

## **ALABAMA RULES OF JUVENILE PROCEDURE**

### **Rule 26.**

#### **Court costs.**

(A) The prepayment of fees and costs, except for certified mail fees, is not required in cases within the jurisdiction of the juvenile court, except in the following:

- (1) All CS cases;
- (2) Petitions to modify orders issued in dependency cases;
- (3) Child-in-need-of-supervision cases alleging that a child is beyond the control of his or her parent or parents, legal guardian, or legal custodian; and
- (4) Proceedings seeking the removal of the disabilities of nonage.

(B) In cases where prepayment of fees and costs is required, if a party files an affidavit of substantial hardship that is granted by the juvenile court or if a governmental entity files the action, the prepayment of fees and costs is waived. In cases in which the prepayment of fees and costs is not required or is waived, the fees and costs may be taxed at the conclusion of the cases.

(C) All fees and costs shall be distributed as provided by law.

(D) Uncollected court costs may not be assessed as charges against the county.

[Amended 11-9-76; eff. 1-16-77; Amended eff. 5-1-94; Amended 7-14-2011, eff. 10-1-2011; Amended 5-1-2014, eff. 7-1-2014.]

#### **Comment**

Ala.Code 1975, § 12-19-72(2), distributes docket fees collected in civil cases in the district court as follows (until October 1, 1995): "\$7.00 to the fair trial tax fund, \$59.00 to the state general fund, and \$8.00 to the county general fund." That Code section changes the amounts as of October 1, 1995.

See Ala.Code 1975, §§ 12-15-10 and 12-15-11. Although § 12-15-10 provides that court costs, as well as other costs and expenses, shall be "valid charges ... against the county," this rule provides that uncollected court costs may not be charged to the county.

[Comment amended eff. 5-1-95.]

**Comment to Amendment to Rule 26**  
**Effective October 1, 2011**

The changes to this rule were mostly technical. The language providing that all fees and court costs in cases in the jurisdiction of the juvenile court shall be assessed only at the conclusion of the cases follows the conclusions stated in two Attorney General Opinions. See Att'y Gen. Op. No. 89-346, dated July 6, 1989, to Hon. Patricia M. Smith, then District Judge, Shelby County (in dependency, child-in-need-of-supervision, and delinquency cases in the juvenile court, court costs are not required to be prepaid and are statutorily assessed against the county except when after notice and a hearing the court determines that the parents or persons legally obligated to care for and support the child are able to pay court costs), and Att'y Gen. Op. No. 93-177, dated April 28, 1993, to Hon. George C. Simpson, District Judge, Clay County (the juvenile court may not require advance payment of court costs in custody petitions filed in the juvenile court but may assess costs and expenses of the proceedings as a condition of dismissing the petition).

**Comment to Amendment to Rule 26**  
**Effective July 1, 2014**

The provision requiring the prepayment of fees and costs in certain cases within the jurisdiction of the juvenile court is to limit meritless filings while preserving access to the court system. Because certified-mail fees must be paid prior to service by this method, this rule prevents the waiver of prepayment of those fees.

**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.