, . . . , juvenile officer of . . . County, Missouri, and moves that the court modify its previous order of disposition entered in this cause, and in support thereof states to the court:

1. On the . . . day of . . . , 19 . . . , the juvenile, . . . , was found to be within the jurisdiction of the court, and the court (*on the . . . day of . . . , 19 . . .*) entered an order of disposition that
2. The aforesaid order of disposition should now be modified for the reason that

3. For the foregoing reason, this court should modify its previous dispositional order to provide that

WHEREFORE, petitioner prays that the court order that a hearing be held upon this motion, and the court make and enter an order modifying its previous order of disposition in such manner as it shall find to be in the welfare of the juvenile and the best interests of the state.

. . . .

Juvenile Officer of
. . . . County, Missouri

Note on Use: A motion to modify a previous dispositional order may also be filed by the juvenile or the juvenile's custodian.

128.26. Notice of Hearing Upon Motion to Modify Previous Order of Disposition

In The Family Court/Circuit Court, Juvenile Division, of County, Missouri

In the Interest of, (*Male*) (*Female*), Age

No. . . .

NOTICE OF HEARING UPON MOTION TO MODIFY PREVIOUS ORDER OF DISPOSITION

To

You are hereby notified that a motion has been filed in this court by, juvenile officer of County, Missouri, praying for a modification of the order of disposition heretofore entered by the court in the interest of, a juvenile, to be heard on the day of, 19. . . ., at, Missouri, to determine whether the order of disposition should be modified.

You are required to be present at the hearing and also have the juvenile present if the juvenile is in your custody.

You have a right to have an attorney present to assist you at the hearing, or you may waive your right to an attorney. If you do desire to be represented by an attorney, you should begin now to obtain services of an attorney. If you cannot afford to pay an attorney and wish to have an attorney to represent you, the court has the power to appoint an attorney to represent you, without charge. However, in the event the court does appoint a public defender or other appointed counsel, the court may, after notice and hearing, order the custodian to make reimbursement for all or part of the cost of representation of the juvenile.

You have a right to question any witness who appears at the hearing and to bring with you any witnesses. If you request, the court will order persons to be present as your witnesses.

. . . .

Judge/Clerk of the Court

128.27. Order Terminating Jurisdiction

In the Family Court/Circuit Court, Juvenile Division, of County, Missouri

In the Interest of, (*Male*) (*Female*), Age

No. . . .

ORDER, JUDGMENT AND DECREE MODIFYING PREVIOUS ORDER OF DISPOSITION

Now on this day of, 19. . . ., there being present, juvenile officer of County and, attorney for the juvenile officer, and, the juvenile, and the juvenile's custodian, and attorney for the juvenile, and the court hearing the motion of to modify the previous order of disposition made and entered by the court on

the day of, 19. . . ., and the court receiving evidence upon said motion and being fully advised in the premises, the court finds said order of disposition should be modified for the reason that

WHEREFORE, it is ordered, adjudged and decreed that the order of disposition in this cause be, and the same is modified as follows:

. . . .

Judge of the Family
Court/Circuit Court
Juvenile Division

128.28. Orders Transferring Proceedings

a. Order Transferring Proceedings Prior to Filing of a Petition

In The Family Court/Circuit Court, Juvenile Division, of County, Missouri

In the Interest of, (*Male*) (*Female*), Age

No. . . .

ORDER TRANSFERRING PROCEEDINGS

Whereas, the County of, Missouri is the residence of the juvenile; and

Whereas, it is in the best interest of the said juvenile that the cause be transferred to the County of residence;

NOW, THEREFORE, on this day of, 19. . . ., comes now, juvenile officer of County, Missouri, and with the prior consent of, the juvenile officer of County, Missouri, the county of residence of the juvenile,, and hereby orders that the cause be transferred to County, Missouri.

. . . .

Juvenile Officer

b. Order Transferring Proceedings Prior to Final Disposition

In The Family Court/Circuit Court, Juvenile Division, of County, Missouri

In the Interest of, (*Male*) (*Female*), Age

No. . . .

ORDER TRANSFERRING PROCEEDINGS

Now on this day of, 19. . . ., the motion of, (*juvenile officer of County, Missouri*) (*a party to the above captioned proceeding*), for an order transferring this proceeding concerning, a juvenile, from this court to the Family Court/Circuit Court, Juvenile Division of County, Missouri, prior to final disposition on the pending matter, being presented to the court and it appearing to the court that the welfare of the juvenile and the best interests of the state would be served by said transfer of this proceeding and (*the receiving county is the county of residence of the juvenile*) (*the receiving county is the county in which an offense under subdivision (3) of subsection 1 of section 211.031, RSMo, is alleged to have occurred*):

NOW, THEREFORE, IT IS ORDERED that the proceedings concerning, juvenile, be transferred to and placed with the Family Court/Circuit Court, Juvenile Division, of County, Missouri, and that the juvenile officer and the clerk of this court shall furnish to the Family Court/Circuit Court, Juvenile Division, of County, Missouri, such records and other information concerning the juvenile as shall be requested by said court.

. . . .

Judge of the Family

Court/Circuit Court,
Juvenile Division

128.29. Order Transferring Jurisdiction

In The Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri

In the Interest of . . . , (Male) (Female), Age . . .

No. . . .

ORDER TRANSFERRING JURISDICTION

Now on this . . . day of . . . , 19. . . , the motion of . . . , (*juvenile officer of . . . County, Missouri*) (*a party to the above captioned proceeding*), for an order transferring this proceeding concerning . . . , a juvenile, who is under the jurisdiction of this court pursuant to subsection 1 of *section 211.031, RSMo*, from this court to the Family Court/Circuit Court, Juvenile Division of . . . County, Missouri, being presented to the court and the court to which the cause is to be transferred having consented to the transfer, and it appearing to the court that the receiving county is the county of residence of the juvenile and the welfare of the juvenile and the best interests of the state would be served by said transfer of this proceeding;

NOW, THEREFORE, IT IS ORDERED that jurisdiction over the proceedings concerning . . . , juvenile, be transferred to and placed with the Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri, and that the juvenile officer and the clerk of this court shall furnish to the Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri, such records and other information concerning the juvenile as shall be requested by said court.

. . . .

Judge of the Family
Court/Circuit Court
Juvenile Division

128.30. Order Transferring Supervision

In The Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri

In the Interest of . . . , (Male) (Female), Age . . .

No. . . .

ORDER TRANSFERRING SUPERVISION

Now on this . . . day of . . . , 19. . . , the motion of . . . , (*juvenile officer of . . . County, Missouri*) (*a party to the above captioned proceeding*), for an order transferring supervision of . . . , a juvenile, over whom this court has jurisdiction under the Juvenile Code, chapter 211, RSMo, from this court to the Family Court/Circuit Court, Juvenile Division of . . . , being presented to the court and it appearing to the court that the welfare of the juvenile and the best interests of the state would be served by said transfer of supervision, (*that the transfer is in conformity with section 210.570, RSMo.*) and that the Family Court/Circuit Court, Juvenile Division, of . . . , has consented to assume supervision of the juvenile;

IT IS ORDERED that the supervision of . . . , a juvenile, be transferred to and placed with the Family Court/Circuit Court, Juvenile Division of . . . and that the juvenile officer and the clerk of this court shall furnish to the Family Court/Circuit Court, Juvenile Division, of . . . , such records and other information concerning the juvenile as shall be requested by said court.

. . . .

Judge of the Family
Court/Circuit Court Juvenile
Division

128.31. Order Terminating Jurisdiction

In The Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri
In the Interest of . . . , (*Male*) (*Female*), Age . . .
No. . . .

ORDER TERMINATING JURISDICTION

Now on this . . . day of . . . , 19. . . , it being found by the court that . . . , a juvenile, had reached the age of . . . and is no longer in need of the care and treatment that this court may provide,

IT IS ORDERED that the jurisdiction of this court over . . . be terminated and that . . . be discharged from further supervision by this court.

. . . .

Judge of the Family
Court/Circuit Court, Juvenile
Division

128.32. Motion to Disqualify Judicial Officer

In The Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri
In the Interest of . . . , (*Male*) (*Female*), Age . . .
No. . . .

APPLICATION FOR CHANGE OF JUDICIAL OFFICER

Now comes . . . and applies to the court for a change of judicial officer in this cause pursuant to Supreme Court Rule 126.01.

Date: . . . , 19. . . .

. . . .

CERTIFICATE OF SERVICE

I certify that on this . . . day of . . . , 19. . . , I did serve by regular mail upon . . . and . . . , being all other parties to this cause, a copy of the foregoing application together with notice that the application would be presented to the court on the . . . day of . . . , 19. . . .

. . . .

Note on Use: Rule 126.01 provides that an application for change of judicial officer need not allege or prove any cause for the change of judicial officer. The application must be filed within five days after a trial date has been set, unless the trial judicial officer has not been designated within that time, in which event the application must be filed within five days after the trial judicial officer has been designated. If the designation of the trial judicial officer occurs less than five days before trial, the application must be filed prior to commencement of any proceedings on the record.

128.33. Order to Destroy Records

In The Family Court/Circuit Court, Juvenile Division, of . . . County, Missouri

In the Interest of . . . , (*Male*) (*Female*), Age . . .

No. . . .

ORDER TO DESTROY RECORDS

Now on this . . . day of . . . , 19. . . , there being presented to the court the application of . . . , juvenile officer of . . . County, to seal the official court file and law enforcement officers' records and to destroy all social histories, records and information relating to . . . , juvenile, and it appearing to the court that . . . juvenile, has reached the juvenile's seventeenth birthday, that the jurisdiction of this court over . . . , the juvenile, has terminated and that it is in the best interest of the juvenile that such action be taken;

IT IS ORDERED that the official court file and law enforcement officers' records of . . . , juvenile, be sealed and that all social histories, records and information in the custody or possession of the court relating to the juvenile be destroyed.

. . . .

Judge of the Family
Court/Circuit Court
Juvenile Division

RULE 129. FAMILY COURT COMMISSIONERS

129.01. Applicability of Rules

This Rule 129 shall govern practice and procedures before commissioners hearing juvenile or family law matters pursuant to *section 211.025, RSMo*, or chapter 487, RSMo.

129.02. Authority for Rule

This Rule 129 is promulgated pursuant to the authority granted this Court by article V, section 5 of the Constitution of Missouri and supersedes all statutes and existing court rules inconsistent therewith.

129.03. Definitions

As used in this Rule 129, unless the context requires a different meaning:

- (1) "Administrative judge" means the administrative judge of the family court or, in circuits having one judge sitting as family court judge or juvenile division judge, the judge of the family court or juvenile division;
- (2) "Commissioner" means commissioner of the court;
- (3) "Court" means a juvenile division of the circuit court or a division of the family court or a judge or commissioner acting for such a division;
- (4) "Family Court" means a division of the circuit court operating as a family court as defined in chapter 487, RSMo;
- (5) "Judge" means a judge of the court;

(6) "Juvenile Division" means the division of the circuit court that presides over proceedings under the Juvenile Code that is not a family court as defined by chapter 487, RSMo;

(7) "Juvenile Code" means chapter 211, RSMo, as amended;

(8) "Party" means the juvenile officer, a juvenile who is the subject of a proceeding under the Juvenile Code and the custodian of that juvenile as defined in Rule 110.05(5), and any person denominated in a pleading, by statute or by court order as a party in the proceedings;

(9) "Person" includes natural persons, corporations and agencies of government;

(10) "this Rule" means Rule 129.

129.04. Functions and Powers of Commissioner

The functions and powers of the commissioner shall be to hear and make findings and recommendations in cases or proceedings assigned to the commissioner by general or special order of the administrative judge. The commissioner shall have the same powers and authority to manage those assigned cases and proceedings as would a judge, but the commissioner shall have no other administrative functions unless such functions are assigned by the administrative judge.

129.05. Assignment of Cases to Commissioner

The administrative judge may direct that any case or class of cases pending in the court be heard by the commissioner in the manner provided for hearing of cases by law and may direct that detention hearings, informal hearings, and hearings upon any proceedings under the Juvenile Code and chapters 210, 452, 454, and 455, RSMo, shall be heard in the first instance by the commissioner. The administrative judge may direct such assignments on a case-by-case basis or by general order directing the appropriate designated employee of the court to assign matters to the commissioner for hearing in accordance with a general plan established by the administrative judge or by any other appropriate method determined by the administrative judge that tends to facilitate the operation of the court.

129.06. Designation of Location of Hearings

The circuit and associate circuit judges en banc may designate by order the location within the geographical jurisdiction of the court where the commissioners shall conduct hearings subject to the provisions of *Section 487.040, RSMo*.

129.07. Notice of Findings and Recommendations

In each case heard by the commissioner, notice of the findings and recommendations of the commissioner, together with a statement that the matter is being transferred to a judge, shall be given to the parties whose case or proceeding has been heard by the commissioner and, where appropriate, to the juvenile, the juvenile's custodian and any other person that the court may direct. This notice may be given at the hearing or by mail or other service directed by the court. The notice shall be given in writing unless given orally in person at the hearing to the parties on the record.

129.08. Transmission of Findings and Recommendation to Judge

Upon the conclusion of the proceedings or case, the commissioner shall transmit to the administrative judge or such other judge as shall be designated by the administrative judge all papers relative to the proceedings or case, together with the commissioner's findings and recommendations in writing.

129.09. Adoption, Amendment, Modification or Rejection of Findings and Recommendations--Entry of Judgment--Ordering De Novo Hearing

(a) After receipt and review of the commissioner's findings and recommendations, the judge shall either adopt, as transmitted, amended or modified, or reject the findings and recommendations of the commissioner.

(b) If the judge adopts the findings and recommendations of the commissioner, the judge shall enter a judgment of the court.

(c) If the judge rejects the findings and recommendations of the commissioner, the judge shall schedule a hearing de novo before the judge. After the hearing, the judge shall enter a judgment of the court.

129.10. Temporary Orders

Upon receipt of the commissioner's findings and recommendations and pending the entry of a judgment, the judge, after review of the commissioner's findings and recommendations, may make a temporary order.

129.11. Rehearing Before Commissioner

Upon request of any party or upon the judge's own motion, the judge may order a rehearing before the commissioner in any case or proceeding, with such directions to the commissioner as the judge may deem appropriate. The findings and recommendations of the commissioner upon such rehearing shall be treated under this Rule 129 in the same manner as original findings and recommendations of the commissioner.

129.12. Notice of Entry of Judgment or Scheduling of De Novo Hearing

In each case where judgment is entered or a de novo hearing is ordered, notice of the entry of the judgment or the scheduling of the de novo hearing shall be given by mail to each party who was not present in court in person or by attorney at the time of the entry of the judgment or the scheduling of the hearing.

129.13. Motion for Rehearing--When Filed--When Overruled

(a) Unless waived by the parties in writing, a party to a case or proceeding heard by a commissioner, within fifteen days after the mailing of notice of the filing of the judgment of the court, may file a motion for rehearing by a judge of the court. The juvenile officer shall have no right to file a motion for rehearing of any judgment of the court in proceedings under subdivisions (2) or (3) of subsection 1 of *section 211.031, RSMo*.

(b) The judge shall rule on the motion for rehearing promptly. If the motion for rehearing is not ruled on within forty-five days after the motion is filed, it is overruled for all purposes.