

RULE 12.1 - CASE FILE FOLDER ESTABLISHED:

RULE 12.1.1 - The clerk shall establish and maintain one case record for each juvenile who is the subject of one or more of the actions listed below. The case record shall consist of both a file folder, to house all original paper documents relating to the actions, and the electronic data entered into the automated J Wise System as provided by the NCAOC. Electronic data shall be entered into the J Wise System as prescribed by the user's manual.

1. An abuse, neglect, or dependency proceeding. (G.S. §7B-1000 through -1004)
2. A proceeding under the Interstate Compact on the Placement of Children. (G.S. §7B-3800 through -3806) (Example: placing a child from another state into foster care within this state)
3. A proceeding involving judicial consent for emergency surgical or medical treatment. (G.S. §7B-3600)
4. A proceeding to review a voluntary foster care placement. (G.S. §7B-910)
5. A proceeding in which a person is alleged to have obstructed or interfered with an investigation of abuse, neglect, or dependency. (G.S. §7B-303)
6. A proceeding to review an agency's plan for the placement of a child when one or both parents have surrendered the child for adoption or when a child returns to foster care after an adoption is dismissed or withdrawn. (G.S. §7B-909)
7. A delinquency or undisciplined juvenile proceeding. (G.S. §7B-1500 through -2706)
8. A proceeding under the Interstate Compact on Juveniles. (G.S. §7B-4000 through -4002)
9. A termination of parental rights (TPR) proceeding whether initiated by petition or motion (G.S. §7B-1100 through -1112) including any motions to reinstate the rights of a parent whose parental rights have been previously terminated. (G.S. §7B-1114)
10. An emancipation proceeding (G.S. §7B-3500 through -3509)
11. Juvenile judicial sterilization proceedings
12. Application for an ex parte order finding infant has been safely surrendered and confirming the county DSS has legal custody (G.S. 7B-525)

The case file shall be divided into sub-folders:



- Subfolder A shall contain all documents relating to proceedings 1-6 and 12 above.
- Subfolder B shall contain all documents relating to proceedings 7 and 8 above.
- Subfolder T shall contain all documents relating to proceedings in 9 above.
- Subfolder E shall contain all documents relating to proceedings in 10 above.
- Subfolder P shall hold copies of newly filed petitions and other pre-adjudication documents, such as those relating to service of process. The file numbers on these documents should be "blacked out" before presenting the file to the judge. Upon adjudication or dismissal of the petition, all "blacked out" copies housed in Subfolder P should be discarded.

The first petition filed involving a juvenile shall establish the case file, and all subsequent petitions or related documents for any of the proceedings listed above shall receive the same file number and be placed in the appropriate subfolder. The juvenile's name, date of birth, and case file number shall appear on the top tab of the juvenile file folder and subfolder(s), that are labeled "A", "B", "T", or "E" according to the type of documents they contain. Only the juvenile's name and date of birth shall appear on Subfolder P.

RULE 12.1.2 -

A proceeding to review a voluntary foster care placement for a young adult. (G.S. §7B-910.1)

All documents filed in the proceeding shall establish a new case file and receive a new juvenile file number. The young adult's name, date of birth and case file number shall appear on the top tab of the file folder. (For file numbering see RRK 12.3.) There is no associated filing fee for these proceedings.

A young adult may leave and re-enter a voluntary foster care placement such that the court conducts additional reviews of the placement of the young adult pursuant to G.S. §7B-910.1, If the young adult re-enters any additional filings for the G.S. §7B-910.1 review shall be placed in the existing juvenile file of the young adult, maintaining the existing file number.

NOTE: Under no circumstances should any documentation relating to a Judicial Waiver of Parental Consent be placed in the juvenile file. (See RRK 18).

COMMENTS:

- A. Subfolders may be held together in a larger folder or simply filed next to each other.
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- B. If a juvenile petition names several juveniles, each juvenile should have a separate case file. Copies of any petition, order, or other document that involves multiple juveniles, should be placed in each juvenile's file.
- C. A TPR petition should never be filed as a civil action. TPR should be initiated only by the filing of:
- a juvenile petition; or,
 - a motion in the cause in a pending abuse, neglect, or dependency proceeding.

Normally, TPR documents should not be placed in a CVD case file. An order based on a TPR may be necessary to terminate a child support obligation, but the TPR order itself should not be placed in the CVD child support file.

If the Court does allow a party to pursue a TPR in a domestic relations or other civil (CVD) case, the clerk should place the original TPR documents in subfolder T of the existing juvenile file for the child; or, if there is not a juvenile file the Clerk shall create one.

- D. The judge should only be provided the entire file on the juvenile after adjudication. Once the petition has been adjudicated the duplicate copy of the petition and supporting documents may be discarded, and any new orders or other filings shall be placed in subfolder A, B, T or E as appropriate. Once this is done, subfolder P may be retained in case another petition is filed.
- E. Subfolder P should be used only for pending petitions and related documents, not for any documents filed subsequent to adjudication.
- F. Fingerprint cards should not be accepted for filing. If these cards are submitted to the clerk, the clerk should return them to the agency responsible for taking the fingerprints. (G.S. §7B-2102(d))
- G. Where a parent, guardian, custodian, or caretaker in a juvenile case is cited for or found in criminal contempt of court, that criminal contempt becomes a new criminal case with the contemnor as the named defendant. (G.S. §7B-904 and §7B-2706)
- If a show cause order directs that the alleged contemnor show cause why he/she not be held in "criminal" contempt with no reference to possible civil contempt, the clerk shall establish a CR case file for the contempt action upon the issue of the show cause order. The file should be given the next available CR number and entered into



the Automated Criminal and Infraction System (ACIS). Only the show cause order, contempt adjudication, and filings that are specific to the contempt action shall be placed in the CR file. Any references to the juvenile in the documents filed in the CR file shall be redacted from the public copy; the original unredacted document shall be retained in the juvenile file.

- If the court adjudicates a contemnor to be in criminal contempt without previously having issued a show cause order for that contempt, e.g., after a summary proceeding for direct criminal contempt, G.S. 5A-14, the clerk shall establish a CR case for the contempt adjudication. (See form AOC-CR-390 Direct Criminal Contempt/Summary Proceedings/Findings and Order.) The file should be given the next available CR number and entered into the Automated Criminal and Infraction System (ACIS). Any references to the juvenile in the documents filed in the CR file shall be redacted from the public copy; the original unredacted document shall be retained in the juvenile file.
 - If a show cause order directs the alleged contemnor to show cause why he/she not be held in “civil or criminal” contempt or simply “contempt” (without specifying either civil or criminal), the show cause order shall be maintained in any underlying juvenile case file for the action from which the contempt action arose. (See forms AOC-J-155 Motion and Order to Show Cause and AOC-J-344 Motion and Order to Show Cause)
 - If the court subsequently enters an adjudication of criminal contempt, the clerk shall establish a CR case for the contempt action and include in it the motion and show cause order, the contempt adjudication, and any filings that are specific to the contempt action and distinct from the original action (e.g., an appointment or denial of appointed counsel). Copies of the motions and orders to show cause, contempt orders, and filings that are specific to the contempt action shall be placed in the CR file. All references to the juvenile on the public facing documents (CR file) shall be redacted from the public copy; the unredacted originals shall be retained in the juvenile file. (See forms AOC-J-155, AOC-J-156, AOC-J-344, and AOC-J-345.)
 - If the court subsequently enters an adjudication of civil contempt or does not find the person to be in contempt, all documents specific to the contempt action shall remain in the case file of the original juvenile action. This civil contempt information shall not be entered into ACIS or VCAP.
- H. When a probation violation is filed in a JB case that has previously been destroyed (pursuant to RRS No. 7.6D. or 7.6E) the clerk shall create a duplicate folder with the



original case number. The duplicate file should be retained until, at a minimum, the time in the order has passed. Once the time in the order has passed, the file may be destroyed pursuant to RRS No. 7.6D. or 7.6E.

RULE 12.2 - DATE STAMP ON FILINGS:

The clerk shall record the actual date of filing on all copies of the petition or any other filings in juvenile proceedings.

COMMENTS:

- A. The best practice for the clerk in stamping the date and time of filing is to place his or her initials by the date and time stamp. While initialing the date and time stamp is not required, it is useful in tracking errors in filing and preventing the filing of papers without the clerk's control or knowledge.
- B. When there is an emergency situation and the clerk's office is closed, magistrates may accept juvenile petitions for filing. (See G.S. §7B-404 and §7B-1804). Petitions received by a magistrate must be delivered to the clerk's office as soon as the office is opened for business. The clerk shall record the date it is actually received in the office as the date of filing.

RULE 12.3 - FILE NUMBERS:

The first petition filed relating to a juvenile shall be assigned the next available file number from the juvenile series for that year. The format for the juvenile series is: year of filing (i.e., 06); court designation "J" for juvenile; and, the unique sequence number that begins with "1" at the beginning of each calendar year, (1, 2, 3, 4, etc.). Examples of complete file numbers are; 06J1, 06J2, 06J3, etc.

The format for the voluntary foster care placement of a young adult series (G.S. §7B-910.1) is: year of filing (i.e., 2017); case type "JA"; and the unique sequence number that begins with "1" at the beginning of each calendar year, (1, 2, 3, 4, etc.). Examples of complete file numbers are 17JA1, 17JA2, 17JA3, etc.

COMMENTS:

- A. The designation of A, B, T, E or P for the subfolders of the case file are not considered part of the case number. They are used only to separate different types of case documents within the file. When a file number is assigned to a voluntary foster care placement of a young adult case it receives a "JA" file number and there are no subfolders in these cases.



- B. If a petition involves more than one juvenile, a number must be assigned to each individual juvenile. (See Comment B following RRK 12.1)
- C. If using the JWisE system, the file number will appear in the following format: 06JA1 (abuse, neglect, dependency), 06JB1 (undisciplined or delinquency) 06JT1 (TPR), or 06JE1 (emancipation).

RULE 12.4 - INDEX TO JUVENILE CASES:

The clerk shall maintain an Index To Juvenile Proceedings. This index shall indicate the name of the juvenile, the nature of the case [i.e., abuse, neglect, dependency, undisciplined, delinquency, emancipation or TPR], the file number, and whether the case has been appealed to the Court of Appeals. If a TPR or an adjudication of delinquency is contained in the file, this should be noted on the index. The Index to Juvenile Proceedings is not open to public inspection.

RULE 12.5 - ACCESS TO FILES:

Abuse, neglect, and dependency cases are not open to public inspection. The record includes the summons, petition, any custody order, court order, written motion, electronic or mechanical recording of the hearing, and other papers filed in the proceeding. (See G.S. §7B-2901). The following persons may review the record and obtain copies of the written parts of the record without a court order:

- A. The person named in the petition as the juvenile;
- B. The guardian ad litem;
- C. The county department of social services; and
- D. The juvenile's parent, guardian, or custodian, or attorney for the juvenile or the juvenile's parent, guardian, or custodian.

Undisciplined and delinquency cases are not open to public inspection. The record includes the summons and petition, any secure or nonsecure custody order, any electronic or mechanical recording of hearings, and any written motions, orders or papers filed in the proceedings. (See G.S. §7B-3000). In undisciplined and delinquency cases, the following persons may examine the juvenile's record and obtain copies of written parts of the record without a court order:

- E. The juvenile or the juvenile's attorney;
- F. The juvenile's parent, guardian, or custodian, or the authorized representative of the juvenile's parent, guardian, or custodian;
- G. The prosecutor;



- H. Court counselors; and
- I. Probation officers in the Section of Community Corrections of the Division of Adult Corrections, as provided by G.S. §7B-3000(e1).

COMMENTS:

- A. The court may direct the clerk to "seal" any portion of the juvenile's record. The clerk shall secure any sealed portion of a juvenile's record in an envelope clearly marked "SEALED: MAY BE EXAMINED ONLY BY ORDER OF THE COURT." The sealed information may be examined only by court order. (See G.S. §7B-3000 (c))
- B. Law enforcement officers are only allowed to review documents in subfolder B if accompanied by the prosecuting attorney. The district attorney may make copies of information contained in subfolder B, but law enforcement officers are not entitled to copies.
- C. An electronic recording of the juvenile proceedings shall only be transcribed when notice of appeal has been timely given. The electronic recording can only be copied electronically or mechanically by order of the court. G.S. §7B-3000(d) (G.S. §7B-806 and §7B-2410). (See RRK 10 for WebEx recording requirements.)
- D. Entry of a TPR changes the legal relationship between a parent and child. The parent should not have access to documents filed subsequent to the TPR even if the TPR is on appeal unless the court has stayed the TPR order on appeal. These documents should be bound together, placed within the appropriate sub-folder, and removed prior to providing the file to a parent for review. (See G.S. §7B-1112)
- E. Orders Determining Parentage in Juvenile Proceedings. (see RRK 12.19 below)

RULE 12.6 - EXPUNCTION OF RECORDS:

Certain records of juvenile delinquency/undisciplined proceedings can be expunged upon an order from the juvenile court in which the adjudication or proceeding occurred. G.S. §7B-3200 provides for expunction of these records in subsections:

- (a) – expunction of adjudications of undisciplined status
- (b) – expunction of certain adjudications of delinquency
- (h) – expunction of dismissed allegations of delinquency or undisciplined status



This rule covers only the basics of filing and disposing of juvenile expunction petitions. For detailed procedures to carry out this rule, see the “Expunction Guide for Clerks” from NCAOC’s Court Services, available on JUNO.

Filing: An expunction petition for juvenile records is to be filed in the “JB” subfolder containing the records of the allegation/adjudication addressed by the petition. If the JB subfolder already has been destroyed pursuant to the retention schedule, create a new JB subfolder for the expunction petition and related filings.

Expunction Order Appealed: If the court’s order granting or denying the expunction is appealed, retain all documentation related to the petition until final resolution of the appeal. If the order was granted and appealed by the State, treat the order as granted while the appeal is pending, unless the court orders otherwise, remove the expunged records from the primary juvenile file, keeping them in a secure location that is unavailable to persons who otherwise may have access to the juvenile files (e.g., court counselors).

Petition Denied: If the proceeding results in a denial of the petition, whether after an appeal or by the trial court and not appealed, place the denial order in the JB subfolder, but destroy all attachments (e.g., affidavits of good character). If the JB subfolder is later destroyed pursuant to the retention schedule, destroy the denied order with the subfolder. If the JB subfolder was destroyed pursuant to the retention schedule prior to the filing of the petition, then the petition (and its temporary subfolder) may be destroyed upon NCAOC approval.

Petition Granted: (Note: Detailed procedures for each of the steps below are provided in the “Expunction Guide for Clerks.”)

1. Pursuant to G.S. 7B-3202, provide written notice of the granted order to the juvenile by sending a certified copy to the juvenile’s last known address. If the petition was filed on the AOC-J-909 for dismissed allegations of undisciplined status or delinquency, notice of the granted petition may be given on the same form. If the petition was filed in any other format, use AOC-J-906 to provide notice to the juvenile.
2. Expunge only the allegations/adjudications specified in the expunction order.
 - a. If records of other delinquency/undisciplined proceedings exist in the petitioner’s JB subfolder, retain those other records.
 - b. If the petitioner had no other delinquency/undisciplined proceedings, expunge the entire JB subfolder.
 - c. If the JB subfolder is expunged and constituted the petitioner’s only juvenile proceeding for the county, expunge the entire juvenile file and remove the petitioner’s name from the Index to Juvenile Actions (i.e., the JWise system).



3. Expunge the paper and electronic records as directed in the “Expunction Guide for Clerks.”
4. Do not expunge civil records arising from the juvenile proceeding, such as civil judgments for attorney fees against a parent or guardian. (See RRK 12.17)
5. Notify State and local law enforcement agencies as directed in the “Expunction Guide for Clerks”.
6. The clerk must send a certified copy of the expunction order to the NCAOC at the address in the guide. Note that if the expunction was for a dismissed allegation of delinquency or undisciplined status, provide a certified copy to the court counselor, also.
7. See the “Expunction Guide for Clerks” for “Other Cases & Special Situations” in juvenile expunction proceedings, such as juveniles whose names are recorded on the former, manual index to juvenile actions (the “green book”), expunging the verbatim recording of juvenile proceedings, and cases in which there was a change of venue to another county.

COMMENTS:

- A. The NCAOC provides template forms for juvenile expunction proceedings. See AOC-J-903, J-904, J-906, and J-909. While parties are not required to use NCAOC forms for these proceedings, the forms cover all of the components of the expunction proceeding, so clerks should encourage petitioners to use them.
- B. As custodian of the record, the clerk’s function in the expunction process is to receive petitions for filing, schedule the petitions for hearing when required, and then file and carry out any order entered by the court. Questions such as whether or not a particular juvenile case qualifies for expunction, whether or not the correct form has been used, and whether or not any affidavits or other materials required by the expunction statute have been included are not of concern to the clerk’s office. The court before which the petition is heard must determine any questions of its adequacy. Occasionally, a court may enter an order for expunction that appears questionable on its face. When such an order has been entered (e.g., expunction of adjudication of a Class A - E felony, prohibited by G.S. §7B-3200(b)), the clerk may wish to confirm with the judge who entered the order that the order is what the court intended. If the judge indicates that the order is as intended, then the clerk should carry the order out.

RULE 12.7 - CHANGE OF VENUE, OR TRANSFER OF CASE TO ANOTHER COUNTY OR TRIBAL COURT:



Transfer to Another County: The clerk shall ask the judge for instructions regarding whether the entire case or portions thereof are being transferred and what specifically the clerk should send to the other county. The clerk should transfer only those documents ordered transferred by the judge. Upon the filing of an order of the court transferring a case from one county (venue) to another, the clerk in the original county shall prepare a certified copy of the order of transfer and forward it along with all original papers in the file related to the juvenile proceedings specified in the order to the clerk in the receiving county by certified mail or other secure method. If the case has been scanned into EIMS, then it should be printed and certified to send to the transfer county. The clerk in the original county shall retain the original order of transfer along with photocopies of all the papers transferred.

Transfer to Tribal Court: The clerk may receive a request/order from a tribal court to transfer a juvenile case to the tribal court. The clerk shall ask the presiding district court judge for instructions regarding whether the case or portions thereof should be transferred to the tribal court. The clerk should transfer only those documents ordered transferred by the district court judge. Upon the filing of the district court judge's order to transfer the case, the clerk shall prepare a certified copy of the order of transfer and forward it along with copies of all papers in the file related to the juvenile proceedings specified in the order. If the case has been scanned into EIMS, then it should be printed and certified to send to the transfer county. The clerk in the original county shall retain the original order of transfer and the originals of all the papers transferred.

COMMENTS:

Transfers of abuse/neglect/dependency proceedings after adjudication shall occur within three business days of the entry of the order transferring venue (G.S. §7B-900.1). Transfers of other cases should be done as rapidly as possible.

No recording(s) of the juvenile proceeding(s) should be sent by the transferring county to the receiving county or the tribal court, unless ordered by a district court judge in the transferring county. If the case is appealed, the clerk in the hearing county shall submit the requested recording(s) to the transcriptionist.

Upon receiving a case that has been transferred from another county or a tribal court, the clerk shall promptly assign an appropriate file number to the case, ensure that any necessary appointments of new attorneys or guardians ad litem are made; and calendar the next court action as set forth in the order transferring venue and give appropriate notice to all parties.

RULE 12.8 - TRANSFER OF A CASE TO SUPERIOR COURT:



RULE 12.8.1 - When the offense is a Class A felony committed by a juvenile who is 13 or older or a Class A-G felony committed by a juvenile at age 16 or 17, transfer to superior court is mandatory if the court finds probable cause. In such cases, form AOC-J-343, Juvenile Order – Probable Cause Hearing, is the initiating document in the superior court file. When transfer to superior court is ordered based on a transfer hearing for a non-mandatory transfer, form AOC-J-442, Juvenile Order Transfer Hearing, is the initiating document in the superior court file.

The record of a juvenile case remains confidential even after jurisdiction over the juvenile is transferred to superior court. The initiating document, either form AOC-J-442 or AOC-J-343, is the only document from the juvenile file that may become part of the public record of the superior court proceedings, along with all documents made part of the record after transfer, which includes form AOC-CR-922, Release Order for Juvenile Transferred to Superior Court for Trial. [If the district court addresses the appointment or waiver of counsel for the juvenile’s superior court proceeding, i.e., AOC-CR-226 (Affidavit of Indigency) and AOC-CR-224 (Order of Assignment or Denial of Counsel) or AOC-CR-227 (Waiver of Counsel), all documents related to that counsel determination should also become part of the public record of the superior court proceedings.]. A copy of the initiating document (AOC-J-442 or AOC-J-343) and any other documents made part of the record after transfer should be kept in the juvenile case file. Do not create a CRS file or enter information in the ACIS system for 10 days after entry of the transfer in order to allow opportunity for appeal.

Appeals of a transfer: When a transfer order is appealed, the appeal is heard in Superior Court. Notice of the appeal may be given in open court during the hearing or in writing within 10 days after the entry of the order. (NOTE: Entry means reduced to writing, signed by the judge, and filed with the clerk.) The clerk shall also provide a copy of the written notice of appeal filed by the juvenile’s attorney to the district attorney. The appeal should be included on the superior court calendar as an add-on hearing/case using the title “In the Matter of 06JB1492” and listing only the issue of “Appeal of Transfer”. The offense or the juvenile’s name may not be entered on the calendar. The clerk completing the case transfer shall add the case into the ACIS system only when the superior court judge denies the transfer appeal. If the appeal is granted, and thus the transfer does not move forward, all related documents are filed in the juvenile folder and no entry is made in the ACIS system.

RULE 12.8.2 – TRANSFER TO SUPERIOR COURT UPON NOTICE OF THE RETURN OF A TRUE BILL OF INDICTMENT:

When the offense is a Class A felony committed by a juvenile who is 13 or older or a Class A-G felony committed at age 16 or 17, transfer to superior court is mandatory upon notice to the juvenile of the return of a true bill of indictment as provided in G.S. 15A-630. When transfer to



superior court is based on the return of a bill of indictment, form AOC-J-444, Juvenile Order – Transfer After Bill of Indictment, is the initiating document in the superior court file.

The record of a juvenile case remains confidential even after jurisdiction over the juvenile is transferred to superior court. The initiating document, form AOC-J-444, is the only document from the juvenile file that may become part of the public record of the superior court proceedings, along with all documents made part of the record after transfer, which includes form AOC-CR-922, Release Order for Juvenile Transferred to Superior Court for Trial. [If the district court addresses the appointment or waiver of counsel for the juvenile’s superior court proceeding, i.e., AOC-CR-226 (Affidavit of Indigency) and AOC-CR-224 (Order of Assignment or Denial of Counsel) or AOC-CR-227 (Waiver of Counsel), all documents related to that counsel determination should also become part of the public record of the superior court proceedings.] A copy of form AOC-J-444 and any other documents made part of the record after transfer should be kept in the juvenile case file. Do not create a CRS file or enter information in the ACIS system for 10 days after entry of the transfer in order to allow opportunity for appeal.

NOTE: The court may enter a transfer order based on the return of a bill of indictment without a hearing. If form AOC-J-444 is entered without a hearing, the prosecutor or judge should forward a copy of the order to the juvenile clerk to process the transfer.

Appeals of a transfer: When a transfer order is appealed, the appeal is heard in Superior Court. Notice of the appeal may be given in open court during the hearing or in writing within 10 days after the entry of the order. (**NOTE:** Entry means reduced to writing, signed by the judge, and filed with the clerk.) The clerk shall also provide a copy of the written notice of appeal filed by the juvenile’s attorney to the district attorney. The appeal should be included on the superior court calendar as an add-on hearing/case using the title “In the Matter of 06JB1492” and listing only the issue of “Appeal of Transfer”. The offense or the juveniles name may not be entered on the calendar. The clerk completing the case transfer shall add the case into the ACIS system only when the superior court judge denies the transfer appeal. If the appeal is granted, and thus the transfer does not move forward, all related documents are filed in the juvenile folder and no entry is made in the ACIS system.

RULE 12.8.3 – REMAND TO DISTRICT COURT AFTER TRANSFER (REVERSE TRANSFER):

Upon the joint motion of the prosecutor and the juvenile’s attorney, the superior court must remand the charges back to district court for juvenile adjudication and order the expunction of the superior court charges. The superior court judge should use form AOC-CR-291, Motion and Order to Remand Case from Superior Court to District Court and Order of Expunction under G.S. §15A-145.8, to both remand the case and expunge the superior court charges. If the superior court judge issues a secure custody order, the judge should use form AOC-J-440, Order for Secure



Custody/Detention (Undisciplined/Delinquent) and check the box “On Remand from Superior Court” in the caption. The criminal clerk should forward a copy of the AOC-CR-291, along with the original transfer order (i.e., AOC-J-343, AOC-J-442 or AOC-J-444), the AOC-J-440 if executed, and any order assigning counsel for the juvenile, to the juvenile clerk for placement in the JB file. Once the original transfer order has been returned to the JB file, any copy of that order contained in the JB file may be destroyed.

Upon receipt of a copy of the AOC-CR-291, the juvenile clerk should calendar the case for adjudication, unless otherwise instructed by the prosecutor or juvenile court counselor and send notice of the hearing to all parties using form AOC-J-240A, Notice of Hearing in Juvenile Proceeding (Delinquent). The hearing should be scheduled for a date that provides the parties with at least 5 days written notice, as required by G.S. §7B-1807.

RULE 12.9 - NOTIFICATION OF APPOINTED ATTORNEY:

Where an attorney is appointed by the court to represent a juvenile or parent(s) in a juvenile proceeding the clerk shall send the Notice of Appointment to the attorney in a sealed envelope. (NOTE: You may also place the sealed envelope in the attorney’s mailbox located within the courthouse, if this is the established practice in your county.)

- A. Court appointed attorneys may be appointed by either a District Court Judge or the clerk. If an abuse, neglect, or dependency petition is filed, the clerk must appoint provisional counsel at the time of filing.
- B. An attorney should not be appointed for a juvenile alleged to be undisciplined.
- C. A juvenile does not need to prove indigence to receive a court-appointed attorney. However, parents seeking court appointed representation must go through the indigence screening process.
- D. When the parents are eligible for court appointed attorneys, separate attorneys should be appointed for each parent.
- E. In all TPR cases, a parent who is indigent is entitled to an appointed attorney unless the parent waives the right to counsel (Note: It does not matter whether the petition to terminate was filled by DSS or a private petitioner.)
- F. When a juvenile in a delinquency or undisciplined action is placed in the custody or placement responsibility of DSS, a parent who is indigent is entitled to an appointed attorney



for representation in hearings conducted pursuant to G.S. §7B-906.1 (review of placement), unless the parent waives the right to counsel. The court should address the issue of counsel with the juveniles' parent(s) at the dispositional hearing in which the juvenile is placed in custody to ensure that court-appointed counsel is assigned prior to the G.S. §7B-906.1 hearing. If counsel is appointed to represent a parent, the clerk should provide notice to the attorney, as provided in RRK 12.9.

RULE 12.10 - CALENDARS:

The clerk shall tightly control the distribution of juvenile calendars to ensure the confidentiality of the information listed on the calendar. In all juvenile proceedings, the presiding judge and the courtroom clerk shall each receive a copy of the juvenile calendar.

Delinquency Sessions of Court. One copy of the juvenile calendar shall be given to the district attorney, the chief court counselor and any attorney representing a juvenile on the calendar.

Abuse/Neglect/Dependency Sessions of Court. One copy of the juvenile calendar shall be given to the DSS attorney, the GAL Program Administrator, the GAL Attorney Advocate, and any attorney representing a parent on the calendar.

A juvenile calendar shall never be provided to the juvenile or the juvenile's parents.

COMMENTS:

- A. The clerk may want to write the name of the person receiving the juvenile calendar on the calendar provided to the person.
- B. If the calendar is not handed directly to the person authorized to receive the calendar, for example, the calendar is placed in the attorney's mailbox located in the clerk's office, it should be placed in a sealed envelope.

RULE 12.11 - MINUTES:

The clerk shall record the minutes of the juvenile court proceedings by making brief notations on the court calendar showing the disposition of each case heard during the session.

Juvenile court minutes shall be kept confidential.

RULE 12.12 - AUTOMATED AUDIT REPORTS:

These reports are confidential and should not be distributed. The reports should be stored in a secured manner as any other juvenile record.

RULE 12.13 –

- A. MICROFILM: No part of the juvenile case file shall be microfilmed, including the attorney fee judgments.
- B. SCANNING INTO EIMS (Enterprise Information Management System): REPEALED EFFECTIVE APRIL 29, 2019 and RESERVED FOR FUTURE USE.

RULE 12.14 - EMANCIPATION ORDERS:

The certificate of emancipation shall be filed as a Registration and treated as any other filing of that type.

COMMENTS:

Only the certificate of emancipation order shall be filed as a Registration. The petition and all other supporting documents shall remain in the juvenile file. Emancipation proceedings are as confidential as any other juvenile proceeding. However, where an order of emancipation has been entered the juvenile may receive a Form AOC-J-902M, Certificate Of Emancipation, at any time to verify that status.

RULE 12.15 - RECORDING JUVENILE HEARINGS:

All adjudicatory, dispositional, probable cause, and transfer to superior court hearings shall be recorded. The court may order that other hearings be recorded. (See RRK 19 for Webex recording requirements.)

COMMENTS:

- A. The log of what is recorded is considered part of the minutes and should be physically attached to it.
- B. When a case is heard out-of-county, but venue remains in the originating county, the recording should be sent to the originating county and kept with the case file. When the venue of a case is transferred to another county, the juvenile's file is sent to the transfer county, and the recording will remain in the hearing county.
- C. If a case is later appealed, the clerk in the county where a recording exists must submit the recording to a transcriptionist. The juvenile clerk in the county where notice of appeal is given must notify the clerk in any other county with a recording that the case has been appealed.



The clerk must provide the name and contact information for the assigned transcriptionist to the clerk in any other county with a recording.

RULE 12.16 - PETITIONS FOR JUDICIAL REVIEW: DHHS LIST OF “RESPONSIBLE INDIVIDUALS”:

The clerk shall establish a case file for each petition filed under G.S. §7B-323 seeking judicial review of a determination that the petitioner is a responsible individual. The clerk shall use one sequential number series for all responsible individual petitions filed. Each petition will be assigned the next available number from that JRI series. No index is to be maintained for these cases.

The format for the responsible individual series is: Year of filing and case type designator (i.e., 07JRI); and the unique sequence number that begins with "1" at the beginning of each calendar year, (1, 2, 3, 4, etc.). Examples of complete file numbers are; 07JRI-1, 07JRI-2, 07JRI-3, etc.

JRI files are to be maintained by the Juvenile Department in the clerk’s offices. However, they are to be kept separate from the juvenile files. Each hearing shall be recorded to a CD with no other cases or hearings on the same CD. (See RRS No. 7.11.1 for retention requirements and See RRK 19 for WebEx recording requirements.)

RULE 12.17 - PROCESSING FEE APPLICATIONS WITH JUDGMENT ORDERED:

If the court enters a judgment on side two of the Fee Application/Judgment Order the original judgment shall be placed in a file titled, “Juvenile Fee Apps Reduced to Judgment”, in case number order. A copy of this judgment shall be placed in the related juvenile file.

If the court did not enter a judgment on side two of the Fee Application/Judgment Order, the original judgment shall remain in the related juvenile file.

Periodically the clerk may compare the judgments in the Juvenile Fee Apps Reduced to Judgment file against the VCAP system to determine if any have been satisfied. If so, they may be destroyed one year after the satisfaction date, without NCAOC approval. Fee Application/Judgment Orders held in the “Fee Applications Reduced to Judgment” folder continue to be maintained in as confidential a manner as any other documents filed in a juvenile proceeding.

RULE 12.18 - NOTIFICATION OF FOSTER PARENTS:

The foster parent of a juvenile must be given 15 days’ notice of all review hearings. The Department of Social Services must provide the clerk with the name and address of the foster parent providing care for the juvenile or provide written documentation to the clerk that the foster parent was sent notice of the



hearing. If the clerk sends the notice, the clerk should not include the foster parent's name and address on the same notice sent to the juvenile's biological parents.

A notice to a foster parent should be housed separately from the juvenile file. The clerk should retain the notice in a suitable repository associated with the court calendar referred to in the notice. Access to this repository should be limited to the clerk of superior court.

RULE 12.19 – ORDERS DETERMINING PARENTAGE IN JUVENILE PROCEEDINGS:

A juvenile proceeding may involve an adjudication affecting a child's parentage. When a judicial determination of parentage is entered in a juvenile proceeding, the court may issue a stand-alone Order that addresses the juvenile's parentage. The original stand-alone order should be placed in the new CVD file and a copy retained in the juvenile file. (See RRK 3.1, B,12(b))

RULE 12.20 – VICTIMS' RIGHTS MOTION IN DELINQUENCY CASES:

In some delinquency cases, a victim (or a person acting on behalf of a victim) may assert his or her rights by filing a motion with the clerk of superior court in the same juvenile action that gave rise to the rights in question. Upon request, the clerk of superior court in each county shall provide form AOC-J-380, Motion and Order to Enforce Rights of Juvenile Delinquency Victim, to a person who seeks to file a victims' rights motion in a delinquency case. There are no filing fees for this motion.

Upon the filing of form AOC-J-380 with the clerk's office, the clerk shall forward copies of the motion to the prosecutor (if the prosecutor is not the elected district attorney), the elected district attorney, and the judge involved in the proceeding that gave rise to the rights in question. Upon receipt of the motion, the judge must review the motion in a timely manner. At the conclusion of this review, the judge must dispose of the motion or set it for a hearing.

If the judge sets the motion for a hearing, the clerk shall provide notice of the hearing to the person who filed the motion and the prosecutor (if the prosecutor is not the person filing the motion). The notice of hearing for this motion is included on side two of form AOC-J-380.

NOTE: A victim in a delinquency case is not entitled to examine or obtain copies of confidential juvenile records (see G.S. §7B-2057). When providing form AOC-J-380 to a victim, the clerk shall not acknowledge the existence of the juvenile's case or disclose any information from the confidential juvenile record, including the file number. The clerk should refer the victim to a prosecutor for any questions about the case or assistance completing the form. Once the motion is filed with the clerk, it becomes part of the juvenile's confidential record, and the clerk cannot provide a copy to the victim, unless ordered to do so by the court to provide notice of a hearing on the motion.



RULE 12.21 – PROCESSING SEARCH WARRANTS AND NONTTESTIMONIAL IDENTIFICATION ORDERS IN DELINQUENCY CASES:

Search warrants and Nontestimonial Identification Orders filed in juvenile cases are confidential juvenile records and must be kept in a secure location along with other juvenile files. Upon issuance of a search warrant or Nontestimonial Identification Order in a juvenile matter, the judicial official shall forward the court record copy of these documents to the juvenile clerk. The juvenile clerk shall file these in the case folders that contain the juvenile petition. Where there is no pending petition, this copy of the warrant or order shall be filed alphabetically in a confidential folder designated for these documents, which shall be kept in the file cabinet with other juvenile files. When the original warrant or order is returned to the clerk, it shall be filed in the case folder that contains the juvenile petition. Where there is no related pending petition, the original warrant or order shall be filed alphabetically in the confidential folder designated for these documents. Those copies of these warrants or orders being held by the clerk may be destroyed once the original is received by the clerk's office. If no petition is ever filed, the original warrant or order may be destroyed pursuant to RRS No.

7.8.< of the Retention Schedule.

RULE 12.22 – NOTICE TO STATE BAR:

The clerk shall transmit to the NC State Bar a certified copy of any order finding a NC licensed attorney in contempt of court within 10 days of entry of such order. (G.S. §84-36.1)

