

IN THE SUPREME COURT OF ALABAMA

July 14, 2011

ORDER

IT IS ORDERED that 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, Alabama Rules of Juvenile Procedure, are amended to read in accordance with Appendices A, C, E, G, I, K, O, Q, S, U, W, Y, AA, CC, EE, GG, II, KK, MM, OO, and QQ, respectively;

IT IS FURTHER ORDERED that Rule 8.1, Alabama Rules of Juvenile Procedure, is hereby adopted to read in accordance with Appendix M;

IT IS FURTHER ORDERED that Rule 27 and Rule 29, Alabama Rules of Juvenile Procedure, are hereby rescinded;

IT IS FURTHER ORDERED that 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 Rule 8.1 Adopted 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, are hereby

adopted to read in accordance with Appendices B, D, F, H, J, L, N, P, R, T, V, X, Z, BB, DD, FF, HH, JJ, LL, NN, PP, and RR, respectively;

IT IS FURTHER ORDERED that these amendments, the adoption of Rule 8.1 and the comments, and the rescission of Rule 27 and Rule 29 are effective October 1, 2011.

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 1, Rule 2, Rule 3, Rule 5, Rule 6, Rule 8, Rule 8.1, 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:

"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."

IT IS FURTHER ORDERED that the following note from the reporter of decisions be inserted in place of Rule 27 and Rule 29:

"Note from the reporter of decisions: The order rescinding Rule 27 and Rule 29 effective October 1, 2011, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Cobb, C.J., and Woodall, Stuart, Bolin, Parker, Shaw, Main, and Wise, JJ., concur.

Murdock, J., dissents from the amendments to Rule 24 and Rule 25 and the adoption of the comments thereto and otherwise concurs.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 14th day of July, 2011

Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama

APPENDIX A

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 an answer or other pleading filed by a party pursuant to Rule 12, Alabama Rules of Civil Procedure, 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 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 commencement of the action or case, provided they are served 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), effective October 1, 2010.

APPENDIX B

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."

APPENDIX C

RULE 2. JUVENILE COURT JUDGE - ASSIGNMENT

(A) Unless a judicial office is specifically designated by law as a juvenile or family court, the presiding circuit court judge shall designate in writing one or more circuit or district court judges to serve as the juvenile court judge or judges for each county in the circuit. If there are two or more juvenile court judges in a county, one shall be designated as the presiding juvenile court judge. If there is only one juvenile court judge in a county, that judge shall be considered to be the presiding juvenile court judge. The original written designations shall be maintained in the offices of the circuit court clerks. Copies of these designations shall be sent to and maintained at the Administrative Office of Courts.

(B) The presiding circuit court judge shall designate in writing a circuit court judge or a district court judge within the circuit to sit in juvenile court cases in the absence or recusal of one or more juvenile court judges.

(C) When a juvenile court judge is a circuit court judge, the juvenile court judge shall have and exercise full jurisdiction and power of the juvenile court and of the circuit court of the State. When a juvenile court judge is a district court judge, the juvenile court judge shall have and exercise full jurisdiction and power of the juvenile court and of the district court of the State.

APPENDIX D

Comment to Amendment to Rule 2 Effective October 1, 2011

The changes to this rule were mostly technical -- combining some former subsections and redesignating the subsections. The phrase "[u]nless a judicial office is specifically designated by law as a juvenile or family court" was added to what is now subsection (A) because juvenile court judges in some counties are elected to specifically designated family or juvenile court judgeships created by local acts. It is not necessary for the presiding circuit court judges in those counties to designate juvenile court judges. Language was also added to subsection (A) to clarify that a juvenile court judge must be appointed in each county of the circuit and that, if there are two or more juvenile court judges in a county, one of the juvenile court judges is to be designated as the presiding juvenile court judge. Provisions regarding the handling of written designations of juvenile court judges was moved to subsection (B) for the purpose of clarification.

Both circuit court judges and district court judges may be designated as juvenile court judges. See Ala. Code 1975, §§ 12-12-34 and 12-15-103(a). Because of the language changes in what is now subsection (A), former subsections (A) and (C) are no longer necessary and have been deleted.

APPENDIX E

RULE 3. JUVENILE COURT JUDGE - ADMINISTRATIVE AUTHORITY

The presiding juvenile court judge for each county shall exercise administrative authority of the juvenile court. Unless otherwise provided by law, this authority shall include the power to employ and supervise personnel, to initiate and carry on programs, to assign and distribute the work of the juvenile court, to establish and implement policies, and to assign such duties as may be legally delegated.

APPENDIX F

Comment to Amendment to Rule 3
Effective October 1, 2011

The changes to this rule were technical. The last sentence of the rule ("The administrative director of courts (ADC) shall have the authority to fix the character and the form of the records.") was deleted because it is no longer necessary.

APPENDIX G

RULE 5. CHIEF PROBATION OFFICER

The presiding juvenile court judge shall appoint a chief probation officer who meets the minimum qualifications of a juvenile probation officer in the Standards for Certification for Juvenile Probation Officers and who shall serve at the pleasure of the judge. The chief probation officer shall be responsible directly to the presiding juvenile court judge for coordinating the probation services of the court, their internal procedures, budgeting, office management, allocation of space, and personnel transactions.

APPENDIX H

Comment to Amendment to Rule 5
Effective October 1, 2011

This rule was amended to ensure that chief probation officers who are appointed pursuant to this rule meet the minimum qualifications of a juvenile probation officer in the Standards for Certification for Juvenile Probation Officers.

APPENDIX I

RULE 6. VOLUNTEERS IN JUVENILE COURT

The presiding juvenile court judge for each county may appoint one or more volunteers, who shall serve without compensation upon conditions and for such purposes as the judge may prescribe in an order of appointment. In order to serve as a juvenile probation officer, a volunteer must meet the minimum qualifications of a juvenile probation officer or the Standards for Certification for Juvenile Probation Officers and must have attended and completed the required training for a juvenile probation officer as set out in standards for certification for juvenile probation officers established pursuant to Ala. Code 1975, § 12-5A-2(a).

The county governing body may reimburse these juvenile court volunteers for reasonable and necessary expenses incurred in connection with their appointments. Volunteers are subject to the same confidentiality provisions as are other court officials and employees.

APPENDIX J

Comment to Amendment to Rule 6
Effective October 1, 2011

This rule was amended to authorize the appointment of volunteers in the juvenile court. See also Rule 15.1 of these Rules concerning volunteers appointed to serve on Juvenile Conference Committees.

APPENDIX K

RULE 8. JUVENILE COURT INTAKE OFFICERS

(A) The presiding juvenile court judge for each county shall designate one or more employees to serve as a juvenile court intake officer for the juvenile court. This designation shall be in writing on a form provided by the Administrative Office of Courts. Persons eligible to serve as juvenile court intake officers shall include certified juvenile probation officers, employees of the Unified Judicial System, and persons working in the juvenile court without regard to whether their salaries are paid from Unified Judicial System funds. The original written designations shall be maintained in the office of the circuit court clerk in the county in which the designation is made. Copies of these designations shall be sent to and maintained by the Administrative Office of Courts.

(B) In the event of recusal or disqualification of a juvenile court intake officer, the presiding juvenile court judge may appoint a special juvenile court intake officer. Upon recusal or disqualification of the presiding juvenile court judge, the judge assigned to serve in his or her place shall have the authority to designate a special juvenile court intake officer in the manner provided above.

(C) Juvenile court intake officers shall be neutral and detached from the executive and legislative branches of government and shall not hold elective or appointed offices in any branch of government unless expressly authorized by law to act as a juvenile court intake officer and to hold such office.

(D) Juvenile court intake officers are authorized to administer oaths for the purpose of verifying complaints and petitions in juvenile matters and shall perform such other duties as are provided by law.

(E) All juvenile court intake officers must attend and complete mandatory training for intake officers provided by the Administrative Office of Courts within 12 months of their designation as juvenile court intake officers.

(F) Juvenile court intake officers shall not be required to be magistrates under Rule 18, Alabama Rules of Judicial Administration, unless they issue warrants of arrest against adults subject to the jurisdiction of the juvenile court.

APPENDIX L

Comment to Amendment to Rule 8
Effective October 1, 2011

Subsection (A) was amended to clarify who are eligible to be designated as juvenile court intake officers. For example, there may be persons working for the juvenile court whose salaries are paid by a county who would be eligible to be designated a juvenile court intake officer.

Language was added in what is now subsection (B) to provide for those instances when a juvenile court intake officer or the presiding juvenile court judge is disqualified or recuses himself or herself. Since existing juvenile court intake officers designated by the presiding juvenile court judge may also have a conflict of interest, the judge assigned to hear the case is granted the authority to designate a special juvenile court intake officer.

Former subsection (B) has been redesignated subsection (C) and was amended to further clarify that juvenile court intake officers shall be neutral and detached from the executive and legislative branches of government. In addition, juvenile court intake officers shall not hold elective or appointed office unless they are expressly authorized by law to hold that office while serving as a juvenile court intake officer. Part of former subsection (B) has been moved to what is now subsection (D).

Former subsection (C) has been redesignated subsection (F). Subsection (E) was added to provide for mandatory training for all juvenile court intake officers, such training to be completed within 12 months of the juvenile court intake officer's designation as such.

APPENDIX M

RULE 8.1. JUVENILE COURT MAGISTRATES

(A) Establishment of juvenile court magistrates.

(1) There is hereby established a category of magistrate titled "juvenile court magistrate." A person serving as a juvenile court magistrate must be an employee of the Unified Judicial System or a person working in the juvenile court without regard to whether his or her salary is paid from Unified Judicial System funds. A person nominated in writing by the presiding juvenile court judge and the clerk of the circuit court to be a juvenile court magistrate, absent good cause otherwise, shall be appointed by the Administrative Director of Courts to serve as juvenile court magistrate.

(2) Juvenile court magistrates shall be subject to the direction and supervision of the clerk of the circuit court if they are employees of that office or to the direction and supervision of the presiding juvenile court judge if they are employees of or persons working for the juvenile court.

(3) Unless already appointed to be a district court magistrate pursuant to Rule 18, Alabama Rules of Judicial Administration, a juvenile court magistrate's power to issue warrants of arrest against adults and to establish the initial bail amount shall be limited to criminal offenses within the jurisdiction of the juvenile court pursuant to Ala. Code 1975, § 12-15-116.

(4) Each juvenile court magistrate must, within 12 months of taking office, enroll in a magistrates' orientation and certification program approved by the Administrative Office of Courts for district court magistrates in Rule 18, Alabama Rules of Judicial Administration. The Administrative Director of Courts may waive the requirements of this subsection as to a juvenile court magistrate, either partially or completely, on his or her own initiative or upon written request from the clerk of the circuit court or from the presiding juvenile court judge. The Administrative Director of Courts shall establish criteria on which to base any such waivers.

(B) Nominations and qualifications for appointment.

(1) Eligibility. The position of juvenile court magistrate is an office of public trust. Any person appointed as a juvenile court magistrate must be a qualified elector of Alabama, cannot hold two offices of profit under the United States or the State of Alabama Constitutions, and shall not have been convicted of any disqualifying crime. In addition, a juvenile court magistrate shall be neutral and detached from the executive and legislative branches of government and shall not hold any elective or appointive offices or positions of trust unless expressly authorized by law.

(2) Nominations for Appointments. All nominations for persons to be appointed juvenile court magistrates pursuant to the provisions of this rule shall be in writing.

(C) Notice of appointment. Each appointment made pursuant to this rule shall be in writing. The original appointment letter shall be filed in the office of the circuit court clerk, and a copy shall be maintained by the Administrative Office of Courts.

(D) Oath of office. Except when persons have already taken oaths of office as district court magistrates, all juvenile court magistrates shall, before entering upon the duties of that office, take the oath of office prescribed in the Constitution of the State of Alabama, which must be written out and subscribed to by the person taking the oath and accompanied by the certificate of the officer administering the same, specifying the day and the year it was taken. For all juvenile court magistrates, the oath, along with the certificate, shall be filed in the office of the probate judge, and a copy thereof shall be filed in the office of the circuit court clerk. Failure to file an oath as required by this subsection shall not render invalid any acts of said magistrates.

APPENDIX N

Comment to Rule 8.1 Adopted
Effective October 1, 2011

This rule establishes a new category of magistrate titled "juvenile court magistrate." The purpose is to create a separate office with limited authority to handle matters that are under the jurisdiction of the juvenile court.

This rule further provides that juvenile court magistrates shall be subject to the direction and supervision of the clerk of the circuit court if they are employees of or working for that office or to the direction and supervision of the presiding juvenile court judge if they are employees of the juvenile court. The purpose of this provision is to make the juvenile court magistrate responsible to the person in authority who appoints and terminates these employees.

This rule also provides for eligibility requirements, notices of appointment, and oaths of office for juvenile court magistrates. These provisions were patterned after similar provisions for district court magistrates in Rule 18, Alabama Rules of Judicial Administration, including the provision that a magistrate shall not have been convicted of a disqualifying crime. See § 36-2-1, Ala. Code 1975.

Magistrates are a part of the judicial branch of government and must exercise independent judgment in the performance of their duties; therefore, and in accordance with decisions of the United States Supreme Court, specifically Shadwick v. City of Tampa, 407 U.S. 345 (1972), any person appointed as a magistrate must be neutral and detached from the law-enforcement function. No person affiliated with the prosecution or with a police organization or function, assigned to a police organization or function, or otherwise connected with law-enforcement activities should be considered eligible for appointment. Additionally, unless otherwise authorized by law, no person affiliated with any other executive or legislative branch of government, including holding any elective or appointive offices or positions of trust, should be considered eligible for appointment.

Subsection (D) requires that all persons appointed as magistrates take and file the oath of office prescribed for public officers by the Constitution of Alabama except when those persons have already taken oaths of office as district court magistrates. Explanation is given for the proper manner of filing the oath of office and the certificate of the administering officer in accordance with Ala. Code 1975, Title 36, Chapter 4, with a specific provision included to ensure that a magistrate's failure to file the oath as directed will not render invalid any acts of that magistrate. This comports with the general rule that any magistrate who enters into office without first taking the oath shall be deemed a de facto officer and that all official acts performed by such an officer are valid.

APPENDIX O

RULE 9. DESIGNATION OF DETENTION OR SHELTER-CARE FACILITY

(A) The presiding juvenile court judge for each county shall, by written order, designate the detention or shelter-care facility or facilities that are licensed pursuant to law by the appropriate agencies and to which children shall be delivered when taken into custody. In counties where shelter-care facilities are unavailable for alleged or adjudicated dependent children, the orders shall specify that these children shall be brought to the county Department of Human Resources for placement in licensed or approved foster homes.

(B) Copies of orders issued pursuant to subsection (A) shall be made available to all law-enforcement agencies within the territorial jurisdiction of the juvenile courts making such designation.

APPENDIX P

Comment to Amendment to Rule 9
Effective October 1, 2011

Subsection (A) was amended to provide that the detention or shelter-care facilities that are designated by written order of the presiding juvenile court judge shall be those facilities licensed pursuant to law by the appropriate agencies, specifically the Department of Youth Services for detention facilities (§ 44-1-27, Ala. Code 1975) and the Department of Human Resources for shelter-care facilities.

APPENDIX Q

RULE 12. INITIATION OF CASES

(A) Any person having knowledge of the facts or being informed of them and believing them to be true may make a complaint, under oath, to a juvenile court intake officer; the complaint, which must be handwritten or typed and contain original signatures, shall allege facts sufficient to establish the subject-matter jurisdiction and venue of the juvenile court and the child's delinquency, dependency, need of supervision, or violation of an order of probation or aftercare. An individual shall not serve as a complainant and a juvenile court intake officer in the same case. A complaint is made when it is received by the juvenile court intake officer, who shall immediately note thereon the date and time of receipt. The juvenile court intake officer may receive and consider supplements to the complaint in the form of sworn written statements, which must be handwritten or typed and contain original signatures.

(B) In determining whether to receive a complaint, the juvenile court intake officer shall conduct a preliminary inquiry to determine whether the acts or conditions alleged are within the subject-matter jurisdiction of the juvenile court, whether venue is proper, and whether probable cause exists to believe that the child is delinquent, dependent, in need of supervision, or in violation of an order of probation or aftercare.

(C) If it appears from the preliminary inquiry that subsection (B) has been satisfied, the juvenile court intake officer shall receive the complaint as provided in subsection (A) and shall either:

(1) Utilize the informal-adjustment process provided by Rule 15 in delinquency or child-in-need-of-supervision cases; or

(2) Deliver a petition, which must be handwritten or typed and contain original signatures, to the clerk of the circuit court for filing if the juvenile court intake officer finds that the best interests of the child or of the public requires judicial action.

(D) If it appears from the preliminary inquiry that subsection (B) has not been satisfied or if the petition has not been delivered to the circuit court clerk pursuant to subsection (C)(2), the juvenile court intake officer shall take no further action.

(E) Except as provided in Rule 15, the delivery of a petition by a juvenile court intake officer to the clerk of the circuit court and the filing of that petition by the clerk of the circuit court shall occur within 14 days of receipt of the complaint or before the 72-hour hearing provided in Ala. Code 1975, § 12-15-207 or § 12-15-308, if such a hearing is required.

(F) If a Uniform Traffic Ticket and Complaint ("UTTC") is issued to a child, the UTTC may serve as a complaint and, if the requirements of this rule have been met, also as a petition. However, the UTTC may serve only as a complaint in a felony traffic case.

APPENDIX R

Comment to Amendment to Rule 12 Effective October 1, 2011

Subsection (B) was amended to bring the process of initiation of a case in the juvenile court more in line with that of the adult court process. Determinations of subject-matter jurisdiction, venue, and probable cause are now made prior to the actual receipt/intake of the complaint. The rule was amended to change the process to ensure that before a record of the alleged act was created, either on paper or electronically, the allegation rose to the level of invoking the jurisdiction of the juvenile court.

Subsection (C) was amended to ensure that the complaint is received and a record of the action is created only after determinations of subject-matter jurisdiction, venue, and probable cause.

Subsection (C)(2) was amended to clarify that if it appears from the preliminary inquiry that the requirements of subsection (B) have been met, the juvenile court intake officer shall deliver the petition to the clerk of the circuit court for filing (instead of the former language providing that the intake officer shall file the petition) if the juvenile court intake officer does not utilize the informal-adjustment process provided by Rule 15 of these Rules.

Subsection (E) was amended to clarify that, except as provided in Rule 15, the delivery of a petition by a juvenile court intake officer to the clerk of the circuit court and the filing of that petition by the clerk of the circuit court shall occur within 14 days of receipt of the complaint or before the 72-hour hearing is held if such a hearing is required because a child has been placed in detention or shelter care.

Other changes to this rule were technical.

APPENDIX S

RULE 13. ISSUANCE OF NOTICES AND SERVICE OF SUMMONS

The following procedures shall apply for the issuance of notices and service of summons in delinquency, child-in-need-of-supervision, and dependency cases in juvenile courts:

(A) Summons. Service of summons shall be pursuant to the Alabama Rules of Civil Procedure, except as hereinafter provided:

(1) After a petition alleging that a child is delinquent, in need of supervision, or dependent has been filed, the clerk of the circuit court shall ensure that summonses are issued to the child, if he or she is 12 or more years of age; to the parent or parents, legal guardian, or other legal custodian; and to other persons who appear to the juvenile court to be proper or necessary parties to the proceedings, requiring them to appear personally before the juvenile court at the time fixed to answer or testify as to the allegations of the petition. A copy of the petition shall be attached to each summons.

(2) There shall be no service by publication of any proceeding in the juvenile court except in proceedings to terminate parental rights.

(3) The service of the summons shall give the juvenile court jurisdiction over the persons served, but the inability to serve any party shall not deprive the court of jurisdiction to proceed.

(4) An adult who is a party may waive service of the summons by written stipulation or by voluntary appearance at the hearing. A person who is summoned but who fails to appear, without reasonable cause for the failure to appear, may be proceeded against for indirect criminal contempt.

(5) A party not served under this rule may, for good cause shown, petition the juvenile court in writing for a modification of any order or judgment of the juvenile court. The juvenile court may dismiss this petition if,

after a preliminary investigation, the juvenile court finds that the petition is without substance. If the juvenile court finds that the petition should be reviewed, the juvenile court may conduct a hearing upon the issues raised by the petition and may make any orders authorized by law relative to the issues as it deems proper.

(B) Notices of Detention Hearings, Shelter-Care Hearings, and 72-hour Hearings. Oral or written notice of all detention hearings and shelter-care hearings in delinquency and child-in-need-of-supervision cases, stating the date, time, place, and purpose of the hearings and that the child, parent, legal guardian, or legal custodian has the right to counsel, shall be given by a juvenile probation officer to the parent, legal guardian, or legal custodian if he or she can be found and to the child if the child is over 12 years of age. Oral or written notice of the 72-hour hearing in dependency cases, stating the date, time, place, and purpose of the hearing and the right to counsel, shall be given to the parent, legal guardian, or legal custodian if he or she can be found.

(C) Notices of Other Hearings. Except for detention, shelter-care, and 72-hour hearings, written notice of all hearings and hearings on the merits of the petition as otherwise provided in this rule shall be provided to all parties in the proceedings and shall include the date, time, place, and purpose of the hearings.

(D) Notices to Foster Parents, Preadoptive Parents, and Relative Caregivers. The juvenile court shall ensure that foster parents, preadoptive parents, and relative caregivers of a child in foster care under the responsibility of the State are notified, orally or in writing, of the date, time, and place of any juvenile court proceeding to be held with respect to a child in their care.

APPENDIX T

Comment to Amendment to Rule 13
Effective October 1, 2011

Subsection (A)(5) contains the language from former Rule 27, which has been rescinded. For purposes of subsection (D), relative caregivers would not include kinship guardians defined in Ala. Code 1975, §§ 12-15-301(6) and 38-12-32(5), effective October 1, 2010. Because Rule 1(E) provides that, for purposes of these Rules, the term "legal guardian" also includes a "kinship guardian," a kinship guardian would receive notices of juvenile court proceedings as would a legal guardian. Other changes to this rule were technical.

APPENDIX U

RULE 14. APPEARANCE OF COUNSEL

Counsel for a party in a juvenile court case shall file his or her pleading or notice of appearance with appropriate contact information in all juvenile court proceedings with the clerk of the circuit court or by appearing personally at a juvenile court hearing and advising the juvenile court that he or she is representing a party to the proceeding. Counsel who have filed a pleading or notice of appearance with the clerk of the circuit court or who have appeared at a juvenile court hearing shall receive copies of all notices required by statute or rule to be given to parties, and, in these cases, notices need not be given to the parties unless the juvenile court shall so order. When counsel has entered an appearance or accepted an appointment, he or she shall not withdraw from a case without the consent of the juvenile court.

APPENDIX V

Comment to Amendment to Rule 14
Effective October 1, 2011

This rule was amended to clarify that counsel for a party in a juvenile court case shall file his or her pleading or notice of appearance with appropriate contact information in all juvenile court proceedings with the clerk of the circuit court or by appearing personally at the juvenile court hearing. The appropriate contact information in the pleading or notice of appearance shall specify the name of counsel and his or her business address and telephone number, his or her court identification number, and, if he or she chooses, his or her business facsimile number and business e-mail address. The pleading or notice of appearance shall also specify whom counsel is representing. Other changes to this rule were technical.

APPENDIX W

RULE 15. INFORMAL ADJUSTMENT

(A) After receiving a complaint alleging that a child is delinquent or in need of supervision and after determining that informal adjustment is appropriate, a juvenile probation officer who has been designated as a juvenile court intake officer may use the informal-adjustment process, with the consent of the child and his or her parent or parents, legal guardian, or legal custodian. Prior to any informal adjustment, the child and his or her parent or parents, legal guardian, or legal custodian must be advised of their rights, including the right to counsel. Utilization of the informal-adjustment process shall suspend the 14-day time frame for filing a petition pursuant to Rule 12(E) of these Rules.

(B) An informal adjustment shall include counseling of and advising the child and his or her parent or parents, legal guardian, or legal custodian by the juvenile probation officer. This function may be performed by other appropriate persons including the juvenile court judge in the discretion of the juvenile probation officer.

An informal adjustment also may include the following:

(1) Supervision of the child by the juvenile probation officer and temporary placement of the child with persons other than the parent or parents, legal guardian, or legal custodian with the consent of the child and his or her parent or parents, legal guardian, or legal custodian; and

(2) Referrals by the juvenile probation officer to public and private agencies that may provide assistance or services to the child and his or her parent or parents, legal guardian, or legal custodian.

(C) The informal-adjustment process shall not continue beyond a period of six months from its commencement.

(D) If the child fails to comply with one or more conditions of the informal-adjustment process, the process may be terminated, and the juvenile probation officer may

deliver for filing with the clerk of the juvenile court a petition alleging that the child is delinquent or in need of supervision.

(E) If the child satisfactorily completes the informal-adjustment process, the process shall be terminated, and the case shall be dismissed without further proceedings. Upon termination of the informal-adjustment process and dismissal of a case without further proceedings, the juvenile probation officer shall notify the child and his or her parent or parents, legal guardian, or legal custodian of the dismissal.

APPENDIX X

Comment to Amendment to Rule 15
Effective October 1, 2011

This rule was completely rewritten for purposes of clarification and simplicity. Subsection (E) was amended to delete the language "and report that action to the juvenile court" because the informal-adjustment process is handled before a petition is filed in juvenile court; thus, there is no mechanism by which to report such an action to the juvenile court.

APPENDIX Y

RULE 15.1. JUVENILE CONFERENCE COMMITTEES

(A) A juvenile court judge desiring to establish a Juvenile Conference Committee shall appoint citizens of the county to serve as members of the committee. A Juvenile Conference Committee shall consist of at least five, but not more than nine, members. The term for each member shall be set by the juvenile court judge when the judge makes the appointment, but no member's term shall exceed three years. Committee members shall serve at the pleasure of the juvenile court judge who appointed them or that judge's successor in office. Once appointed, a member must complete a training program conducted or approved by the Administrative Office of Courts. The members shall serve without compensation. The members of a Juvenile Conference Committee shall select a chairperson and a secretary at the first organizational meeting of the committee.

(B) All matters coming before a Juvenile Conference Committee shall be held in strict confidence, and the members of the Juvenile Conference Committee shall comply with all laws and rules regarding the confidentiality of proceedings against children. Every member of a Juvenile Conference Committee shall be sworn by the juvenile court judge to observe the confidential nature of the committee proceedings. A committee member may, however, when authorized by the committee as a whole and with the prior approval of the juvenile court judge, publicize in general terms the duties of the Juvenile Conference Committee, the kinds and number of cases it reviews (without in any way revealing the names or identities of persons involved or the action taken in any specific case), or any community conditions the committee's work indicates may require correction to prevent future misconduct by children.

(C) If a Juvenile Conference Committee is established in a county, a juvenile court intake officer, before a petition is filed, shall review all cases involving a child charged with a status offense or an offense that would be considered a violation or a misdemeanor if the child had been charged as an adult to determine whether the child is eligible for referral to the Juvenile Conference Committee. If, after

his or her review, the juvenile court intake officer determines that the case is eligible for referral to the Juvenile Conference Committee and is appropriate for the informal-adjustment process, the procedures in Rule 15 of these Rules shall be applied. If, after his or her review, the juvenile court intake officer determines that a petition should be filed, the juvenile court intake officer and the prosecutor in that county shall review the case after the petition is filed to determine whether the child is eligible for referral to the Juvenile Conference Committee. If there is disagreement concerning whether the case is eligible for referral to the Juvenile Conference Committee, the juvenile court judge will make the determination. If the case is eligible for referral to the Juvenile Conference Committee, the child may choose to appear before the Juvenile Conference Committee or to appear in juvenile court.

(D) If the child chooses to appear before the committee in lieu of appearing in juvenile court, the Juvenile Conference Committee shall meet with the child and the child's parent or parents, legal guardian, or legal custodian at a specified date, time, and place. Written notice of the date, time, and place of the meeting shall be given to the child and the child's parent or parents, legal guardian, or legal custodian. Written notice of the meeting also shall be given to the complainant and the victim. The notice shall inform the child and the child's parent or parents, legal guardian, or legal custodian that, in cases referred after a petition is filed, the juvenile court judge may assess court costs and other applicable fees upon the judge's adoption of the recommendations of the Juvenile Conference Committee. The notice shall inform the complainant and the victim that if he or she cannot attend the meeting, the complainant and the victim may submit a written statement for the Juvenile Conference Committee to consider. No one shall be compelled to appear before a Juvenile Conference Committee. If someone who the committee believes is essential to a resolution of the matter does not want to appear before the committee, or if the child or the child's parent or parents, legal guardian, or legal custodian is not satisfied with the proceedings of the committee, the Juvenile Conference Committee shall refer the matter to the juvenile court.

(E) With the voluntary cooperation of the child, the child's parent or parents, legal guardian, or legal custodian, and others present at the meeting, the Juvenile Conference Committee shall attempt to determine what factors brought the child to juvenile court and, in cases referred after a petition is filed, shall recommend to the juvenile court judge sanctions that will attempt to help the child develop into a productive member of society. The Juvenile Conference Committee's primary concern is to forestall more serious misconduct by the child offender by obtaining the voluntary cooperation of the child, the child's parent or parents, legal guardian, or legal custodian and others involved in the case. In cases referred after a petition is filed, the Juvenile Conference Committee shall present its recommendations to the juvenile court judge, who may approve or disapprove the sanctions recommended by the committee. If the juvenile court judge approves and adopts the committee's recommendations, the Juvenile Conference Committee shall monitor compliance with its recommendations and advise the juvenile court judge of the child's progress. If the child is not satisfied with, or does not accept, the committee's recommendations as approved by the juvenile court judge, or if, at any time, the child fails to comply with those recommendations, the matter shall be referred to the juvenile court.

(F) In cases referred after a petition is filed, the juvenile court judge, at any time, may terminate the process and dismiss the child without further proceedings or terminate the committee's review or monitoring and direct that the child's case be referred to juvenile court.

APPENDIX Z

Comment to Amendment to Rule 15.1
Effective October 1, 2011

Former subsection (A) was deleted as being more of a policy statement than a procedural rule. Former subsection (B) was redesignated subsection (A). Former subsection (G) was redesignated subsection (B). Subsection (C) was amended to provide that if a Juvenile Conference Committee is established in a county, the juvenile court intake officer can refer eligible cases to a Juvenile Conference Committee before a petition is filed as part of the informal-adjustment process in Rule 15. If, after his or her review, the juvenile court intake officer determines that a petition should be filed, the juvenile court intake officer and the prosecutor in that county shall review the case after the petition is filed to determine whether the child is eligible for referral to the Juvenile Conference Committee.

Language in the other subsections was amended to provide that, in cases that were referred to a Juvenile Conference Committee after a petition was filed, costs and fees may be assessed or sanctions imposed by a judge.

Other changes to this rule were technical.

APPENDIX AA

RULE 17. AMENDING JUVENILE PETITION

Before adjudication and on a motion of the petitioner or the State, if applicable, a juvenile petition alleging that a child is delinquent, dependent, or in need of supervision may be amended by written order of the juvenile court. If the amendment results in a substantial departure from the original allegations in the petition, the juvenile court shall continue the hearing set to consider the merits of the petition on a motion of any party or on its own motion.

APPENDIX BB

Comment to Amendment to Rule 17
Effective October 1, 2011

The amendment to this rule clarifies procedures relating to the amendment of petitions. The changes to this rule were technical.

APPENDIX CC

RULE 18. RELEASE OF CONFIDENTIAL JUVENILE COURT
STATISTICAL INFORMATION

The juvenile court may release statistical information regarding the processing and disposition of juvenile court cases considered to be confidential by law if the identity of the parties cannot be ascertained from such information and the release of such information is not detrimental to the interests of a child or to the work of the juvenile court.

APPENDIX DD

Comment to Amendment to Rule 18
Effective October 1, 2011

The changes to this rule were technical.

APPENDIX EE

RULE 20. RECORD OF JUVENILE COURT PROCEEDINGS

(A) A record of all juvenile court proceedings shall be kept by stenographic reporting, by mechanical or electronic device, or by some combination thereof, except that a record in a child-support proceeding is not required unless the juvenile court allows it. The audio or stenographic record shall be preserved until the time for taking an appeal has expired.

(B) The record of juvenile court proceedings shall be transcribed by a person designated by the juvenile court judge; it shall be transcribed only upon order of the court or upon the request of any party at the party's own expense. The transcript shall be certified as directed by the juvenile court or as required by the Alabama Rules of Appellate Procedure.

(C) In the event of an appeal pursuant to Rule 28(A)(1) in a case in which the juvenile court proceedings have been recorded by mechanical or electronic devices, the juvenile court judge may request the assistance of the presiding circuit court judge in determining the appropriate person to transcribe the record for purposes of providing a certified record on appeal.

(D) The person designated to transcribe the juvenile court proceedings shall be entitled to be paid the transcript fees provided in Rule 29, Alabama Rules of Judicial Administration.

APPENDIX FF

Comment to Amendment to Rule 20
Effective October 1, 2011

Subsection (A) was amended to add language indicating that it is within the discretion of the juvenile court to record child-support proceedings because recording such cases is sometimes impractical with a large number of these cases on the court docket. The other changes to this rule were mostly technical.

APPENDIX GG

RULE 23. SCHEDULING HEARINGS - WAIVER

(A) An adjudicatory hearing in a delinquency, dependency, or child-in-need-of-supervision case in the juvenile court shall be scheduled for the earliest practicable date, with priority given those children in detention or shelter-care facilities.

(B) An adjudicatory hearing may be held before the scheduled date if each party waives, in writing or on the record at the hearing, or by voluntary appearance at the hearing without raising an objection thereto, his or her right to notice of the hearing. In this event, each party shall be given a copy of the petition at or before the hearing.

APPENDIX HH

Comment to Amendment to Rule 23
Effective October 1, 2011

The changes to this rule were mostly technical. The phrase "or by voluntary appearance at the hearing without an objection thereto" was inserted in subsection (B) to follow Ala. Code 1975, § 12-15-122(d), and Rule 13(A)(4) of these Rules.

APPENDIX II

RULE 24. CONDUCT OF ADJUDICATORY HEARINGS OR TAKING OF
ADMISSIONS

(A) In an adjudicatory hearing in a delinquency or child-in-need-of-supervision case or in any other hearing in which the child admits the allegations of the petition in a delinquency or child-in-need-of-supervision case, a juvenile court shall begin the hearing by ascertaining if all necessary parties are present and ready to proceed and should so note on the record.

(B)(1) If one or more parties are represented by counsel, the juvenile court shall inquire whether counsel has explained to them the substance of the juvenile petition, the specific allegations contained in the juvenile petition, the nature of the proceedings, the rights of the parties during the proceedings, and the alternatives available to the juvenile court should the allegations of the juvenile petition be admitted or proven. If counsel has explained these things to the parties, the juvenile court shall note these facts on the record.

(2) If a party has counsel but counsel has not explained the items enumerated above to him or her, or if a party is not represented by counsel, then the juvenile court shall explain to that party the substance of the juvenile petition, the specific allegations contained in the juvenile petition, the nature of the proceedings, the rights of the parties during the proceedings, and the alternatives available to the juvenile court should the allegations of the juvenile petition be admitted or proven.

(C) Following these procedures, the juvenile court may inquire of the child whether the child admits or denies all or some of the allegations contained in the juvenile petition. Failure or refusal of the child to admit any allegation shall be deemed a denial of the allegation. If admissions do not obviate the necessity for a hearing, the juvenile court shall then proceed to hear evidence, unless additional time is necessary to prepare for the hearing, and all testimony shall be under oath.

(D) No juvenile probation officer shall elicit testimony at any hearing. Statements made to a juvenile probation officer or a juvenile court intake officer for the purposes of determining the appropriateness of diversion from formal juvenile court proceedings or adjudication by a child alleged to have committed a delinquent act or by a child alleged to be in need of supervision shall not be admissible as evidence in an adjudicatory hearing.

APPENDIX JJ

Comment to Amendment to Rule 24
Effective October 1, 2011

Subsection (A) was amended to clarify that the provisions of this rule apply to adjudicatory hearings or hearings in which the child admits to the allegations in the petition in delinquency or child-in-need-of-supervision cases.

Subsection (D) was amended to provide that statements made to a juvenile probation officer or a juvenile court intake officer for the purposes of determining the appropriateness of diversion from formal juvenile court proceedings or adjudication by a child alleged to have committed a delinquent act or by a child alleged to be in need of supervision shall not be admissible as evidence in an adjudicatory hearing. These statements to a juvenile probation officer or juvenile court intake officer during the preliminary inquiry process pursuant to Rule 12(B) of these Rules could be compromised if the juvenile probation officer or juvenile court intake officer is required to testify in the adjudicatory hearing. Further, statements that could be made to a juvenile probation officer for the purpose of preparing a dispositional recommendation could be compromised if the juvenile probation officer is required to testify in the adjudicatory hearing.

Additionally, Rule 410, Alabama Rules of Evidence, provides, in pertinent part:

"Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible against the defendant who made the plea or was a participant in the plea discussions:

"(1) a plea of guilty which was later withdrawn;

"(2) a plea of nolo contendere in a federal court or criminal proceeding in another state;

"(3) any statement made in the course of any proceedings under Rule 11 of the Federal Rules of Criminal Procedure or comparable state procedure regarding either of the foregoing pleas; or

"(4) any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn."

APPENDIX KK

RULE 25. FINDINGS AND ORDERS

(A) At any adjudicatory hearing in a delinquency, dependency, or child-in-need-of-supervision case or a hearing in which the child admits to the allegations of the petition in a delinquency or child-in-need-of-supervision case, the juvenile court may proceed immediately to a dispositional hearing after adjudication or may set a dispositional hearing for a later date. A hearing held pursuant to Ala. Code 1975, § 12-15-203, is not considered an adjudicatory hearing or a hearing in which the child admits to the allegations of the delinquency or child-in-need-of-supervision petition.

If the allegations of the juvenile petition are denied, the juvenile court shall direct that testimony of witnesses be taken. A dependency hearing shall be conducted consistent with legal and due-process requirements and shall proceed generally in a manner similar to the trial of a civil action before the court sitting without a jury. A delinquency or child-in-need-of-supervision hearing shall be conducted consistent with legal and due-process requirements and shall proceed generally in a manner similar to the trial of a criminal action before the court sitting without a jury. If the child alleged to be delinquent or in need of supervision admits the allegations of the petition, the juvenile court may hear evidence to corroborate the admissions of the child. At the close of the hearing, the juvenile court shall make one of the following findings in writing:

(1) That the facts alleged in the juvenile petition are true and the child is dependent, in need of supervision, or delinquent; or

(2) That the facts alleged in the petition are not proved or that the child is not in need of care or rehabilitation or supervision, in which event the juvenile petition shall be dismissed.

(B) Following a finding that the child is a delinquent child, a dependent child, or a child in need of supervision,

the child shall remain subject to orders of the juvenile court pending the dispositional phase.

(C) When a juvenile court makes a finding that a child is a delinquent child, a dependent child, or a child in need of supervision, the juvenile court shall make a disposition of the matter concerning the child or set the matter for a dispositional hearing. When possible, the judge or judicial officer who presided at the adjudicatory hearing should preside at the dispositional hearing.

(D) At the close of the dispositional phase, the juvenile court shall make its finding in writing. If the disposition is probation, the order shall set forth the conditions of probation. In termination-of-parental-rights cases, the juvenile court shall make its finding by written order within 30 days of completion of the trial.

APPENDIX LL

Comment to Amendment to Rule 25
Effective October 1, 2011

The changes to this rule were mostly technical. The word "supervision" was added in subsection (A)(2) to follow the requirement in Ala. Code 1975, § 12-15-102(8), that in order to prove a child is a "dependent child" the child must be in need of care or supervision.

APPENDIX MM

RULE 26. COURT COSTS

All fees and court costs in all cases in the jurisdiction of the juvenile court shall be assessed only at the conclusion of the cases and distributed as provided by law. Uncollected court costs may not be assessed as charges against the county.

APPENDIX NN

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).

APPENDIX OO

RULE 28. APPEALS

(A) Direct Appeals to Appellate Courts.

(1) Appeals from final orders or judgments of the juvenile court shall be to the appropriate appellate court, subject to the Alabama Rules of Appellate Procedure, if:

(a) A record has been certified as adequate by the juvenile court judge or a stipulation of facts is available and, if applicable, the right to a jury trial has been exercised or waived by all parties entitled thereto; or,

(b) The parties stipulate that only questions of law are involved and the juvenile court certifies the questions.

(2) If the appeal provided in this subsection is taken from a final order or judgment in a case or proceeding arising out of the jurisdiction of the juvenile court over a child, as that term is defined in Ala. Code 1975, § 12-15-102(3), the appropriate appellate court for purposes of the appeal shall be (a) the Court of Criminal Appeals in proceedings in which a child is adjudicated delinquent, proceedings to revoke probation or aftercare in delinquency cases, and proceedings in which a motion seeking an order to transfer a child to the adult court for criminal prosecution is either granted or denied, and (b) the Court of Civil Appeals in any other case or proceeding.

(B) Appeals to Circuit Court. Appeals from final orders or judgments in all other cases, including those cases in which there is not an adequate record as provided in subsection (A) of this rule, shall be to the circuit court for trial de novo, and the case shall be heard by a different circuit court judge if heard by a circuit court judge in the first instance in the juvenile court. The subject of an appeal to the circuit court for trial de novo on delinquency cases or cases involving a child in need of supervision, as that term is defined in Ala. Code 1975, § 12-15-102(4), shall be on the same charge tried in juvenile court; however, no provision of this rule shall be construed to confer the right to a jury trial for a juvenile

adjudication appealed to the circuit court. The same provisions of law or rule regarding confidentiality of records and proceedings in the juvenile court shall be applicable on appeal de novo to the circuit court.

(C) Notice of Appeal. Written notice of appeal shall be filed within 14 days of the date of the entry of order or judgment appealed from, whether the appeal is to an appellate court or to the circuit court for trial de novo.

(D) Transfer of Appeal. An appellate court or circuit court may transfer an appeal to another court if it determines that the appeal should be transferred to or should have been brought in that court.

(E) Stay of Order. Except as otherwise provided by these Rules or by statute, an appeal pursuant to this rule shall not stay enforcement of the order or judgment appealed from, but the court to which the appeal is taken may order otherwise, if suitable provision is made for the care and custody of the child. If the order or judgment appealed from grants the custody of a child to, or withholds it from, one or more of the parties to the appeal, the appeal shall be heard at the earliest time practicable.

(F) Stay of Circuit Court Proceedings Pending Appeal of Transfer Order. The filing of an appeal from an order transferring a child to the adult court for criminal prosecution shall stay the proceedings in the circuit court.

APPENDIX PP

Comment to Amendment to Rule 28
Effective October 1, 2011

Subsection (A)(1)(a) was amended to add the words "if applicable" before "the right to a jury trial" because in some proceedings in the juvenile court there is no right to a jury trial.

Subsection (A)(2) was amended to add to those cases that may be appealed to the Alabama Court of Criminal Appeals proceedings to revoke probation or aftercare in delinquency cases.

Other changes to this rule were technical.

APPENDIX OO

RULE 31. PROCEDURE FOR MAKING A PARENT, LEGAL GUARDIAN, OR
LEGAL CUSTODIAN A PARTY

(A) In a petition alleging that a child is a delinquent child, a dependent child, or a child in need of supervision, the child's parent or parents, legal guardian, or legal custodian shall be given notice of the allegations of the petition by sending the parent or parents, legal guardian, or legal custodian a copy of the petition, with a summons, as prescribed by law and rule, and with a written statement of the rights of the parent or parents, legal guardian, or legal custodian and the child.

(B) On each petition alleging that a child is delinquent or in need of supervision, the following notice shall be placed in capital letters at the bottom of the petition, as follows:

"NOTICE

"A PARENT, LEGAL GUARDIAN, OR LEGAL CUSTODIAN OF THE CHILD CAN BE MADE A PARTY TO THIS DELINQUENCY OR CHILD-IN-NEED-OF-SUPERVISION CASE PURSUANT ALA. CODE 1975, § 12-15-113. A PERSON MADE A PARTY TO THIS CASE MAY BE REQUIRED TO PAY ATTORNEY FEES, TO PAY FOR EVALUATION AND TREATMENT, TO PAY FINES, COURT COSTS, AND RESTITUTION, AND TO PAY FOR CARE, SUPPORT, AND SUPERVISION OF THE CHILD. A PERSON MADE A PARTY MAY BE SUBJECT TO OTHER ORDERS ALSO. FAILURE TO COMPLY WITH THE ORDERS OF THE COURT CAN RESULT IN CONTEMPT PROCEEDINGS, AND FAILURE TO MAKE PAYMENTS ORDERED CAN RESULT IN A CIVIL JUDGMENT FOR THE COLLECTION OF THE PAYMENTS ORDERED."

(C) When a petition alleging that a child is delinquent or in need of supervision is delivered by a juvenile court intake officer to be filed in the circuit court clerk's office or, after such a petition is filed, at any time during the course of the juvenile court proceeding, any interested person may make a motion to join a parent, legal guardian, or legal custodian; upon this motion, the juvenile court may issue an order making the parent, legal guardian,

or legal custodian a party. Also, at any time during the juvenile court proceeding, the juvenile court may, on its own motion, issue an order making a parent, legal guardian, or legal custodian a party to the proceeding.

(D) If a child is released to a parent, legal guardian, or legal custodian, pursuant to Ala. Code 1975, § 12-15-127(a)(1) and (2), the parent, legal guardian, or legal custodian shall be informed that the parent, legal guardian, or legal custodian may be made a party to the juvenile-delinquency or child-in-need-of-supervision proceeding by ordering the parent, legal guardian, or legal custodian to appear with the child and to answer the allegations of the petition. The juvenile court shall inform the parent, legal guardian, or legal custodian of his or her rights pursuant to law.

(E) If a child is not released to the parent, legal guardian, or legal custodian pursuant to Ala. Code 1975, § 12-15-127, then the notice of a detention or shelter-care hearing, either oral or written, given pursuant to Ala. Code 1975, § 12-15-207(b), may include notice by the juvenile court that the parent, legal guardian, or legal custodian may be made a party to the juvenile-delinquency or child-in-need-of-supervision proceeding. The juvenile court shall also inform the parent, legal guardian, or legal custodian of his or her rights pursuant to law. If a detention or shelter-care hearing is held within 72 hours of placement in detention or shelter care, pursuant to Ala. Code 1975, § 12-15-207(a), then the judge, in open court, may inform the parent, legal guardian, or legal custodian that he or she may be made a party to the juvenile court proceeding and inform the parent, legal guardian, or legal custodian of his or her rights.

(F) During any juvenile-delinquency or child-in-need-of-supervision proceeding, the juvenile court may issue an order making a parent, legal guardian, or legal custodian a party to the proceeding; upon issuing this order, the juvenile court shall inform the parent, legal guardian, or legal custodian of his or her rights. The joinder of the parent, legal guardian, or legal custodian as a party makes the parent, legal guardian, or legal custodian subject to orders to pay attorney fees; to pay for evaluation and

treatment; to pay fines, court costs, and restitution; and to pay for the care, support, and supervision of the child. A parent, legal guardian, or legal custodian made a party to the proceeding may also be subject to other orders.

APPENDIX RR

Comment to Amendment to Rule 31
Effective October 1, 2011

Most of the changes to this rule were to clarify that parents, legal guardians, or legal custodians may be made parties only in delinquency and child-in-need-of-supervision cases. Parents, legal guardians, and legal custodians are already considered parties when a dependency case is filed because of the fact that they, as respondents, have a right to appointed counsel if determined by the juvenile court to be indigent. See Ala. Code 1975, § 12-15-305(b). Other changes to this rule were technical.