

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLE

FILED

12/07/2018

Clerk of the  
Appellate Courts

IN RE AMENDMENTS TO THE TENNESSEE RULES  
OF JUVENILE PROCEDURE

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No. ADM2018-01575

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**ORDER**

The Advisory Commission on the Rules of Practice & Procedure annually presents recommendations to the Court to amend the Tennessee Rules of Appellate, Civil, Criminal, and Juvenile Procedure, and the Tennessee Rules of Evidence. With its meeting on July 20, 2018, the Advisory Commission completed its 2017-2018 term, the Commission thereafter transmitted its recommendations to the Court, and the Court solicited public comments. Subsequently, at its December 6, 2018 meeting, the Commission considered amendments to the Tennessee Rules of Juvenile Procedure and transmitted its recommendations to the Court.

The Court hereby solicits written comments from the bench, the bar, and the public concerning the Advisory Commission's recommended amendments to the Rules of Juvenile Procedure set out in Appendix I (proposed amendments to the Rules of Juvenile Procedure) to this order. The deadline for submitting written comments is January 7, 2019. Written comments may either be submitted by email to [appellatecourtclerk@tncourts.gov](mailto:appellatecourtclerk@tncourts.gov) or by mail addressed to:

James Hivner, Clerk  
Re: 2019 Rules Package-Juvenile Procedure  
100 Supreme Court Building  
401 7th Avenue North  
Nashville, TN 37219-1407

and should reference the docket number set out above.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, the order shall be posted on the Tennessee Supreme Court's website.

PER CURIAM

***APPENDIX I***

***PROPOSED AMENDMENTS TO THE TENNESSEE***

***RULES OF JUVENILE PROCEDURE***

**(new text indicated by underlining; deleted text indicated by overstriking)**

TENNESSEE RULES OF JUVENILE PRACTICE AND PROCEDURE

RULE 109

ORDERS FOR THE ATTACHMENT OF CHILDREN.

[Add new subsection (b), renumber current subsections (b)-(c) as subsections (c)-(d); and, add new Advisory Commission Comment (2019 Amendment).]

\* \* \* \*

(b) An attachment for a violation of pretrial diversion, judicial diversion, probation, or home placement (aftercare) supervision shall not issue unless:

(1) The child poses a significant likelihood of significant injury to another person or significant likelihood of damage to property;

(2) The child cannot be located by the supervising person, persons, or entity after documented efforts to locate the child by the supervising person, persons, or entity; or

(3) The child fails to appear for a court proceeding.

If the child has an attorney of record, that attorney must be served with the attachment request made to the court.

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~~(b)~~ (c) **Failure to Appear.** When a child fails to appear at a hearing or other court-scheduled proceeding to which the child has been properly served or directed by appropriate court personnel to appear, the court may, on its own initiative or on the basis of a sworn writing, issue an attachment.

~~(e)~~ (d) **Terms of Order.** The order for attachment shall order that the child be brought immediately before the court or that the child be taken into custody in accordance with Rule 203 or 302.

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## Advisory Commission Comment [2019 Amendment]

Rule 109 is amended by adding new subdivision (b) to address the amendment to Tenn. Code Ann. §37-1-122(c) (2018 Tenn. Pub. Acts, ch. 1052, §16 (effective July 1, 2018)). As a result of the statutory changes, the reference to subsection (b) in the third paragraph of the original Advisory Commission Comment changes to point to subsection (c) of the rule. Also, the statutory references in the fourth and fifth paragraphs of the original Advisory Comment should point to Tenn. Code Ann. §37-1-113(a)(2) but originally the comment inadvertently omitted the (a); the cross-reference is corrected here to point to Tenn. Code Ann. §37-1-113(a)(2).

TENNESSEE RULES OF JUVENILE PRACTICE AND PROCEDURE

RULE 201

PRELIMINARY INQUIRY AND INFORMAL ADJUSTMENT.

[Add underlined words and/or sentences to subsections (a)(1)(B), (a)(2), (d)(1), (d)(3), and (f); and, add new Advisory Commission Comment (2019 Amendment).]

(a) **Purposes.** The juvenile court preliminary inquiry is intended to:

(1) Provide for resolution of complaints by excluding from the juvenile court at its inception:

\* \* \* \*

(B) Those matters in which there appears to be insufficient evidence to support a petition or citation; or

\* \* \* \*

(2) Provide for the commencement of proceedings in the juvenile court by the filing of a petition or citation only when necessary for the welfare of the child or the safety and protection of the public.

\* \* \* \*

(d) **Informal Adjustment.**

(1) If the designated court officer determines that the matter is not serious enough to require official action before the juvenile court judge, then the designated court officer may remedy the situation by giving counsel and advice to the parties through an informal adjustment. No admission of the allegation contained in the complaint shall be required of the child when determining whether to proceed with an informal adjustment. In determining whether informal adjustment should be undertaken, the designated court officer may consider:

\* \* \* \*

(3) The informal adjustment process shall not continue beyond a period of 3 months from its commencement unless such extension is approved by the court for an additional period not to exceed a total of 6 months. The terms of the informal adjustment agreement may not include the imposition on the child of any financial obligations or the obligation to pay restitution.

\* \* \* \*

(f) **Statements of Child.** Any statements made by the child during the preliminary inquiry or informal adjustment are not admissible in ~~any~~ the delinquent or unruly subject proceeding prior to the dispositional hearing.

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Advisory Commission Comment [2019 Amendment]

Rule 201 is amended by adding the words “or citation” to subsections (a)(1)(B) and (a)(2) as Tenn. Code Ann. §37-1-115(c) specifically provides for the issuance of a citation in certain cases, after the passage of 2018 Tenn. Pub. Acts, ch. 1052, §12. Subsections (d)(1) and (d)(3) are amended to conform to Tenn. Code Ann. §37-1-110(a)(2) and (d) (2018 Tenn. Pub. Acts, ch. 1052, §§10-11 (effective July 1, 2018)). Subdivision (f) is amended by deleting the word “any” and substituting “the delinquent or unruly subject” before the word “proceeding” to clarify the original intent of the rule that statements made by the child during the preliminary inquiry or informal adjustment are not admissible prior to the dispositional hearing in the subject case only. Tenn. Code Ann. §37-1-110(d).

TENNESSEE RULES OF JUVENILE PRACTICE AND PROCEDURE

RULE 202

PRETRIAL DIVERSION.

[Add underlined words and/or sentences to subsections (a) and (f); and, add new Advisory Commission Comment (2019 Amendment).]

\* \* \* \*

(a) **Pretrial Diversion Agreement.** If the designated court officer determines that the matter is appropriate for pretrial diversion, the pretrial diversion agreement shall be in writing and signed by the child, the child’s parent, guardian or other legal custodian and the designated court office. No admission of the allegation contained in the petition shall be required of the child when determining whether to proceed with a pretrial diversion. The agreement must be approved by the court before it is of any force and effect.

\* \* \* \*

(f) **Statements of Child.** Any statements made by the child during the preliminary inquiry or pretrial diversion are not admissible in ~~any~~ the delinquent or unruly subject proceeding prior to the dispositional hearing.

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Advisory Commission Comment [2019 Amendment]

Rule 202(a) is amended to conform to Tenn. Code Ann. §37-1-110(d) (2018 Tenn. Pub. Acts, ch. 1052, §11) (effective July 1, 2018). Subdivision (f) is amended by deleting the word “any” and substituting “the delinquent or unruly subject” before the word “proceeding” to clarify the original intent of the rule that statements made by the child during the preliminary inquiry or informal adjustment are not admissible prior to the dispositional hearing in the subject case only. Tenn. Code Ann. §37-1-110(d).

TENNESSEE RULES OF JUVENILE PRACTICE AND PROCEDURE

RULE 212

PROBATION OR HOME PLACEMENT SUPERVISION VIOLATION.

[Add new Advisory Commission Comment (2019 Amendment).]

\* \* \* \*

Advisory Commission Comment (2019 Amendment)

The original Advisory Commission Comment provided: “A hearing is required and must occur within 7 days if the child is placed in detention.” After the amendment to Tenn. Code Ann. §37-1-137(e) (2018 Tenn. Pub. Acts, ch. 1052, §41), the hearing must occur within seven (7) days of filing of the violation petition; in applying the rule, be aware that the original time frame described in the Advisory Commission Comment has been superseded by statute: the time for conducting the hearing now runs from the date of filing the petition alleging a violation.