

Rule 12.1 - CASE FILE FOLDER ESTABLISHED: 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-100 through 7B-1004]
2. A proceeding under the Interstate Compact on the Placement of Children [G.S. 7B-3800 through 7B-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
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have surrendered the child for adoption or when a child returns to foster care after an adoption is dismissed or withdrawn [G.S. 7B-909]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 7B-2706]
8. A proceeding under the Interstate Compact on Juveniles [G.S. 7B-2800 through 7B-2827]
9. A **termination** of parental rights (TPR) proceeding whether initiated by petition or motion [G.S. 7B-1100 through 7B-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 7B-3509]

The case file shall be divided into sub-folders:

- *Subfolder A* shall contain all documents relating to proceedings 1-6 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.



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

COMMENTS:

A. Subfolders may be held together in a larger folder or simply filed next to each other.

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 no 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. All documentary evidence offered and entered into evidence during a juvenile proceeding should remain in the file until the juvenile file is destroyed.

G. 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)]

H. Parents may be ordered to appear and show cause why they should not be held in criminal contempt in a juvenile case. (G.S. 7B-904 and 7B-2706) The document finding the parent in criminal contempt should be used as the initiating document for establishing a criminal file. The file should be given the next available CR number and

entered into the Automated Criminal Information System (ACIS). (Note: Please see form AOC-CR-390 Direct Criminal Contempt/Summary Proceedings/Findings and Order as an initiating document to be used by the court.)

Parents who fail to appear in court for a juvenile proceeding, as required, may be served with a show cause order to appear in court on a certain date to show cause why the parent should not be held in indirect criminal contempt. If the parent is served with the show cause order, but fails to appear for the show cause hearing, the court may issue an order for the parent's arrest. A separate criminal file should be established using a copy of AOC-J- 155 or AOC-J-344 as the initiating document. All references to the juvenile should be removed from the AOC-J-155 or AOC-J-344. If the court enters a criminal contempt order on AOC-J- 156 or AOC-J-345, place the form in the criminal file after removing all references to the juvenile.

Parents may be ordered to appear and show cause why they should not be held in civil contempt for failing to comply with an order or directive entered by the juvenile court. The show cause order and any subsequent orders should be placed in the originating juvenile case file. This civil contempt information shall not be entered into ACIS or VCAP.

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.

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 merely used to separate different types of case documents within the file.



B. If a petition involves more than one juvenile, a number must be assigned to each individual juvenile. (See Comment B following Rule 12.1)

C. If using the J-Wise 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 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 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 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. 7B-3000(d) (G.S. 7B-806 and 7B-2410).

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)

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 Division, available on the NCAOC intranet site.

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. Give notice of the granted order to the petitioner. If the petition was filed on the AOC-J-909M 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-906M to provide notice to the petitioner.
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.*, JWise).
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 Rule 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-903M, J-904M, J-906M, and J-909M. 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: 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. The clerk in the original county shall retain the original order of transfer along with photocopies of all the papers transferred.

COMMENT:

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

Upon receiving a case that has been transferred from another county, 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: The record of a juvenile case remains confidential even after jurisdiction over the juvenile is transferred to superior court. Form AOC-J-442, Juvenile Order Transfer Hearing, is the initiating document in the superior court file. This 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. A copy of the transfer order should be kept in the juvenile case file. Do not create a CRS file or enter information in ACIS for 10 days after entry of the transfer in order to allow opportunity for appeal.

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 ACIS 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 ACIS.

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.)

Rule 12.10 - CALENDARS: The clerk shall tightly control the distribution of juvenile calendars to insure 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 mail box 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 - MICROFILM: No part of the juvenile case file shall be microfilmed, including the attorney fee judgments.

Rule 12.14 - EMANCIPATION ORDERS: The certificate of emancipation shall be filed as a Registration and treated as any other filing of that type.

COMMENT:

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.

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 the recording should remain in the county of hearing.

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.

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. The CDs are to be held in the JRI file folder for one year after the hearing. After that the file and CD may be destroyed without AOC approval.

No index is to be maintained for these cases.

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 VCAP 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.

