

# ALABAMA RULES OF JUVENILE PROCEDURE

## Rule 1.

### General procedure and time limitations.

(A) These Rules shall be known as the Alabama Rules of Juvenile Procedure and shall govern the procedure for all matters in the juvenile court. If no procedure is specifically provided in these Rules or by statute, the Alabama Rules of Civil Procedure shall be applicable to those matters that are considered civil in nature and the Alabama Rules of Criminal Procedure shall be applicable to those matters that are considered criminal in nature. Except as otherwise provided by constitutional provision, statute, these Rules, or other rules adopted by the Supreme Court of Alabama, the Alabama Rules of Evidence shall apply in all proceedings in the juvenile courts. For all matters in the juvenile courts, the phrase "entry of order or judgment" shall have the same meaning as prescribed in Rule 58(c) of the Alabama Rules of Civil Procedure.

(B) Procedure shall be uniform in all juvenile courts, whether at the circuit court or the district court level or in the circuit court by trial de novo. In all juvenile courts, if an answer or other pleading is filed by a party pursuant to Rule 12, Alabama Rules of Civil Procedure, the answer or other pleading shall be filed within the 14-day period provided in Rule 12(dc), Alabama Rules of Civil Procedure, regardless of whether the juvenile courts are circuit courts or district courts. All postjudgment motions, whether provided for by the Alabama Rules of Civil Procedure or the Alabama Rules of Criminal Procedure, must be filed within 14 days after entry of order or judgment and shall not remain pending for more than 14 days, unless, within that time, the period during which a postjudgment motion may remain pending is extended:

- (1) By written order of the juvenile court on its own motion, or upon motion of a party for good cause shown, for not more than 14 additional days; or
- (2) Upon the express written consent of all the parties, which consent shall appear of record; or
- (3) By the appellate court to which an appeal of the judgment would lie.

A failure by the juvenile court to render an order disposing of any pending postjudgment motion within the time permitted hereunder, or any extension thereof, shall constitute a denial of such motion as of the date of the expiration of the period.

(C) Summary-judgment motions may be filed at any time after a petition is filed pursuant to Rule 12(c)(2); provided that such motions are served upon all the parties in the case at least seven days before the time fixed for an

adjudicatory hearing. The juvenile court retains jurisdiction to amend judgments for 14 days after the entry of order or judgment. Where execution or similar proceedings are appropriate to enforce a judgment, such action shall not be taken for 14 days.

(D) A claim that counsel in a juvenile transfer hearing has been ineffective shall be filed in the circuit court or the district court to which the case has been transferred no later than seven days from the date of the arraignment in the circuit court or the district court. The circuit court or the district court must rule on the ineffective-assistance claim before trial of the case can begin. If the circuit court or the district court finds that counsel in the juvenile transfer hearing was ineffective, it shall remand the case to the juvenile court for a new juvenile transfer hearing.

(E) For purposes of these Rules, the term "legal guardian" means a person who has been appointed by a probate court pursuant to the Alabama Uniform Guardianship and Protective Proceedings Act, Ala. Code 1975, § 26-2A-1 et seq., to be a guardian of a person under 19 years of age who has not otherwise had the disabilities of nonage removed. The term "legal guardian" also includes a "kinship guardian" as defined in Ala. Code 1975, §§ 12-15-301(6) and 38-12-32(5).

[Amended 11-5-85, eff. 11-15-85; Amended eff. 5-1-94; Amended eff. 8-1-2000; Amended eff. 1-5-2006; Amended eff. 6-22-2007; Amended eff. 1-9-2009; Amended 7-14-2011, eff. 10-1-2011; Amended 5-1-2014, eff. 7-1-2014.]

### **Comment**

Because juvenile jurisdiction may be exercised by district courts as well as circuit courts, the reference in Rule 1 to the Alabama Rules of Civil Procedure contemplates the Rules of Civil Procedure as modified for applicability in the district courts where juvenile jurisdiction is exercised at the district court level. This Rule is meant to apply in dependency, custody, or other proceedings of a civil nature filed in the juvenile court where no rule of juvenile procedure addresses the matter.

See § 5-151, Act No. 1205, Ala. Acts 1975 (Regular Session), codified at Ala. Code 1975, § 12-15-76. In exercising jurisdiction in minor or adult cases of a criminal nature involving either a minor or an adult, including, but certainly not limited to, contributing to the delinquency of a minor, delinquency, need of supervision, or criminal nonsupport cases, procedures and dispositions applicable in criminal courts are applicable to trial in the juvenile court.

When used in Rule 1, "court" refers to the juvenile court.

[Comment amended effective May 1, 1994.]

**Comment to Amendment Effective  
August 1, 2000**

The adoption of Rule 1(C) was intended to resolve the problem raised by the case of *Ex parte A.D.R.*, 690 So.2d 1208 (Ala.1996), in which a juvenile, transferred to circuit court for trial as an adult, alleged that his counsel in the transfer hearing had been ineffective. He made this claim after the time for filing an appeal from the transfer order had expired. The Supreme Court, in that case, allowed an out-of-time appeal from the transfer order.

Rule 1(C) provides that a claim that counsel in a transfer hearing was ineffective shall be filed in the circuit court to which the juvenile's case has been transferred, no later than seven days after arraignment. Trial of the case cannot proceed until the ineffective-assistance claim has been ruled on. If the circuit court denies the claim, the issue of ineffective assistance of counsel at the transfer hearing becomes an issue on appeal.

The question of ineffective assistance of counsel in a transfer hearing in which the juvenile is transferred to the district court for trial as an adult shall not be an issue at trial in the district court but may be raised in the circuit court before trial de novo in that court.

**Comment to Amendment to Rule 1  
Effective June 22, 2007.**

Subsection (A) was amended by adding the last sentence to provide that "[f]or all matters in the juvenile court, the phrase 'entry of order or judgment' shall have the same meaning as prescribed in Rule 58(c) of the Alabama Rules of Civil Procedure." Rule 58(c) was revised effective September 19, 2006, to provide that a judgment is deemed "entered" within the meaning of the Rules of Civil Procedure and the Rules of Appellate Procedure "as of the actual date of the input of the order or judgment into the State Judicial Information System." The amendment to Rule 1(A) would make Rule 58(c) applicable to all matters in the juvenile court.

Technical changes were made to subsections (B) and (C) for clarification.

**Comment to Amendment to Rule 1(A)  
Effective January 9, 2009**

Subsection (A) was amended to clarify that the Alabama Rules of Civil Procedure shall apply in those matters in the juvenile court that are considered civil in nature and that the Alabama Rules of Criminal Procedure shall apply in those matters in the juvenile court that are considered criminal in nature.

Because procedures for civil and criminal contempt are not provided in these Rules, the rules that are applicable depends on whether the civil or criminal contempt arises in matters that are considered civil or criminal in nature. If the civil or criminal contempt arises in matters that are considered civil in nature, Rule 70A of the Alabama Rules of Civil Procedure applies; if the civil or criminal contempt arises in matters that are considered criminal in nature, Rule 33 of the Alabama Rules of Criminal Procedure applies.

### **Comment to Amendment to Rule 1 Effective October 1, 2011**

Subsection (A) was amended by adding the phrase "[t]hese Rules shall be known as the Alabama Rules of Juvenile Procedure." This sentence was moved from former Rule 29, which now has been rescinded.

Subsection (B) was amended to provide for situations when an answer or other pleading may be filed in a child-support or a termination-of-parental-rights case.

Rule 12, Alabama Rules of Civil Procedure, provides for different times for filing pleadings in the district court and the circuit court. This rule was amended to provide one time period without regard to whether the circuit court or the district court was sitting as the juvenile court. One reason for this amendment is the holding in the case, *C.D.W. v. State ex rel. J.O.S.*, 852 So. 2d 159 (Ala.Civ.App. 2002), that a paternity/child-support case docketed with a "CS" case number is a juvenile court case governed by the Alabama Rules of Juvenile Procedure. Another reason is to expedite such juvenile court cases because of their nature and importance.

In addition, the amendment provides a means of extending the time for ruling on postjudgment motions. The former 14-day time period for ruling on postjudgment motions is sometimes insufficient to address the issues raised by these motions.

Part of former subsection (B) was redesignated subsection (C) and was amended to provide that summary-judgment motions may be filed at any time after an action has begun rather than being restricted to a certain number of days, provided they are served seven days before the time fixed for an adjudicatory hearing. Former subsection (C) was redesignated subsection (D) and was amended to provide that a claim that counsel in a juvenile transfer hearing was ineffective may be raised in the district court as well as in the circuit court if a case in which a child is alleged to be delinquent is transferred to one of those courts pursuant to Ala. Code 1975, § 12-15-203.

Subsection (E) was added to provide a definition of "legal guardian" for purposes of these Rules. The term "legal guardian" will include 1) a person who

has been appointed by a probate court pursuant to the Alabama Uniform Guardianship and Protective Proceedings Act, Ala. Code 1975, § 26-2A-1 et seq., to be a guardian of a person under 19 years of age who has not otherwise had the disabilities of nonage removed and 2) a "kinship guardian." A "kinship guardian" is defined in Ala. Code 1975, §§ 12-15-301(6) and 38-12-32(5), effective October 1, 2010, as "[a] caregiver who is willing to assume care of a child because of parental incapacity of a parent, legal guardian, legal custodian, or other dependency reason, with the intent to raise the child to adulthood, and who is appointed the kinship guardian of the child by a juvenile court. A kinship guardian shall be responsible for the care and protection of the child and for providing for the health, education, and maintenance of the child."

**Comment to Amendment to Rule 1  
Effective July 1, 2014**

Subsection (B) of Rule 1 was amended to provide for those situations in which an answer or other pleading is filed pursuant to Rule 12, Alabama Rules of Civil Procedure, because such pleadings are not required by statute or by these Rules to be filed in juvenile court proceedings. Subsection (B)(1) was amended to clarify that the extension permitted upon the court's motion or a motion of a party must be reflected in a written order.

Subsection (C) of Rule 1 changed the time in which summary-judgment motions may be filed. Formerly, a summary judgment motion could be filed any time after a case was commenced, provided it was served seven days before the hearing.

**Note from the reporter of decisions:** The order adopting Rule 1(C) and the comment, effective August 1, 2000, is published in that volume of *Alabama Reporter* that contains Alabama cases from 753 So.2d.

**Note from the reporter of decisions:** The order amending Rule 1(B), Rule 8, and Rule 28, effective January 5, 2006, is published in that volume of *Alabama Reporter* that contains Alabama cases from 917 So. 2d.

**Note from the reporter of decisions:** The order amending effective June 22, 2007, Rule 1, Rule 20, and Rule 28(C), and adopting effective June 22, 2007, Rule 13(E); the Comment to Rule 13(E) Adopted Effective June 22, 2007; the Comment to Amendment of Rule 1 Effective June 22, 2007; the Comment to Amendment of Rule 20 Effective June 22, 2007; and the Comment to Amendment of Rule 28(C) Effective June 22, 2007, is published in that volume of *Alabama Reporter* that contains Alabama cases from 957 So. 2d.

**Note from the reporter of decisions:** The order amending effective January 9, 2009, Rule 1(A), Rule 8, Rule 13, Rule 20(A), Rule 24, Rule 28, and

Rule 31, and adopting effective January 9, 2009, the Comment to Amendment to Rule 1(A) Effective January 9, 2009; the Comment to Amendment to Rule 8 Effective January 9, 2009; the Comment to Rescission of Rule 11 Effective January 9, 2009; the Comment to Amendment to Rule 13 Effective January 9, 2009; the Comment to Rescission of Rule 16 Effective January 9, 2009; the Comment to Amendment to Rule 20(A) Effective January 9, 2009; the Comment to Amendment to Rule 24 Effective January 9, 2009; the Comment to Amendment to Rule 28 Effective January 9, 2009; the Comment to Amendment to Rule 31 Effective January 9, 2009; and the Comment to Rescission of Rule 32 Effective January 9, 2009, is published in that volume of *Alabama Reporter* that contains Alabama cases from 996 So. 2d.

**Note from the reporter of decisions:** The order amending effective October 1, 2011, Rule 1, Rule 2, Rule 3, Rule 5, Rule 6, Rule 8, Rule 9, Rule 12, Rule 13, Rule 14, Rule 15, Rule 15.1, Rule 17, Rule 18, Rule 20, Rule 23, Rule 24, Rule 25, Rule 26, Rule 28, and Rule 31 and adopting effective October 1, 2011, Rule 8.1 and the Comment to Amendment to Rule 1 Effective October 1, 2011; the Comment to Amendment to Rule 2 Effective October 1, 2011; the Comment to Amendment to Rule 3 Effective October 1, 2011; the Comment to Amendment to Rule 5 Effective October 1, 2011; the Comment to Amendment to Rule 6 Effective October 1, 2011; the Comment to Amendment to Rule 8 Effective October 1, 2011; the Comment to Adoption of Rule 8.1 Effective October 1, 2011; the Comment to Amendment to Rule 9 Effective October 1, 2011; the Comment to Amendment to Rule 12 Effective October 1, 2011; the Comment to Amendment to Rule 13 Effective October 1, 2011; the Comment to Amendment to Rule 14 Effective October 1, 2011; the Comment to Amendment to Rule 15 Effective October 1, 2011; the Comment to Amendment to Rule 15.1 Effective October 1, 2011; the Comment to Amendment to Rule 17 Effective October 1, 2011; the Comment to Amendment to Rule 18 Effective October 1, 2011; the Comment to Amendment to Rule 20 Effective October 1, 2011; the Comment to Amendment to Rule 23 Effective October 1, 2011; the Comment to Amendment to Rule 24 Effective October 1, 2011; the Comment to Amendment to Rule 25 Effective October 1, 2011; the Comment to Amendment to Rule 26 Effective October 1, 2011; the Comment to Amendment to Rule 28 Effective October 1, 2011; and the Comment to Amendment to Rule 31 Effective October 1, 2011, is published in that volume of *Alabama Reporter* that contains Alabama cases from \_\_\_\_ So. 3d.

**Note from the reporter of decisions:** The order amending Rule 1, Rule 2, Rule 3, Rule 5, Rule 5.1, Rule 6, Rule 8, Rule 8.1, Rule 12, Rule 13, Rule 14, Rule 15, Rule 18, Rule 20, Rule 24, Rule 26, Rule 28, and Rule 31 effective July 1, 2014, is published in that volume of *Alabama Reporter* that contains Alabama cases from \_\_\_\_ So. 3d.