

**RHODE ISLAND COURT RULES**  
**RULES OF JUVENILE PROCEEDINGS**

\*\*\* CURRENT THROUGH MAY 1, 2005 \*\*\*

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## **I. SCOPE OF RULES**

### **Rule 1. Scope of rules.**

These Rules govern the procedure for all matters in the family court pursuant to Chapter 1 of Title 14 of the General Laws, 1956 (2000 Reenactment), known as the Family Court Act. They also govern matters pursuant to Chapter 11 of Title 40 of the General Laws, 1956 (1997 Reenactment) pertaining to abused and neglected children and matters pursuant to Section 7 of Chapter 7 of Title 15 of the General Laws, 1956 (2000 Reenactment) pertaining to termination of parental rights.

## **II. DELINQUENCY AND WAYWARDNESS**

### **Rule 2. Petition.**

(a) Submission. Information that a child is delinquent or wayward shall be submitted to the court in the form of a petition by an "appropriate person" as defined in G.L. 1956 (1981 Reenactment), § 14-1-3.

(b) Contents. The petition shall set forth (1) to the extent known the name, age, and residence of (a) the child, (b) the child's parents, (c) the child's other legal guardian, (d) the person having custody and control of the child, and (e) the child's nearest known relative, if no parent or guardian can be found; (2) a plain statement of the facts by reason of which the child is allegedly delinquent or wayward, including reference to the statutory offense, if any, alleged to have been committed. The petition shall be sworn to on the basis of knowledge or information and belief before a justice or clerk of the family court or before a notary public.

### **Rule 3. Intake procedure.**

Except in case of emergency detention, a petition shall upon submission to the court be referred to the intake department for preliminary investigation to determine whether the facts are legally sufficient to bring the child within the jurisdiction of the court and, if so, to determine whether the interests of the public or of the child require that further action be taken. The inquiry may include a preliminary investigation of the home and environmental situation of the child, the child's previous history and the circumstances which were the subject of the petition. The report of any public agency, or of any private social agency licensed by the department for children and their families, may be accepted by the court for its consideration.

### **Rule 4. Informal adjustment procedure.**

If the intake department decides to continue the intake process and to attempt informal adjustment, the department shall explain to the parties to the petition that it intends to discuss plans for continuing contact with the child by the intake department or by any public or private agency without the formal filing of the petition, and that it wants to question the parties in regard to the child's general behavior, the child's school and home environment, and other similar factors bearing upon the proposed informal adjustment. The parties shall be informed that they need not answer questions, that they have the right to be represented by counsel, that information obtained from them by the intake department during the adjustment process will not be admissible in evidence at an adjudicatory hearing, that they may withdraw from the adjustment process at any time, and that the efforts at informal adjustment shall not preclude the formal filing of a petition at a future date. The intake department shall further inform the parties that informal adjustment shall not constitute an adjudication and that if they deny the allegations no effort will be made to arrive at an informal adjustment. If proposed informal adjustment is unacceptable to the petitioner, the intake department shall present the petition to the chief judge of the court, together with its recommendations, for determination by the chief judge as to whether the petition shall be formally filed.

## **Rule 5. Filing of petition: Amendment.**

(a) Filing. The filing of the petition constitutes assumption of jurisdiction over the child. Filing shall take place:

(1) Upon authorization by the intake department upon completion of its procedures pursuant to Rule 3; or.

(2) Upon authorization by a justice of the court pursuant to Rule 4; or.

(3) Forthwith upon appearance of the child before the court following emergency detention, unless the court otherwise orders.

(b) Amendment. A petition may be amended by order of the court at any time before an adjudication, Provided That the court shall accord the party such additional time to prepare as may be required to ensure a full and fair hearing.

## **Rule 6. Summons.**

(a) Issuance; Form. Upon the formal filing of a petition the court shall issue a summons requiring the child and, if known to reside within the state, a parent or guardian or lawful custodian or person with whom the child resides, to appear before the court at a time and place named therein for a hearing on the petition, the allegations of which shall be set forth in the summons. The summons shall inform the child and other persons to whom it is addressed of their right to counsel and of the child's entitlement to the services of the public defender if financially unable to engage counsel. It shall state that appearance may result in detention of the child.

(b) Method of Service; By Whom Served. The summons shall be served by reading the same to the person to be served and delivering a copy to such person, or by leaving an attested copy thereof at the last and usual place of abode of such person, with some person of suitable age and discretion living therein. The summons may be served anywhere within the state by any person authorized by law to make such service.

(c) Warrant for Arrest. If a justice of the court has reason to believe that such child may not appear upon summons, or if such child has been summoned and has failed to appear, such justice may issue a warrant reciting the substance of the petition and requiring the officer to whom it is directed to forthwith arrest such child and bring the child before the court.

## **Rule 7. Release of child under custody of the court.**

In any case where the court has assumed jurisdiction over a child by the authorizing of the filing of a petition or otherwise, the court may, pending disposition of the case, release the child in custody of a parent, guardian or other custodian or of a probation counselor or other person appointed by the court.

## **Rule 8. Detention prior to adjudication.**

(a) Emergency Detention. When an officer so authorized by law arrests a child believed to be delinquent or wayward and represents to a justice of the court that circumstances require immediate detention of the child for the child's own protection or that of the public, the justice may, to the extent permitted by law, authorize such detention until the next court day when the child shall be presented to the court.

(b) Hearing on Temporary Detention. When a child is brought before the court before or after the filing of a petition on sworn representation of an appropriate person as to circumstances necessitating immediate detention for the protection of the child or of the public the court shall provide for consultation between the child and the public defender or other available attorney. If counsel is not available for such consultation, the court may order detention for one (1) court day in order that counsel may be obtained. Following such consultation the court may order detention of the child for a period not to exceed five (5) days in Providence and Bristol Counties and not to exceed seven (7) days in Kent, Newport and Washington Counties. The order shall include a statement of the reasons therefor. If a petition has not been filed the court shall waive the intake process and authorize the filing of a petition

and service of the summons. The child and the child's parent or guardian or other custodian shall be informed in writing of the right to counsel of their choosing and to the right of the child to the services of the public defender if financially unable to retain counsel.

(c) Probable Cause Hearing. When the court has ordered temporary detention of a child pursuant to subdivision (b) of this Rule, a hearing shall be held within five (5) days in Providence and Bristol Counties and within seven (7) days in Kent, Newport and Washington Counties on written notice to the child and the child's parent, guardian or other custodian, to determine whether probable cause exists with respect to the allegations of delinquency or waywardness and as to the need for further detention for the protection of the child or the public. Such hearing may be combined with the commencement of the adjudicatory hearing.

(d) Detention Order Pending Adjudication. A detention order pending adjudication of the case shall set forth the facts and reasons therefor. Such detention shall not exceed thirty (30) days, except that for cause shown it may be extended. The adjudicatory hearing shall be expedited in any case in which such detention has been ordered.

(e) Hearing in Providence. Any hearing required by this Rule may be held in Providence where unavailability of counsel or the schedule of the court precludes hearing in the county in which the case is pending.

### **Rule 9. Arraignment, adjudicatory hearing.**

(a) Arraignment. When a child appears before the court for arraignment in accordance with the summons, the court shall explain the right to counsel and determine whether the parties are represented and shall appoint counsel for the child where necessary. Upon request, or on its own motion, the court may appoint separate counsel to represent the child where it appears that the interests of the child and the child's parent or any other represented party may conflict. The court shall inform the child of (or satisfy itself on the record that the child has been informed by counsel) of (1) the nature of the charges against the child, (2) the maximum sentence that could be imposed, (3) the benefit of the presumption of innocence, (4) the right to remain silent, (5) the right to confront and cross-examine his or her accusers and the witnesses against him, (6) the right to testify and to call witnesses in the child's own defense, (7) the right to have the state prove the child's guilt beyond a reasonable doubt, (8) the right to appeal any delinquency finding to the Rhode Island Supreme Court, and (9) the consequence of trial as an adult for all crimes if a child has been twice adjudicated as delinquent by reason of felonies. Upon finding that the child understands these rights and consequences, the court may inquire of the child whether the child admits, denies or with consent of the court admits sufficient facts to submit to the court's jurisdiction. Failure or refusal of the child to admit the allegations shall be deemed a denial of them. If any or all of the allegations admitted by the child are sufficient for an adjudication of delinquency or waywardness, the court may take testimony to corroborate the admissions or may proceed directly to the adjudication.

(b) Determination of Disputed Facts. If any essential averment of the petition is in issue, the court shall determine the order and method of presentation of evidence. Any testimony admissible under the Rules of Evidence shall be admitted. Compulsory process shall issue on behalf of the child or any other party to compel testimony in the child's behalf. The court shall grant a continuance when necessary to ensure a fair presentation of the issues.

(c) Findings, Quantum of Proof. The court shall find the facts alleged in the petition to be established only by proof beyond a reasonable doubt, and if the court so finds it shall set forth the findings of fact upon which it bases its determination in adjudicating the child to be delinquent or wayward. The court may dismiss the petition when the court finds it is in the interest of justice and the welfare of the child.

### **Rule 10. Discovery.**

(a) Availability. Every petition submitted by the police shall be accompanied by a copy of the police report. Said report shall be available to the child or the child's attorney of record for inspection and copying. Upon written request, the attorney for the State shall deliver promptly to the child or the child's attorney a list of witnesses intended to be called by the State and a summary of the testimony each is expected to give. Upon compliance with such request, the attorney for the State may similarly request of the child or the child's attorney a list of witnesses intended to be called on behalf of the child and a summary of the testimony expected of each. No other discovery shall be permitted except on express order of a justice of the court made upon motion of the child or the child's

attorney setting forth specific circumstances necessitating further discovery. The motion shall detail attempts made to obtain the requested material without resort to the court.

(b) Continuing Duty to Disclose. If, subsequent to compliance with a request for discovery or with an order issued pursuant to this Rule, and prior to or during trial, a party discovers additional material previously requested which is subject to discovery or inspection under this Rule, the party shall promptly notify the other party of the existence thereof.

(c) Failure to Comply. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this Rule or with an order issued pursuant to this Rule, it may order such a party to provide the discovery or inspection, grant a continuance, or make such other order as it deems appropriate. Upon finding a willful failure to comply, the court may prohibit the offending party from introducing in evidence the material or the testimony of a witness whose identity or statement was not disclosed.

### **Rule 11. Disposition.**

If the court finds that a child is delinquent or wayward it may place the child on probation or under supervision in the child's own home or in the custody of a relative or other suitable person or in the custody of any agency, society or institution authorized by law, upon such terms as the court shall determine. If the delinquency or waywardness is on account of an offense causing damage to the property of another, the court may order restitution as a condition of probation in accordance with applicable law. The court may order the parent(s) of the child to undertake a program of counseling designed to remedy the conditions which contributed to the delinquency or waywardness of the child.

### **Rule 12. Waiver of jurisdiction.**

(a) Initiation of Proceeding. If at any time prior to the commencement of the adjudicatory hearing the court is informed that the child is by law subject to waiver to the criminal jurisdiction of another court and that there is reason to believe that retention of jurisdiction in the family court is contrary to the best interests of the child or of the public, a waiver hearing may be scheduled and the intake department shall conduct an investigation of the circumstances.

(b) Notice. Upon scheduling a waiver hearing the court shall direct that written notice shall be furnished the child and the child's parent, guardian or other custodian setting forth the following:

(1) The purpose of the hearing and the consequences attendant upon such waiver and transfer, including the possibility of a much greater sentence than one within the power of the family court to impose;

(2) The right of the child to counsel at such hearing and the right of the child to the services of the public defender or other appointed counsel if financially unable to retain counsel;

(3) The right of access reasonably in advance of the hearing to investigatory reports, social records and probation or similar reports which may be considered by the court.

(c) Standards for Waiver of Jurisdiction. In determining whether to waive jurisdiction the court will be guided by the following standards, either one of which may serve as a sufficient basis for waiver:

(1) Treatability of the child, i.e., whether or not there are reasonable prospects for rehabilitating the child by the use of facilities currently available to the family court in a private facility, in a community facility, or in a juvenile institution;

(2) Protection of the public, i.e., whether or not there are reasonable prospects for adequately protecting the public by use of facilities currently available to the family court.

(d) Factors in Determining Waiver. For purposes of applying the standards set forth in subdivision (c) of this Rule the following factors are relevant:

(1) The child's prior delinquent and wayward acts and the nature of the child's conduct therein;

(2) The nature of the child's alleged conduct in connection with the current charge, to the extent that (a) such allegation of the child's conduct would form a pattern of anti-social conduct that seems beyond the rehabilitative reach of facilities available to the family court, or (b) such alleged conduct indicates that the child is dangerous to the public (dangerous to be measured in light of circumstances surrounding the alleged conduct, such as aggressiveness and the nature of the reasonably foreseeable consequences);

(3) The child's age, to the extent that a length of time beyond the limits of family court jurisdiction is required for reasonable prospects of the child's rehabilitation;

(4) The child's attitude, to the extent that it bears on the child's willingness to cooperate with family court rehabilitative efforts;

(5) The child's family environment (including the degree of care, supervision and support it provides the child), to the extent that family support is essential to the family court's rehabilitative program;

(6) The child's prior contacts with rehabilitative facilities available to the family court, in the community and in juvenile institutions, in terms of the extent and apparent rehabilitative impact of such contacts.

(e) Decision; Findings. If, after the waiver hearing, the court orders the case to be transferred to the criminal jurisdiction of another court, it shall make and enter specific findings supporting its decision and the reasons therefor.

(f) Mandatory Transfer of Jurisdiction. If, after notice and hearing, the court shall determine that a child is subject to prosecution as an adult pursuant to G.L. 1956, § 14-1-7.1, the court shall enter an order transferring jurisdiction over such child to the appropriate court. Upon entry of such order the court may order the child remanded to custody pending initiation of proceedings in an appropriate court.

### **III. ABUSE, NEGLECT, DEPENDENCY, TERMINATION OF PARENTAL RIGHTS**

#### **Rule 13. Petition.**

(a) Submission. Information that a child is abused, neglected, or dependent shall be submitted to the court in the form of a petition by the department for children and their families or by any person authorized by law.

(b) Contents. The petition shall set forth (1) to the extent known the name, age, and residence of (a) the child, (b) the child's parents, (c) the child's other legal guardian, (d) the person having custody and control of the child, and (e) the child's nearest known relative, if no parent or guardian can be found; (2) a plain statement of the facts by which the child is allegedly abused, neglected, or dependent (such facts may be set forth in an affidavit accompanying the petition); (3) the action requested of the court by the petitioner. The petition shall be sworn to on the basis of knowledge or information and belief before a justice or clerk of the family court or before a notary public.

#### **Rule 14. Filing of petition: Amendment.**

(a) The filing of the petition shall take place: (1) upon submission of a petition by the department for children and their families for an ex parte order removing the child from the custody of parents or other person alleged to have abused or neglected the child; or (2) forthwith, upon issuance of an ex parte order at the request of any other authorized person; or (3) upon the order of a justice of the court.

(b) A petition may be amended by order of the court at any time before an adjudication, Provided That the court shall accord the party such additional time to prepare as may be required to ensure a full and fair hearing.

### **Rule 15. Preliminary proceedings: Ex parte petition.**

(a) Ex Parte Orders. Whenever a petition seeking an ex parte order is presented, the petitioner shall disclose all available relevant information bearing upon the ex parte relief sought. The court shall take such action as it finds necessary for the protection of the child or children alleged to be abused, neglected, or dependent, including removal of said child or children from the custody of the parent(s) or other person having custody of such child or children. A signed physician's report that a child is abused or neglected shall be sufficient to support an ex parte order for removal.

(b) Summons. Upon the filing of an ex parte petition the court shall forthwith issue a summons requiring the parent(s), guardian, or other person having custody of the child to appear before the court for a preliminary hearing on said petition within seven (7) days from the date of the filing thereof. The allegations of the petition shall be set forth in the summons. The summons shall be served forthwith in accordance with Rule 6.

(c) Preliminary Hearing. Upon the filing of a petition for an ex parte order a hearing on said petition shall be held within seven (7) days from the filing thereof for the court to:

- (1) Advise the parent(s) or other person having care of such child of the allegations contained in the petition;
- (2) Enter either a denial or admission of the allegations contained in the petition;
- (3) Assure that a guardian ad litem and/or a court-appointed special advocate has been appointed to represent the child;
- (4) Appoint an attorney to represent a parent or any other person having custody of such child alleged to have been dependent, abused, or neglected when said parent(s) or custodian is unable to afford such representation;
- (5) Advise the parent(s) or any other person having care of such child of his or her right to probable cause hearing on the ex parte petition to be held as soon as practicable but no later than ten (10) days from the date of the request;
- (6) Make an interim order in its discretion respecting the rights of the child.

(d) Default. If any parent, guardian or other person having custody of a child shall, after due notice, fail to appear at the preliminary hearing, the court may enter a default and proceed then or at a subsequent date to receive proof and enter judgment.

### **Rule 16. Probable cause hearing.**

(a) Evidence. At the probable cause hearing requested pursuant to Rule 15(c)(5) credible hearsay evidence may be admitted in the discretion of the court. The petitioner may submit a signed physician's report which, while not conclusive, shall constitute prima facie evidence to support continued detention of a child pursuant to the ex parte order pending a trial on the merits. The petitioner shall furnish the court with all available relevant evidence whether or not it supports the petition.

(b) Findings. If following the probable cause hearing the court orders continued detention of the child, the court shall state clearly the reasons for removal and continued detention.

### **Rule 17. Trial on the merits, disposition.**

(a) Transforming Preliminary Hearing or Probable Cause Hearing. Whenever at a preliminary hearing or probable cause hearing the parent(s), guardian, or other person having custody of the child admits the allegations of the petition, the court may in its discretion transform such hearing into one on disposition, continuing such hearing from time to time when circumstances warrant.

(b) Decision, Findings, Quantum of Proof. At the conclusion of all evidence at a trial upon the merits, the court shall, as soon as practicable, render decision. Determination that a child is abused, neglected, or dependent shall be made upon clear and convincing evidence. The court shall clearly state the facts upon which it bases such determination and its reasons therefor.

(c) Plan. When the court finds a child abused, neglected, or dependent, and in continuing need for care inconsistent with a return of custody to the parent(s), guardian, or other person previously having custody, the court shall direct the department for children and their families to submit within thirty (30) days a written plan for care and treatment of such child. The court shall thereupon approve or modify such plan, or shall remand such plan to the department for further development and resubmission. The time for initial submission may be extended for good cause.

(d) Review of Plan. Upon approval of a plan for the care and treatment of a child, the court shall direct the department to review such plan and report thereon to the court not later than six (6) months thereafter.

### **Rule 18. Involuntary termination of parental rights.**

(a) Petition. The department for children and their families or any other agency authorized by law may petition the court for termination of legal rights of the parent or parents to a child. The petition shall set forth (1) to the extent known the name, age, and residence of (a) the child, (b) the child's parents, (c) the child's other legal guardian, (d) the person having custody and control of the child, and (e) the child's nearest known relative if no parent or guardian can be found; (2) a plain statement of facts on which the petition is based, including reference to the specific statutory grounds on which termination of parental rights is sought (the facts may be set forth in an affidavit accompanying the petition); (3) the action requested of the court by the petitioner. The petition shall be sworn to by an authorized agent of the petitioner on the basis of knowledge or information and belief before a justice or clerk of the family court or before a notary public.

(b) Notice. Upon the filing of a petition the court shall forthwith issue a summons requiring the parent(s), guardian, or other person having custody of the child to appear before the court for a preliminary hearing on said petition within seven (7) days from the date of the filing thereof. The allegations of the petition shall be set forth in the summons. The summons shall be served forthwith in accordance with Rule 6.

(c) Preliminary Hearing. A preliminary hearing shall be held on said petition for the court to:

(1) Advise the parent(s) or other person having care of such child of the allegations contained in the petition;

(2) Enter either a denial or admission of the allegations contained in the petition;

(3) Assure that a guardian ad litem and/or a court-appointed special advocate has been appointed to represent the child;

(4) Appoint an attorney to represent the parent(s) and any person having such care or custody of such child when said parent(s) or custodian [is] unable to afford such representation;

(5) Advise the parent(s) and any other person having care of such child of the right to participate fully in a hearing on the allegations of the petition;

(6) Make an interim order in its discretion respecting the custody and rights of the child.

(d) Default. If any parent, guardian or other person having custody of a child shall, after due notice, fail to appear at the preliminary hearing, the court may enter a default and proceed then or at a subsequent date to receive proof and enter judgment.

(e) Hearing. A hearing shall be held as soon as practicable to determine whether the parental rights of the parent(s) should be terminated. The court shall find the facts supporting termination only on the basis of clear and convincing evidence.

(f) Decree. If a court finds that the parental rights of the parent(s) should be terminated, it shall by decree duly entered appoint some suitable person to give or withhold consent in any subsequent adoption proceedings. In petitions filed by licensed or governmental child placement agencies, the court shall further vest said agency with all rights of guardianship over the child.

(g) Review. In the event that any child, the parental rights to whom have been finally terminated, has not, within one hundred eighty (180) days from the date of the final termination decree, been placed by said agency in the home of a person or persons with the intention of adopting the child, the court shall review the status of the child and the agency shall file a report explaining the permanent plan which it has for said child. The agency shall file a certificate

with the court when a placement has in fact occurred; the identity of the person or persons with whom the child has been placed need not be stated.

(h) Conclusion of Proceedings. All proceedings for termination of parental rights shall be concluded within one hundred eighty (180) days after notice to the natural parents has been effectuated. If the court is unable to so conclude a hearing it shall enter an order setting forth the facts which necessitate an extension of time.

### **Rule 19. Putative father.**

Whenever in a proceeding involving abuse, neglect, or dependency of a child, or termination of parent rights, it shall come to the attention of the court that a person not already a party is or may be the father of the child, such person shall be given notice of the proceeding and opportunity to participate upon acknowledgment of paternity and subsequent court order establishing paternity.

### **Rule 20. Discovery.**

(a) Availability. Every petition alleging abuse, neglect, or dependency of a child or for termination of parental rights shall be available to all parties or their attorneys of record for inspection and copying. Upon request, the petitioner shall deliver promptly to requesting parties a list of witnesses intended to be called by the petitioner and a summary of the testimony each is expected to give. Upon compliance with such request the petitioner may similarly request of the party having requested discovery a list of witnesses intended to be called on behalf of such party and a summary of the testimony expected of each. No other discovery shall be permitted except on express order of the justice of the court made upon motion of a party setting forth specific circumstances necessitating further discovery. The motion shall detail attempts made to obtain the requested material without resort to the court.

(b) Continuing Duty to Disclose. If, subsequent to compliance with a request for discovery or with an order issued pursuant to this Rule, and prior to or during trial, a party discovers additional material previously request which is subject to discovery or inspection under this Rule, the party shall promptly notify the other party of the existence thereof.

(c) Failure to Comply. If at any time during the course of the proceedings it is brought to the attention of the court that a party has failed to comply with this Rule or with an order issued pursuant to this Rule, it may order such party to provide the discovery or inspection, grant a continuance, or make such other order as it deems appropriate. Upon finding of a willful failure to comply, the court may prohibit the offending party from introducing in evidence the material or the testimony of a witness whose identity or statement was not disclosed.

## **IV. GENERAL PROVISIONS**

### **Rule 21. Pretrial conferences and procedure.**

(A) In any action, the court may in its discretion direct the attorneys for the parties, and any unrepresented parties, to appear before the court for a pre-trial conference to consider:

- (1) Expediting the disposition of the action;
- (2) Ensuring thorough trial preparation; and.
- (3) Facilitating the settlement of the case.

(B) At any conference under this rule, the court may consider and take appropriate action with respect to:

- (1) The simplification of the issues;
- (2) The necessity or desirability of amendments to the pleadings;

(3) The possibility of obtaining stipulations, admissions of fact and of documents to avoid unnecessary proof at trial;

(4) The limitations of the number of expert and other witnesses; and.

(5) Such other matters as may aid in the disposition of the action.

(C) An attorney for each party, or any unrepresented party, must attend any conference scheduled by the court. Such attorney or party shall have authority to enter into stipulations and to make admissions regarding all matters that may be discussed.

(D) One week prior to a final pre-trial conference, each attorney for a party, and any unrepresented parties, shall submit the following information to the Juvenile Case Management Office:

(1) A list of all exhibits that the party intends to offer at trial. All exhibits must be pre-marked.

(2) A list of each expert witness that the party intends to present at trial, a brief summary of the expert's testimony including its relevance, and a summary of the expert's qualifications in a form appropriate for submission as an exhibit.

(3) A list of all other witnesses that the party intends to present at trial and a brief summary of the testimony including its relevance.

(4) A list of all statutory citations that the party intends to present and/or argue at trial.

(5) A list of all case citations that the party intends to rely upon and/or argue at trial.

(6) A chronological summary of all facts that the party intends to introduce and support at trial.

(7) A list of undisputed facts and/or stipulations agreed to be the parties.

(8) A brief statement of each claim for relief and/or defense asserted by the party, and.

(9) Any proposed requests for admissions.

(E) The Juvenile Case Manager will inform the court at the final pre-trial conference of any party's failure to comply with the aforementioned requirements. The court may make such orders, including the imposition of sanctions, as are necessary to effectuate this Rule.

(F) The court may order two (2) or more petitions to be tried together.

### **Rule 22. Proof of official record.**

An official record or an entry therein or the lack of such a record or entry may be proved in the same manner as in domestic relation actions.

### **Rule 23. Expert witnesses and interpreters.**

(a) Expert Witnesses. The court may on its own motion or upon the motion of party order the respondent or the State, or both, to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties and may appoint witnesses of its own selection. An expert witness shall not be appointed by the court unless the expert witness consents to act. A witness so appointed shall be informed of his or her duties by the court in writing, a copy of which shall be filed with the clerk, or at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of his or her findings, if any, and may thereafter be called to testify by the court or by any party. A witness shall be subject to cross-examination by each party. The court may determine the reasonable compensation of such a witness and may direct that it be paid either by the State or by the party who moved for appointment. The parties also may call expert witnesses of their own selection.

(b) Interpreters. The court may appoint an interpreter of its own selection and may fix the reasonable compensation of such interpreter. Such compensation shall be paid by the State.

## **Rule 24. Time.**

(a) Computation. In computing any period of time prescribed or allowed by these Rules, by order of court or by an applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday.

(b) Enlargement. When by these Rules or by a notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if request therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

(c) For Motions -- Affidavits. A written motion, other than one which may be heard ex parte, and notice of the hearing thereof shall be served not later than five (5) days before the time specified for the hearing, unless a different period is fixed by these Rules or by order of the court. Such an order may for cause shown be made on ex parte application. When a motion is supported by affidavit, the affidavit shall be served with the motion; and, opposing affidavits may be served not later than one day before the hearing, unless the court permits them to be served at some other time.

(d) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, one (1) day shall be added to the prescribed period.

## **Rule 25. Motions.**

An application to the court for an order shall be by motion. A motion other than one made during a trial or hearing shall be in writing, unless the court permits it to be made orally. It shall state with particularity the grounds upon which it is made and shall set forth the relief or order sought. It may be supported by affidavit. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

## **Rule 26. Dismissal.**

No petition shall be dismissed without consent of the court. If there is unnecessary delay in bringing a case to trial, the court may dismiss the petition. Unless otherwise stated, a dismissal before trial shall be without prejudice. A dismissal after trial has commenced shall be with prejudice unless otherwise stated.

## **Rule 27. Service and filing of papers.**

(a) Service. When required, written motions other than those which are heard ex parte, written notices, designations of record on appeal and similar papers shall be served upon each of the parties.

(b) Service; How Made. Whenever under these Rules or by an order of the court service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party himself or herself is ordered by the court. Service upon the attorney or upon a party shall be made in the manner provided in domestic relations actions.

(c) Notice of Orders. Immediately upon the entry of an order made on a written motion subsequent to arraignment the clerk shall mail to each party a notice thereof and shall make a note in the docket of the mailing. Lack of notice of the entry by the clerk does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted by Rule 4 of the Rules of Appellate Procedure of the Supreme Court of Rhode Island.

(d) Filing; No Proof of Service Required. All papers required to be served shall be filed with the court either before service or within a reasonable time thereafter. Such filing by a party or party's attorney shall constitute a representation by him or her that a copy of the paper has been or will be served upon each of the other parties as required by subdivision (a) of this Rule. No further proof of service is required unless an adverse party raises a question of notice. In such instance the affidavit of the person making service shall be prima facie evidence.

(e) Filing With the Court Defined. The filing of pleadings and other papers with the court as required by these Rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him or her, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk.

(f) Effect of Failure to File. If any party to an action fails to file within five (5) days after the service any of the papers required by this Rule to be filed, the court, on motion of any party or of its own initiative, may order the papers to be filed forthwith, and if the order be not obeyed, the court may order them to be required as stricken and their service to be of no effect.

### **Rule 28. Subpoena.**

(a) For Attendance of Witnesses; Form; Issuance. Every subpoena shall be issued by the clerk of court or a notary public or other officer authorized by statute, shall state the name of the court and the title of the action, and shall command each person to whom it is directed to attend and give testimony at a time and place therein specified.

(b) For Production of Documentary Evidence. A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (1) quash or modify the subpoena if it is unreasonable and oppressive or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.

(c) Service. A subpoena may be served by the sheriff, by the sheriff's deputy, by a constable, or by any other person who is not a party and who is not less than eighteen (18) years of age. A subpoena may be served at any place within the state.

### **Rule 29. Exceptions unnecessary.**

Formal exceptions to rulings or orders of the court are unnecessary; but for all purposes for which an exception has heretofore been necessary it is sufficient that a party, at the time the ruling or order of the court is made or sought, makes known to the court the action which the party desires the court to take or the party's objection to the action of the court and the party's grounds therefor if requested; and if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice the party. With the consent of the court, a party may object to an entire line of testimony, or to the entire testimony of a witness, or to testimony on a single subject matter, and if such objection shall be overruled, it shall not be necessary for the party to repeat his or her objection thereafter, but every part of such testimony thereafter introduced shall be deemed to have been duly objected to and the objection overruled.

### **Rule 30. Harmless error.**

Any error, defect, irregularity or variance which does not affect substantial rights shall be disregarded.

### **Rule 31. Regulation of conduct in the courtroom.**

The taking of photographs or sketching in the courtroom during the progress of judicial proceedings or radio or television broadcasting of judicial proceedings from the courtroom shall not be permitted by the court.

**Rule 32. Records.**

The clerk of the court shall keep such records in all proceedings as required by law or by order of the justices of the court. In trials in the family court all proceedings, including the testimony of witnesses shall be stenographically or electronically recorded.

**Rule 33. Rules of practice and orders.**

A majority of the justices of the family court may from time to time adopt Rules of practice and general orders to further regulate the practice and conduct of business therein not inconsistent with these Rules. If no procedure is prescribed by these Rules, or by Rules of practice or general orders adopted pursuant to the authority contained in this Rule, the court shall proceed in any lawful manner not inconsistent with these Rules or with any applicable statute.

**Rule 34. Jurisdiction and venue unaffected.**

These Rules shall not be construed to extend or limit the jurisdiction of the family court or the venue of actions therein.

**Rule 35. Effective date.**

These Rules shall take effect on September 6, 1985. They govern all proceedings in actions brought after they take effect and also all further proceedings in actions then pending, except to the extent that in the opinion of the court their application in a particular action pending when the Rules take effect would not be feasible or would work injustice, in which event the former procedure applies.

**Rule 36. Title.**

These Rules shall be known as the Rhode Island Rules for Juvenile Proceedings and may be cited as R. Juv. P.

**V. JURISDICTION OF ADULTS**

**Rule 37. Rules of Criminal Procedure.**

In the conduct of criminal cases involving adults charged with crimes within the jurisdiction of the family court, the procedure shall follow that set forth in the Rules of Criminal Procedure for the Superior Court of Rhode Island to the extent that the same are appropriate for use in this court.