

THE STATE OF NEW HAMPSHIRE
SUPREME COURT OF NEW HAMPSHIRE

O R D E R

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51, the Supreme Court of New Hampshire adopts the following amendments to court rules.

FAMILY DIVISION RULES

1. Repeal and replace the New Hampshire Family Division Rules on a temporary basis as set forth in Appendix A.

Effective Dates

The amendments in Appendix A shall take effect on October 15, 2007, and shall be referred to the Advisory Committee on Rules for its recommendation as to whether they should be adopted on a permanent basis.

Date: September 28, 2007

ATTEST: _____
Eileen Fox, Clerk
Supreme Court of New Hampshire

APPENDIX A

Repeal all of the Family Division Rules and adopt, on a temporary basis, the following:

RULES OF THE FAMILY DIVISION OF THE STATE OF NEW HAMPSHIRE

NOTE: The rules as published herein are subject to revisions promulgated from time to time by the New Hampshire Supreme Court and published in the New Hampshire Bar News. See Supreme Court Rules 1 and 51.

GENERAL PROVISIONS

These rules are established and relate to the Judicial Branch Family Division pursuant to RSA 490-D.

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RULES OF THE FAMILY DIVISION OF THE STATE OF NEW HAMPSHIRE

Section 1 -- GENERAL PROVISIONS

These rules are established and relate to the Judicial Branch Family Division pursuant to RSA 490-D.

1.1 SCOPE AND APPLICATION: These general provisions apply to all family division case types, unless otherwise stated. All references to “judge” include “marital master” unless otherwise stated.

1.2 WAIVER OF RULES: The family division may waive the application of any rule as justice may require, except where precluded by law.

1.3 WAIVER OF FEES: The family division may waive any fee for good cause shown.

1.4 OPEN TO THE PUBLIC: Hearings in the family division are open to the public unless otherwise specified by statute or order.

1.5 COURTROOM CONDUCT: Any person addressing the Court or questioning a witness shall stand, unless excused by the Court. No person shall approach the bench without permission of the Court.

1.6 RECORDINGS: All hearings held in the courtroom shall be recorded electronically. Recordings need not be monitored unless a party files a formal request for a record and the trial judge determines that the procedures for monitor-less recordings will not adequately protect the record. In making this determination the Court should consider the quality of the recording device, the general sound quality of the courtroom, the nature of the proceedings, and the likelihood of a transcription request.

1.7 CLERK’S OFFICE AND JUDGE’S CHAMBERS:

A. No petitioners, respondents, witnesses, police personnel, prosecutors, attorneys, or others shall be permitted into a Clerk's office or judge's chambers, except when necessary and as authorized by the Court.

B. Official business should be transacted in an area set aside as being accessible to the public for that purpose.

C. No person shall make any statement with regard to the merits of that person's case, orally or in writing, to any judge in whose court or before

whom any case is pending or to be heard except in open court or in the presence of all parties.

D. Any person who shall make any such statement to any judge, except in open court or in the presence of all parties, may be subject to contempt proceedings under RSA 495:2.

1.8 CASE TRANSFER:

A. Any case filed in one family division location involving a family that has another active case filed at a different family division location may be transferred to a single location upon motion by any party or upon independent action of the family division. A party wishing to transfer such a case shall file a motion to transfer with the proposed family division location, with a copy to the original family division location. A transfer of the case will take place only upon mutual agreement of both family division locations.

B. Parties who have cases filed in both family division and non-family division locations may request that one case or the other be transferred so that both may be heard at the same location. Similarly, either Court may, on its own motion, recommend transfer. A transfer of the case will take place only upon mutual agreement of both Courts. The request to transfer shall be filed with the court from which the case will be transferred.

1.9 MULTIPLE CASE FILINGS:

A. In the event that two petitions for divorce, parenting, legal separation, or other action are filed involving the same parties but at different family division locations, the court shall transfer one case, considering the second case filed to be a cross-petition in the same action. In deciding which location will retain jurisdiction, the Court will consider, among other factors, convenience of the parties and witnesses and the timing of the filing of the respective petitions.

B. In the event two such petitions are filed involving the same parties, one in a family division location and one in a superior court, upon motion of either party or upon independent action of the Court, and upon consultation of the Courts, and upon consideration of such factors as convenience to the parties and witnesses, the cases shall be heard in a single location.

1.10 RECUSAL: All grounds for recusal that are known or should reasonably be known prior to trial or hearing shall be incorporated in a written motion for recusal and filed promptly with the court. Grounds for recusal shall be immediately brought to the attention of the court. Failure to raise a basis for recusal shall constitute a waiver of the right to request recusal on such ground. If a record of the proceedings is not available, the Court shall make a record of the request, the Court's findings, and its order.

1.11 INTERPRETERS: If an objection is raised, no person who has assisted in the preparation of a case shall act as an interpreter at the hearing.

1.12 SCHEDULING: Parties are expected to attend court prepared to select dates for future hearings.

1.13 COMPUTATION AND EXTENSION OF TIME: In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, or a legal holiday, as specified in RSA 288, in which case the period shall extend until the end of the next day that is not a Saturday, Sunday, or a legal holiday.

1.14 GUARDIANS AD LITEM :

A. Certification by the New Hampshire Guardian ad Litem Board (referred to in this rule as the “Board”) in superior, district and probate courts is encouraged to ensure adequate numbers of guardians ad litem who are qualified to serve in all categories of family division cases.

B. At a minimum, persons serving as guardians ad litem in the family division must be Board certified as follows:

- (1) For appointment in family division cases of divorce, legal separation, parental rights and responsibilities, guardians ad litem must be Board-certified in the superior court.
- (2) For appointment in family division cases of juvenile delinquency, children in need of services, and abuse and neglect, guardians ad litem must be Board certified in the district court.
- (3) For appointment in family division cases of termination of parental rights, guardianship of minors, or adoption, guardians ad litem must be Board-certified in the probate court.
- (4) For appointment in family division cases of domestic violence, guardians ad litem must be Board-certified in either superior or district court.

C. *Untimely-filed Guardian ad Litem Reports.*

- (1) A guardian ad litem who, without good cause, fails to file a report required by any Court or statute by the date the report is due may be subject to a fine of not less than \$100 and not more than the amount of costs and attorneys fees incurred by the parties to the action for the day of the hearing. The guardian ad litem shall not be subject to the

fine under this rule if, at least ten (10) days prior to the date the report is due, the GAL files a motion requesting an extension of time to file the report. See RSA 490:26-g.

- (2) The Clerk shall report to the Guardian ad Litem Board all guardians ad litem who fail to file a report by the date the report is due. However, the report shall clearly indicate all such guardians for whom the court has found good cause for the late filing. The Clerk shall make such report available to the public.

1.15 RECOMMENDATIONS/*EX PARTE* ORDERS: Recommendations of marital masters may be approved in person, by facsimile transmission, by telephone or electronically. Such recommendations may be approved by any judge of the state, regardless of whether they are specially designated as family division judges. Any judge of the state may issue emergency orders for family division cases in person, by telephone, by facsimile transmission or electronically. All such orders shall be transmitted to the appropriate family division location upon execution. See RSA 490-D:9.

1.16 APPEARANCES: A lawyer intending to represent a party must file a written Appearance.

1.17 SPECIAL APPEARANCES: Special Appearances shall be deemed general thirty (30) days after the return day of the action, unless a special plea or motion to dismiss is filed within that time.

1.18 NON-LAWYER REPRESENTATION:

A. No person who is not a lawyer will be permitted to appear, plead, prosecute or defend an action for any party, other than the person's own case, unless of good character and until there is on file with the court:

- (1) A power of attorney signed by the party for whom the person seeks to appear, witnessed and acknowledged before a Justice of the Peace or Notary Public, authorizing this person to appear in the particular action; and
- (2) An affidavit in which the person discloses:
 - (a) all misdemeanor and felony convictions (other than those in which a record of the conviction has been annulled by statute),
 - (b) all instances in which the person has been found by any court to have violated a court order or any provision of the rules of professional conduct applicable to non-lawyer representatives, and
 - (c) all prior proceedings in which the person has been

permitted to appear, plead, prosecute or defend any action for any party, other than himself, in any court.

B. Any person who is not a lawyer who is permitted to represent any other person before any court of this State must comply with the Rules of Professional Conduct as set forth in Professional Conduct Rule 8.5, and shall be subject to the jurisdiction of the Committee on Professional Conduct.

1.19 LIMITED REPRESENTATION BY ATTORNEYS:

A. *Limited Appearance.* To the extent permitted by Rule 1.2 of the New Hampshire Rules of Professional Conduct, an attorney providing limited representation to an otherwise unrepresented litigant may file a limited appearance on behalf of such unrepresented party. The limited appearance shall state precisely the scope of the limited representation, and the attorney's involvement in the matter shall be limited only to what is specifically stated. The requirements of Family Division Rule 1.24 shall apply to every pleading and motion signed by the limited representation attorney. An attorney who has filed a limited appearance and who later files a pleading or motion outside the scope of the limited representation shall be deemed to have amended the limited appearance to extend to such filing. An attorney who signs a writ, petition, counterclaim, cross-claim or any amendment which is filed with the court, will be considered to have filed a general appearance and for the remainder of that attorney's involvement in the case, shall not be considered as a limited representation attorney under these rules; provided, however, if such attorney properly withdraws from the case and the withdrawal is allowed by the Court, the attorney could later file a limited appearance in the same matter.

B. *Pleadings Prepared for Unrepresented Party.* When an attorney provides limited representation to an otherwise unrepresented party, by drafting a document to be filed by such party with the court in a proceeding in which:

- (1) the attorney is not entering any appearance, or
- (2) the attorney has entered a limited appearance which does not include representation regarding such document, the attorney is not required to disclose the attorney's name on such pleading to be used by that party; any pleading drafted by such limited representation attorney, however, must conspicuously contain the statement "This pleading was prepared with the assistance of a New Hampshire attorney." The unrepresented party must comply with this required disclosure. Notwithstanding that the identity of the drafting attorney need not be required to be disclosed under this rule, by drafting a pleading to be used in court by an otherwise unrepresented party, the limited representation attorney shall be deemed to have made

those same certifications as set forth in Family Division Rule 1.24 despite the fact the pleading need not be signed by the attorney.

C. *Automatic Termination of Limited Representation.* Any limited representation appearance filed by an attorney, as authorized under Professional Conduct Rule 1.2(f) and Family Division Rule 1.19, shall automatically terminate upon completion of the agreed representation, without the necessity of leave of Court, provided that the attorney shall provide the court a “withdrawal of limited appearance” form giving notice to the court and all parties of the completion of the limited representation and termination of the limited appearance. Any attorney having filed a limited appearance who seeks to withdraw prior to the completion of the limited representation stated in the limited appearance, however, must comply with Family Division Rule 1.20.

1.20 WITHDRAWAL AND NEW REPRESENTATION: Other than limited representation by attorneys as allowed by Family Division Rule 1.19, and Professional Conduct Rule 1.2(f), no attorney shall be permitted to withdraw that attorney’s appearance in a case after the case has been scheduled for trial or hearing, except upon motion to permit such withdrawal granted by the Court for good cause shown, and on such terms as the Court may order. Any motion to withdraw filed by counsel shall clearly set forth the reason therefor and contain a certification that copies have been sent to all other counsel or opposing parties, if appearing pro se, and to counsel's client at the client's last known address, which shall be fully set forth within the body of the motion. A factor which may be considered by the Court in determining whether good cause for withdrawal has been shown is the client's failure to meet the financial obligations to pay for the attorney's services. Upon receipt of a motion to withdraw, a hearing may be scheduled. Notice by mail shall be sent to all counsel of record, or parties if unrepresented by counsel, and to the client of withdrawing counsel, at the client's last known address. If withdrawing counsel's client fails to appear at said hearing, the Court may, in its discretion, and without further notice to said client, order the hearing date continued or make such other order as justice may require.

1.21 *PRO HAC VICE* REPRESENTATION:

A. An attorney who is not a member of the Bar of this State who wishes to participate in any hearing must file an application to appear *pro hac vice*. The application shall contain the following information:

- (1) The applicant's residence and business address;
- (2) The name, address and phone number of each client sought to be represented;
- (3) The courts before which the applicant has been admitted to practice and the respective period(s) of admission;

- (4) Whether the applicant:
 - (a) has been denied admission *pro hac vice* in this State;
 - (b) had admission *pro hac vice* revoked in this State; or
 - (c) has otherwise formally been disciplined or sanctioned by any court in this State. If so, the applicant shall specify the nature of the allegations; the name of the authority bringing such proceedings; the caption of the proceedings; the date filed; and what findings were made and what action was taken in connection with those proceedings;
- (5) Whether any formal, written disciplinary proceeding has ever been brought against the applicant by any disciplinary authority in any other jurisdiction within the last five years and, as to each such proceeding: the nature of the allegations; the name of the person or authority bringing such proceedings; the date the proceedings were initiated and finally concluded; the style of the proceedings; and the findings made and actions taken in connection with those proceedings;
- (6) Whether the applicant has been formally held in contempt or otherwise sanctioned by any court in a written order in the last five years for disobedience to its rules or orders, and, if so: the nature of the allegations; the name of the court before which such proceedings were conducted; the date of the contempt order or sanction, the caption of the proceedings, and the substance of the court's rulings (a copy of the written order or transcript of the oral rulings shall be attached to the application); and
- (7) The name and address of each court or agency and a full identification of each proceeding in which the applicant has filed an application to appear *pro hac vice* in this State within the preceding two years; the date of each application; and the outcome of the application.
- (8) In addition, unless this requirement is waived by the family division, the verified application shall contain the name, address, telephone number and bar number of an active member in good standing of the Bar of this State who will be associated with the applicant and present at any hearing. However, presence of New Hampshire Bar member may be waived by the Court.

B. The Court has discretion to grant applications for admission *pro hac vice*. An application ordinarily should be granted unless the Court finds reason to believe that:

- (1) such admission may be detrimental to the prompt, fair and efficient administration of justice;
- (2) such admission may be detrimental to legitimate interests of parties to the proceedings other than the client(s) the applicant proposes to represent;
- (3) one or more of the clients the applicant proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk; or
- (4) the applicant has engaged in such frequent appearances as to constitute common practice in this State.

1.22 TESTIMONY OF ATTORNEY: No attorney shall be compelled to testify in any case unless provided with five (5) days' written notice.

1.23 PLEADINGS:

A. Copies of all pleadings filed and communications addressed to the court shall be provided to all other counsel or to the opposing party if appearing *pro se*. When an attorney has filed a limited appearance under Family Division Rule 1.19 A, copies of pleadings filed and communications addressed to the court shall be furnished both to the opposing party who is receiving the limited representation and to the limited representation attorney. After the limited representation attorney files that attorney's "withdrawal of limited appearance" form, as provided in Family Division Rule 1.19 C, no further service need be made upon that attorney. All such pleadings and communications shall contain a statement of compliance with this rule.

B. A no contact order in a domestic violence, stalking, or similar matter shall not be deemed to prevent either party from filing appearances, motions, and other appropriate pleadings with the court. At the request of the party filing the pleading, the court shall forward a copy of the pleading to the party or counsel on the other side of the case. Furthermore, the no contact provisions shall not be deemed to prevent contact between counsel when both parties are represented.

1.24 PLEADING REQUIREMENTS:

A. All pleadings and the appearance and withdrawal of counsel shall be signed by the attorney of record or an associate or by a *pro se* party. Names, addresses, New Hampshire Bar identification numbers, telephone numbers, and to the extent available electronic mail addresses, shall be

typed or stamped beneath all signatures on papers to be filed or served. No attorney or pro se party will be heard until an appearance is properly filed.

B. The signature of an attorney or pro se party to a pleading constitutes a certificate that the pleading has been read by the person signing the document; that to the best of the person's knowledge, information and belief there is good ground to support it; and that it is not filed for delay. If a pleading is not signed, or is signed with an intent to defeat this rule, it may be stricken and the action may proceed as though the pleading had not been filed.

C. If either party changes attorneys during the pendency of the action, the name of the new attorney shall be entered on the docket. Whenever the attorney of a party withdraws an appearance, and no other appearance is entered, the Clerk shall notify the party by mail of such withdrawal. If the party fails to appear by himself or attorney by a date fixed by the court, the Court may take such action as justice may require.

1.25 DISCOVERY:

A. *General.* Unless specified in another section of these rules, these discovery rules apply in all family division case types. The Court, in its discretion, may limit or expand the scope of discovery in any case as justice requires.

B. *Discovery Methods.* Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things; permission to enter upon land or other property for inspection and other purposes; physical or mental examinations; and requests for admission. Unless the Court orders otherwise, or unless otherwise provided in these rules, the frequency of use of these methods is not limited.

C. *Scope of Discovery.* Unless otherwise ordered, parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not grounds for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

D. *Expert Witnesses.*

- (1) Within thirty (30) days of a request by the opposing party, or in accordance with an order of the Court, a party shall be required to supply a Disclosure of Expert Witness(es) as defined under Rule 702 of the Rules of Evidence, which

document shall:

- (a) identify each person, including any party, whom the party expects to call as an expert witness at trial;
- (b) provide a brief summary of the expert's education and experience relevant to the expert's area of expertise;
- (c) state the subject matter on which the expert is expected to testify; and
- (d) state a summary of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

The party shall attach to the disclosure a copy of any expert report relating to such expert.

- (2) A party may discover facts known or opinions held by an expert, who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.
- (3) Unless manifest injustice would result, (i) the Court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions 1.25 D (1) and 1.25 D (2) of this rule, and (ii) with respect to discovery obtained under subdivision 1.25 (D) (2), the Court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

E. *Written Interrogatories.*

(1) *General.* Any party may serve written interrogatories upon any other party, by mail or delivery by hand.

The parties may agree to transmit interrogatories electronically or by computer disk, enabling the answering party to provide answers directly after each separate question using the party's available word processing technology.

Interrogatories may include any topic not subject to privilege. Furthermore, it is not grounds for refusal to answer a question that the testimony would be inadmissible at the hearing, if the testimony sought

appears reasonably calculated to lead to the discovery of admissible evidence and does not violate any privilege.

(2) *Notice.* The party requesting the interrogatories shall provide the other party with notice of the obligation to answer the interrogatories within thirty (30) days. The notice shall be at the top of the first page and printed in capital, typewritten letters or in ten-point, bold-face print. The form of the notice shall be as follows:

Notice: These interrogatories are propounded in accordance with Family Division Rule 1.25. You must answer each question separately and fully in writing and under oath. You must return the original and one copy of your answers within thirty (30) days of the date you received them to the party or attorney who served them upon you. If you object to any question, you must note your objection and state the reason for your objection. If you fail to return your answers within thirty (30) days, the party who served them upon you may inform the court, and the Court shall make such orders as justice requires, including the entry of a conditional default against you.

Interrogatories may be served at any time after service of the action.

(3) *Copies.* The party serving the interrogatories shall furnish the answering party with an original and two copies. The interrogatories shall be arranged so that after each separate question space will be provided to enable the answering party to respond.

(4) *Answers.* Interrogatories shall be answered in writing under oath by the party upon whom served, if an individual, or, if a public or private corporation, a partnership or association, by an officer or agent who shall furnish all information available to the party.

Each question shall be answered separately, fully and responsively, such that the final document shall have each interrogatory immediately followed by its answer.

The party served with interrogatories shall provide the original and one copy of the answers, by mail or delivery in hand, to the party requesting them within thirty (30) days of receipt of the interrogatories. If, in any interrogatory, a copy of a paper or document is requested, only one copy need be included with the answers. If the copy is a report of an expert witness or a treating physician, it shall be the exact copy of the entire report or reports rendered by him, and the answering party shall certify that the existence of other reports of that expert, either written or oral, are unknown to the answering party and, if such become later known or available, the answering party shall serve them promptly on the requesting party.

(5) *Extension of Deadlines.* The parties may extend interrogatory deadlines by written agreement, provided any such extension is not inconsistent with discovery orders of the Court.

(6) *Objections, Motions to Compel, Motions to Strike.* If a party objects to any questions, that party may either answer the question by stating it is improper or may, within twenty (20) days after the service of interrogatories, move to strike any question, setting out the specific grounds of objection. The answering party shall make timely answer, however, to all questions to which that party does not object. All other interrogatories shall nonetheless be answered within the thirty days allowed, or within such time as the Court directs.

The party requesting the interrogatories who receives a response that one or more questions are improper, may within twenty (20) days, move to compel answer(s) to the question(s), and, if the motion is granted, the question(s) shall be answered within such time as the Court directs.

If a party, who is served with interrogatories requesting copies of papers, objects to furnishing them, that party may either state with specificity the reasons for non-compliance or invite the party seeking the copies to inspect and copy the papers at a designated time and place. The party seeking a copy of a paper which is not provided may within twenty (20) days of receipt of the answers file a motion seeking compliance.

Motions to strike interrogatories or to compel more specific answers shall include a statement summarizing the nature of the action and shall include the text of the questions and answers, if any, objected to.

When objections are made to interrogatories or requests for admissions, before there is any hearing regarding the objections, counsel for the parties shall attempt in good faith to settle the objections. It shall be the responsibility of counsel for the objecting party to initiate such attempt and to notify the Clerk if the objections are settled. If, following such conference, counsel are unable to settle objections, counsel for the objecting party shall notify the Clerk and request a hearing.

Where an objection to an interrogatory has been withdrawn or has been overruled by the Court, the answer to the interrogatory shall be provided within ten (10) days.

(7) *Frivolous Motions.* If the Court finds that a motion, which is made pursuant to this rule, was made frivolously or for the purpose of delay or was necessitated by action of the adverse party that was frivolous or taken for the purpose of delay, the Court may order the

offending party to pay the amount of reasonable expenses, including attorney's fees, incurred by the other party in making or resisting the motion.

(8) *Limitations on Number of Interrogatories.* A party may file more than one set of interrogatories to an adverse party, but the total number of interrogatories shall not exceed fifty (50), unless the Court otherwise orders for good cause shown after the proposed additional interrogatories have been filed. In determining what constitutes an interrogatory for the purpose of applying this limitation in number, it is intended that each question be counted separately, whether it is subsidiary or incidental to or dependent upon or included in another question, and however the questions may be grouped, combined or arranged.

The other party shall have the same privileges in answering written interrogatories as the deponent in the taking of a deposition.

(9) *Supplementation of Responses.* If a party, who has furnished answers to interrogatories, thereafter obtains information which renders such answers incomplete or inaccurate, amended answers shall be served in accordance with Family Division Rule 1.25 I.

(10) *Use of Interrogatories.* Interrogatories and answers may be used at the hearing to the same extent as depositions. If less than all of the interrogatories and answers are marked or read into evidence by a party, an adverse party may read into evidence any other of the interrogatories and answers or parts necessary for a fair understanding of the parts read into evidence.

Neither the interrogatories nor the answers need be filed with the Clerk unless the Court so directs.

(11) *Failure to Answer.* If the party, upon whom interrogatories have been served, fails to answer the interrogatories within thirty (30) days, unless written objection to the answering of the interrogatories is filed within that period, such failure will result in a conditional default being entered by the Clerk upon motion being filed indicating such failure to answer. The party failing to answer shall receive notice of the conditional default. The conditional default shall be vacated if the defaulted party answers the interrogatories within ten (10) days of receiving notice and moves to strike the conditional default. If the defaulted party fails to move to strike the conditional default within ten (10) days of receiving notice, the adverse party may move to have a default judgment entered and damages assessed. If, upon review of an affidavit of damages, the Court determines that it does not provide a sufficient basis for determining damages, the Court may, upon its own motion, order a hearing.

F. Depositions.

Notice shall be provided to any person whose deposition is requested. Twenty (20) days notice is considered reasonable in all cases, unless otherwise ordered by the Court.

Every notice of a deposition to be taken within the State shall contain the name of the stenographer/professional proposed to record the testimony.

When a statute requires notice of the taking of depositions to be given to the adverse party, it may be given to such party or the party's attorney of record. Notices given pursuant to this rule may be given by mail or by service in hand.

The questions and answers shall be taken in shorthand or other form of verbatim reporting approved by the Court and transcribed by a competent stenographer/professional agreed upon by the parties or their attorneys. In the absence of such agreement, the stenographer/professional shall be designated by the Court. Failure to object in writing to a stenographer in advance of the taking of a deposition shall be deemed agreement to the stenographer/professional recording the testimony.

No deposition, as transcribed, shall be changed or altered, but any alleged errors may be set forth in a separate document attached to the original and copies.

Upon motion, the Court may order the filing of depositions, and, upon failure to comply with such order, the Court may take such action as justice may require.

The signature of a person outside the State, acting as an officer legally empowered to take depositions or affidavits, with an appropriate seal affixed, where one is required, to the certificate of an oath administered by him in the taking of affidavits or depositions, will be prima facie evidence of this person's authority.

The person being deposed shall ordinarily be required to answer all questions not subject to privilege or excused by the statute relating to depositions, and it is not grounds for refusal to answer a particular question that the testimony would be inadmissible at the trial if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence and does not violate any privilege.

If any person being deposed refuses to answer any question asked in the deposition, the party asking the question may request an order of the Court compelling an answer. If the motion is granted, and if the Court finds that the refusal was without substantial justification or was frivolous or unreasonable, the Court may, and ordinarily will, require the person deposed and the party or attorney advising the refusal, or either of them, to pay the examining or requesting party the reasonable expenses incurred in obtaining the order,

including reasonable attorneys fees. If the motion is denied and if the Court finds that the motion was made without substantial justification or was frivolous or unreasonable, the Court may, and ordinarily will, require the examining party or the attorney advising the motion, or both of them, to pay to the witness the reasonable expenses incurred in opposing the motion, including reasonable attorneys fees.

G. *Use of Videotape Depositions.*

The Court, within its discretion, may allow the use of videotape depositions that have been taken by agreement; and provided further that, if the parties cannot reach such an agreement, the Court may, in its discretion, order the taking and/or use of such depositions. At the commencement of the videotape deposition, counsel representing the person deposed should state whose deposition it is, what case it is being taken for, where it is being taken, who the lawyers are that will be asking the questions, and the date and the time of the deposition. Care should be taken to have the witnesses speak slowly and distinctly and that papers be readily available for reference without undue delay and unnecessary noise. Counsel and witnesses shall comport themselves at all times as if they were actually in the courtroom.

If any problem arises as to the admissibility or inadmissibility of evidence, this should be handled in the same manner as written interrogatories.

A party objecting to a question asked of, or an answer given by, a witness whose testimony is being taken by videotape shall provide the court at the pretrial conference with a transcript of the videotape proceedings that is sufficient to enable the Court to act upon the objection before the hearing, or the objection shall be deemed waived.

H. *Limits on Discovery.* Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the Court may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) that the discovery not be had;
- (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;
- (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters;
- (5) that discovery be conducted with no one present except persons designated by the Court;

- (6) that a deposition after being sealed be opened only by order of the Court;
- (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; and
- (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the Court.

If the motion for a protective order is denied in whole or in part, the Court may, on such terms and conditions as are just, order that any party or person provide or permit discovery.

I. *Supplementation of Responses.* A party who has responded to a request for discovery with a response that was complete when made is under a continuing duty to supplement responses to include information thereafter acquired, as follows:

- (1) A party is under a duty to supplement responses concerning any question regarding the identity:
 - (a) and location of persons having knowledge of discoverable matters; and
 - (b) of each person expected to be called as an expert witness, the subject matter on which the expert is expected to testify, and the substance of the testimony.
- (2) A party is under a duty to amend a prior response if it is known that the response:
 - (a) was incorrect when made; or
 - (b) though correct when made, is no longer true.

J. *Discovery Deadlines.* The discovery dates established at a scheduling conference or other hearing are Court orders and may not be extended by the parties without written permission of the Court.

K. *Abuse of Discovery.* The Court, in its discretion, may sanction any party including through the use of fees and costs, for abusing the discovery process.

1.26 MOTIONS:

A. Parties may not address written communications directly to the judge. All requests shall be by properly filed motion with certification of delivery of a copy of the motion to the other party, unless jointly filed. No exhibits shall be attached to motions unless necessary to support an affidavit.

B. Any party filing a motion shall certify to the court that a good faith attempt has been made to obtain concurrence in the relief sought, except in the case of dispositive motions, motions for contempt or sanctions, or comparable motions where it can be reasonably assumed that the party or counsel will be unable to obtain concurrence.

C. Motions to which all parties assent or concur will be ruled upon as court time permits.

D. Motions that are not assented to will be held for 10 days from the date of the motion to allow other parties time to respond, unless justice requires an earlier Court ruling.

E. *Motions to Reconsider.* A motion for reconsideration or other post-decision relief shall be filed within ten (10) days of the date on the Clerk's written notice of the order or decision, which shall be mailed by the Clerk on the date of the notice. The motion shall state, with particular clarity, points of law or fact that the Court has overlooked or misapprehended and shall contain such argument in support of the motion as the movant desires to present; but the motion shall not exceed ten (10) pages. A hearing on the motion shall not be permitted except by order of the Court.

No answer to a motion for reconsideration or other post-decision relief shall be required unless ordered by the Court, but any answer or objection must be filed within ten (10) days of notification of the motion.

If a motion for reconsideration or other post-decision relief is granted, the court may schedule a further hearing.

The filing of a motion for reconsideration or other post-decision relief shall not stay any order of the Court unless, upon specific written request, the Court has ordered such a stay.

1.27 CONTINUANCES:

A. Except for the initial hearing in a case or for an emergency hearing, hearing dates are generally selected by agreement of the parties and the court. Therefore, motions to continue will usually be denied, except for good cause shown. The Court may condition the granting of a motion to continue on a requirement that the moving party obtain a date and time agreeable to all other parties and the court.

B. For hearings scheduled by the court without input from the parties, motions to continue shall be filed within ten (10) days from the date of the mailing of the notice of a hearing.

C. Any motion to continue filed by counsel shall contain a certification that the client has been notified of the reasons for the continuance, has assented to the motion, and has been forwarded a copy of the motion.

D. A motion to continue based upon the unavailability of a material witness must be supported by an affidavit containing the name of the material witness, the anticipated content of the testimony, what has been done to procure the attendance of the witness, including the date the request was initially made of the witness to testify, and a statement that the adverse party will not admit to the facts without the presence of the witness. The same rule shall apply with regard to the unavailability of a material document or other evidence.

E. *Priority of Scheduling.* Where a hearing has been scheduled in one case prior to the scheduling of another hearing, the case scheduled first shall take priority over the subsequently scheduled cases, except as follows:

- (1) to accommodate a subsequently scheduled case involving a jury trial in state or federal court, or argument before the New Hampshire Supreme Court or any federal appellate court;
- (2) to comply with the hearing requirements of RSA 169-B, C, or D;
- (3) to comply with the hearing requirements of RSA 173-B; or
- (4) if unusual circumstances cause the respective Courts to agree that an order of precedence other than the above shall take place.

1.28 OFFERS OF PROOF:

A. When making an offer of proof, an attorney represents to the Court that the witness or document which is the subject of the offer has been examined by the attorney and the attorney reasonably believes, taking into account all that is known about the case, that the evidence is not false, is admissible through a witness who could testify under oath to establish the point for which it is offered, and is not offered for a frivolous purpose. In an *ex parte* proceeding, the attorney also represents that any offer of proof has been accompanied by a sworn statement of all material facts known to the attorney which will enable the Court to make an informed decision of the issues presented.

B. When the Court exercises discretion to receive evidence by offers of proof, the following procedure shall be employed:

- (1) an offer of proof as to the testimony of a witness shall be received only if that witness is in the courtroom at the time of the offer, and that witness would testify to the same information under oath if asked;
- (2) any witness whose testimony is presented by offer of proof may be cross-examined by the opposing party, subject to the discretion of the Court; and
- (3) where credibility is challenged, or for any purpose in the Court's discretion, the Court may question the witness or require the witness' proof be presented from the witness stand.

C. If evidence could have been accepted by the Court without the necessity of testimony under oath from a witness for its introduction, for example when the parties have agreed, that evidence may also be received by offer of proof without the presence of the witness in court.

D. Requests for restraining orders against any person should not be presented by offers of proof.

1.29 REGULATION OF MEDIA AND OTHER COVERAGE IN THE COURTROOM:

A. The Court should generally permit the media to photograph, record and broadcast all courtroom proceedings that are open to the public. The Court may limit electronic media coverage if there is a substantial likelihood of harm to any person or other harmful consequence. Except as specifically provided in this rule, or by order of the Court, no person shall within the courtroom take any photograph, make any recording, or make any broadcast by radio, television or other means in the course of any proceeding.

B. Official court reporters and authorized recorders, are not prohibited by section (A) of this rule from making voice recordings for the sole purpose of discharging their official duties.

C. *Proposed Limitations on Coverage by the Electronic Media.* Any party to a court proceeding – or any other interested person – shall notify the court at the inception of a matter, or as soon as practicable, if that person intends to ask the Court to limit electronic media coverage of any proceeding that is open to the public. Failure to notify the court in a timely fashion may be sufficient grounds for the denial of such a request. In the event of such a request, the Court shall either deny the request or issue an order notifying the parties to the proceeding and all other interested persons that such a limitation has been requested, establish deadlines for the filing of written objections by parties and interested persons, and order an evidentiary hearing during which all interested persons will be heard. The same procedure for notice and hearing shall be utilized in the event that the Court *sua*

sponte proposes a limitation on coverage by the electronic media. A copy of the Court's order shall, in addition to being incorporated in the case docket, be sent to the Associated Press, which will disseminate the Court's order to its members and inform them of upcoming deadlines/hearing.

D. *Advance Notice of Requests for Coverage.* Any requests to bring cameras, broadcasting equipment and recording devices into a New Hampshire courtroom for coverage of any court proceedings shall be made as far in advance as practicable. If no objection to the requested electronic coverage is received by the court, coverage shall be permitted in compliance with this rule. If an objection is made, the media will be so advised and the court will conduct an evidentiary hearing during which all interested parties will be heard to determine whether, and to what extent, coverage by the electronic media or still photography will be limited. This rule and procedures also apply to all court procedures conducted outside the courtroom or the court facility.

E. *Pool Coverage.* The Court retains discretion to limit the number of still cameras and the amount of video equipment in the courtroom at one time and may require the media to arrange for pool coverage. The court will allow reasonable time prior to a proceeding for the media to set up pool coverage for television, radio and still photographers providing broadcast quality sound and video.

- (1) It is the responsibility of the news media to contact the court Clerk in advance of a proceeding to determine if pool coverage will be required. If the Court has determined that pool coverage will be required, it is the sole responsibility of the media, with assistance as needed from the court Clerk, to determine which news outlet will serve as the "pool." Disputes about pool coverage will not be resolved by the Court. Access may be curtailed if pool agreements cannot be reached.
- (2) In the event of multiple requests for media coverage, because scheduling renders a pool agreement impractical, the court Clerk retains the discretion to rotate media representatives into and out of the courtroom.

F. *Live Feed.* Except for good cause shown, requests for live coverage should be made at least five (5) days in advance of a proceeding.

G. *Exhibits.* For purposes of this rule, access to exhibits will be at the discretion of the Court. The Court retains the discretion to make one "media" copy of each exhibit available in the court Clerk's office.

H. *Equipment.* Exact locations for all video and still cameras, and audio equipment within the courtroom will be determined by the Court. Movement in the courtroom is prohibited, unless specifically approved by the Court.

- (1) Placement of microphones in the courtroom will be determined by the presiding judge. An effort should be made to facilitate

broadcast quality sound. All microphones placed in the courtroom will be wireless.

- (2) Video and photographic equipment must be of professional quality with minimal noise so as not to disrupt the proceedings; flash equipment and other supplemental lighting or sound equipment is prohibited unless otherwise approved by the presiding judge.

I. *Restrictions.* Unless otherwise ordered by the Court, the following standing orders shall govern:

- (1) No flash or other lighting devices will be used.
- (2) Set up and dismantling of equipment is prohibited when court is in session.
- (3) No camera movement during court session.
- (4) No cameras permitted behind the defense table.
- (5) Broadcast equipment will be positioned so that there will be no audio recording of conferences between attorney and client or among counsel and the presiding judge at the bench. Any such recording is prohibited.
- (6) Photographers and videographers must remain a reasonable distance from parties, counsel tables, alleged victims, witnesses and families unless the trial participant voluntarily approaches the camera position.
- (7) All reporters and photographers will abide by the directions of the court officers at all times.
- (8) Broadcast or print interviews will not be permitted inside the courtroom before or after a proceeding.
- (9) Photographers, videographers and technical support staff covering a proceeding shall avoid activity that might distract participants or impair the dignity of the proceedings.
- (10) Appropriate dress is required.

Comment

As the New Hampshire Supreme Court stated in Petition of WMUR Channel 9, 148 N.H. 644 (2002), a presiding judge should permit the media to photograph, record and broadcast all courtroom proceedings that are open to the public. A judge may limit electronic media coverage if there is a substantial likelihood of harm to any person or other harmful consequences. Closure of proceedings to the electronic media, however, should occur only if four requirements are met:

- (1) Closure advances an overriding interest that is likely to be prejudiced;
- (2) The closure ordered is no broader than necessary to protect that interest;
- (3) The judge considers reasonable alternatives to closing the proceedings; and
- (4) The judge makes particularized findings to support the closure on the record.

It is the presiding judge's responsibility to ensure that trials are conducted in a fair and impartial manner, free from undue pressures and outside influences. Similarly, the presiding judge has a responsibility to the public and the press to provide reasonable access to judicial proceedings. Above all, trials must be conducted in an atmosphere of dignity and decorum.

In Petition of WMUR Channel 9, the New Hampshire Supreme Court held, among other things, that the presiding judge can limit electronic media coverage if there is a substantial likelihood of harm to any person or other harmful consequences. The Supreme Court required that trial court orders restricting coverage be: (1) based on clearly articulated findings of fact; (2) made after an evidentiary hearing during which all interested parties are entitled to be heard; (3) drawn narrowly to address a particular problem; and (4) imposed only when no other practical alternative is available.

1.30 ACCESS TO CONFIDENTIAL RECORDS – FEES AND NOTICE: Any person or entity not otherwise entitled to access may file a motion or petition to gain access to:

- A. A financial affidavit filed pursuant to Family Division Rule 2.16 and kept confidential under RSA 458:15-b, I, or RSA 461-A:3.
- B. Any other sealed or confidential court record. *See Petition of Keene Sentinel*, 136 N.H. 121 (1992).

Filing Fee: There shall be no filing fee for such a motion or petition.

Notice: In open cases, the person filing such a motion shall provide the parties to the proceeding with notice of the motion by first class mail to the last mail addresses on file with the Clerk. In closed cases, the Court shall order that the petitioner notify the parties of the petition to grant access by certified mail to the last known address of each party, return receipt requested, restricted delivery, signed by the addressee only, unless the Court expressly determines that another method of service is necessary in the circumstances.

1.31 APPEALS TO THE SUPREME COURT:

A. When a question of law is to be transferred after a decision on the merits, all appeals shall be deemed waived and final judgment shall be entered on the thirty-first (31st) day from the date on the Clerk's written notice that the Court has made the decision on the merits, unless the party aggrieved enters a notice of appeal in the Supreme Court within thirty days from the date on the

Clerk's written notice of the Court's decision that aggrieves the party, pursuant to Supreme Court Rule 7, and mails the number of copies provided for by the rules of the Supreme Court to its Clerk. The Court shall not grant any requests for extensions of time to file an appeal document in the Supreme Court or requests for late entry of an appeal document in the Supreme Court; such requests shall be filed with the Supreme Court. See Supreme Court Rule 21(6).

B. Whenever any question of law is to be transferred by interlocutory appeal from a ruling or by interlocutory transfer without ruling, counsel shall prepare and file with the Clerk of the family division the interlocutory appeal statement or interlocutory transfer statement pursuant to Supreme Court Rule 8 and Supreme Court Rule 9, and after the Court has signed the statement, counsel shall mail the number of copies provided for by the rules of the Supreme Court to its Clerk.

Section 2 -- DOMESTIC RELATIONS

2.1 SCOPE AND APPLICABILITY: The family division has jurisdiction over all divorces, parenting actions, legal separations, annulments, child support actions, separate maintenance actions, paternity, legitimation, registration of foreign judgments and decrees, uniform interstate family support, administrative support violations, and any actions to change or enforce any of these orders once they become final. These rules apply to divorce, legal separation, and parenting actions, and serve as guidance for the other case types listed above.

2.2 APPLICATION OF NEW HAMPSHIRE RULES OF EVIDENCE: The New Hampshire Rules of Evidence do not apply to the actions listed above. However, the Court in its discretion may utilize the New Hampshire Rules of Evidence to enhance the predictable, orderly, fair, and reliable presentation of evidence.

2.3 BEGINNING OF LEGAL ACTION:

A. *Petition.* All domestic relations actions begin with the filing of a petition. A petition may be jointly filed by both parties.

B. *Where to File Petition.* New petitions should be filed in the county in which the petitioner lives. If there are multiple family division locations within a county, the petition is properly filed in the family division location for the town in which the petitioner resides, as outlined in RSA 490-D:4. If both parties reside within the same county, the petition may be filed at the family division location for the town of residence of either the petitioner or respondent.

C. *Petition Caption.* Domestic relations actions shall be entitled "In the matter of ...and...", stating the names of the parties. The first name shall be of the petitioner and the second shall be of the respondent.

D. *Petition Type.* The subject matter of the petition, such as petition for divorce, shall be stated in the title of the petition.

E. *Petition Contents.* Petitions filed under these rules shall contain all information required on the petition forms posted on the judicial branch website at www.courts.state.nh.us and available at any family division location.

F. *Proper Filing.* An action under this section is considered properly filed upon the court's receipt of a completed individual or joint petition, a personal data sheet, and the correct filing fee.

G. *Personal Data Sheet.* At the time of any initial filing, the filing party shall, and the responding party may, file a completed personal data sheet. Should a party become aware of any change in addresses, telephone numbers, or employment during the pendency of a case or of any outstanding support order, that party shall notify the court of such change. Access to information contained in the personal data sheet shall be restricted to court personnel, the Office of Child Support, the court-appointed mediator, the guardian ad litem, the parties, and counsel unless a party has requested on the data sheet that it not be disclosed to the other party.

H. *Adultery/Co-Respondent.* All petitions and cross petitions for divorce or legal separation alleging adultery shall contain the name and address of the person with whom the party is accused of committing adultery, if known, and, if not, a statement to that effect.

2.4 NOTICE OF LEGAL ACTION:

A. *Joint Petitions.* Because joint petitions are signed and filed by both parties, no further notice or service is required.

B. *Individual Petitions.* Upon receipt of an individual petition, the court shall attach to the petition a Notice to Respondent (formerly orders of notice) and an appearance form.

(1) The court forwards a notice to the respondent, indicating that the petition has been filed and that the respondent or the respondent's attorney may accept service of the petition at the court within ten (10) days. A respondent's attorney, who has filed an appearance, may request and accept service by mail provided the attorney files a receipt of service signed by the respondent within five (5) business days of the attorney's receipt of the petition.

(2) If neither the respondent nor the attorney for the respondent accepts service of the petition as set forth above, the petition shall be forwarded to the petitioner for service on the respondent either by certified mail, restricted delivery, signed by the addressee only, or by sheriff; or, if the respondent is out of state, by an officer authorized to make service in the state where the respondent lives. In all instances,

the petitioner shall file the return receipt or the return of sheriff/officer service as proof of service.

C. If the above methods of service are neither feasible nor successful, the Court, upon motion of the petitioner, will consider alternate methods of service.

D. *Notice to Co-Respondent.* Any person not a party to the proceedings who is accused of adultery shall be served with an attested copy of the petition with the orders of notice. Such service is not required if the co-respondent resides outside the state, in which case notice by regular US mail is acceptable.

2.5 RESPONSE TO LEGAL ACTION:

A. *Appearance:* Any party intending to participate in the case must file a written Appearance within fifteen (15) days of receipt of the Notice to Respondent.

B. *Responsive Pleadings.* No responsive pleading is required of the respondent, unless alimony or other affirmative relief is requested; provided, however, that the court may, as justice may require, allow a respondent to seek alimony or other affirmative relief despite the failure to file a timely responsive pleading. If the respondent chooses to file a response, with or without a cross-petition, it shall be filed in the timeframes set forth in the Clerk's notice. A cross-petition need not be served in hand or by sheriff, but shall contain a certificate that the respondent has delivered a copy of the cross-petition to the petitioner by pre-paid mail.

C. *Notice to Co-Respondent.* Any person not a party to the proceedings who is accused of adultery shall be served with an attested copy of the cross-petition and orders of notice. Such service is not required if the co-respondent resides outside the state, in which case notice by regular US mail is acceptable.

2.6 DEFAULT AND DISMISSAL:

A. *Default.* If the court has not received a timely appearance or response from the respondent, and the petitioner has requested the entry of a default, a default hearing shall be scheduled not less than thirty (30) days from the petitioner's written request, provided the petitioner has filed a military affidavit, vital statistics form, non-cohabitation affidavit, affidavit of impossibility, uniform support order and child support guideline worksheet if child support is to be ordered, proposed decree, parenting plan, and a current financial affidavit, together with a certificate that copies of each of the foregoing items have been forwarded to the other party. If a non-cohabitation affidavit is not filed with the court as required by this rule, the hearing may proceed following at least fourteen (14) days' notice from the court to the other party that the matter has been scheduled for hearing. After a default, a motion to

substantively amend the proposed orders will only be considered by the Court after service upon the other party.

B. *Dismissal.* The Court may dismiss a petition without prejudice due to insufficiency of allegations or service. The order of dismissal shall state the reason for the dismissal.

2.7 PERSON ASSERTING INTEREST IN LEGAL ACTION:

A. *Asserted by a Person who is not a Party to the Case.* Any person asserting an interest in the proceedings may seek to intervene as a party in the action by filing a motion to intervene. The motion must include a brief statement concerning the person's relationship to the subject matter of the case and reason for seeking intervention.

B. *Asserted by a Party to the Case.* Any party to an action may file a motion to join another person/entity to the action by setting forth a brief statement concerning that person or entity's relationship to the subject matter of the case and reason for including that person to the action. If the Court joins the person or entity as a party to the case, that person may be ordered by the Court to appear in the case.

2.8 PRESENCE OF CHILDREN: A child shall not be brought to court as a witness, or to attend a hearing, or be involved in depositions without prior order of the Court allowing that child's participation. To obtain permission of the Court for the presence of a child in such a proceeding, good cause must be shown.

2.9 EMERGENCY AND *EX PARTE* RELIEF:

A. *Emergency.* If either party believes a hearing is needed prior to participation in mediation, that party shall file a request for an immediate hearing, identifying the emergency and the issues to be addressed at the hearing.

B. *Ex Parte.* Subject to the provisions of RSA 458:16 and RSA 461-A:9, an emergency order may be granted without written or oral notice to the other party or attorney only if it clearly appears to the Court from specific facts shown by sworn statement or by the verified petition that immediate and irreparable injury, loss, or damage shall result to the applicant, the children, or the marital estate before the other party or attorney can be heard. If the other party is represented or has filed an appearance, normally no relief will be granted without notice to the other party and an opportunity to be heard. An *ex parte* order may be requested by motion of the petitioner/attorney prior to service of the petition. A hearing shall be scheduled within thirty (30) days of the issuance of an *ex parte* order. In addition, the party against whom the orders are issued may file a written request with the court for a hearing on such orders, which hearing shall be held no later than five (5) days after the request is received.

2.10 CHILD IMPACT SEMINAR: In any action involving married or unmarried parents of minor children, the parties shall attend the child impact seminar as required by RSA 458-D as soon as possible after the commencement of the action but no later than forty-five (45) days after service of the petition upon the respondent. Parties shall not be required to attend the same seminar if there is an RSA 173-B order in effect. No permanent agreement will be approved until both parties have attended the child impact seminar, except by order of the Court for good cause shown. The Court, in its discretion, may schedule a show cause hearing, and issue sanctions, for any party failing to comply with the requirements of RSA 458-D.

2.11 FIRST APPEARANCE: A First Appearance will be held within 30 days after service has been accomplished in divorces and legal separations in which there are minor children and in parenting petition cases. Attendance by both parents is required, and is expected at the same First Appearance, unless good cause exists to allow separate attendance. If a protective order pertaining to the parents is in effect, each parent shall attend a separate First Appearance. Attendance by attorneys is optional. At First Appearance, a judge will give information about the court process and mediation. Before the parties leave First Appearance, the court will schedule mediation or the next court event.

2.12 CASE MANAGER CONFERENCE: In any case in which there is at least one self-represented party, the court may schedule a case manager conference. The case manager will explain court documents that will be required depending on the type of action. If the parties are in agreement, the case manager may assist the parties in putting their agreement into writing on court forms.

2.13 MEDIATION:

A. In divorce actions and legal separation actions in which there are minor children, and in parenting petition cases, parties shall be ordered to participate in mediation unless the Court finds that mediation would not be appropriate due to factor(s) listed in RSA 461-A:7.

B. Participation in mediation may be ordered in new divorces and legal separations without minor children and in those divorce, legal separation, or parenting cases in which final orders have been issued if those cases return to court for further Court orders.

C. If there is a finding of domestic violence as defined in RSA 173-B:1, and if the parties agree to mediate despite the existence of the protective order, all mediation sessions shall occur at the courthouse.

D. The court will be involved in scheduling the initial mediation session in each case. Thereafter, mediation will be scheduled through the parties and the mediator. Parties must cooperate with the mediator to establish the next mediation date at the end of each mediation session.

E. Attorneys may attend mediation sessions with their clients, provided the mediator is able to establish a balanced opportunity for both parties to participate in the mediation.

F. Mediation will be ordered only with mediators certified pursuant to RSA 328-C who have contracted with the Judicial Branch. However, parties may arrange private mediation with a mediator of their choice, regardless of whether these mediators have contracts with the judicial branch.

G. Payment of mediator fees shall be pursuant to Supreme Court Rule 48-B.

2.14 ALTERNATIVE DISPUTE RESOLUTION: At any time prior to the final hearing, the Court may order the parties to engage in mediation if deemed appropriate by the Court, or to engage in other forms of alternative dispute resolution if agreed upon by the parties.

2.15 APPOINTMENT OF GUARDIAN AD LITEM : A guardian ad litem may be appointed at the request of either party or upon order of the Court. Any guardian ad litem appointed under this rule shall be certified by the Guardian ad Litem Certification Board. The Court shall apportion payment between the parties. Written reports of the guardian ad litem shall be kept in an envelope marked confidential within the court file, and shall only be disclosed to parties or attorneys to the action. Absent good cause shown, a guardian ad litem shall not be appointed while the parties are engaged in mediation.

2.16 FINANCIAL AFFIDAVITS:

A. In all cases in which support and/or division of property (temporary, permanent, or otherwise) and/or payment of the guardian ad litem or mediator are in any way involved, each party shall file with the court and with the other party a typewritten or legibly handwritten financial affidavit which contains the information requested on the family division financial affidavit. Such affidavits shall be exchanged with the other party and filed with the court seven (7) days prior to any hearing, unless excused by the Court. If there has been no change in financial circumstances since the filing of the previous affidavit, a party may file an Affidavit of No Change. If, by the time of the hearing, there is any change in financial circumstances, a new financial affidavit must be filed and exchanged as soon as the change is known.

B. Each party shall indicate all sources and amounts of income and expenses, and shall disclose the identification and value of each asset of the party, whether owned individually, jointly, or in any other form. If the exact value of an asset is not known, the party shall disclose its identification and approximate value, indicating that the value is an estimate only. The parties shall be under a continuing order to make full and complete disclosure to each other of the identification and value of all assets of the parties, and any changes to the identification or value of the assets during the pendency of the case. Intentional failure to disclose any asset at the time of the scheduling conference, or at any time thereafter when an asset is discovered, shall be

considered a violation of this rule subject to appropriate action by the Court, including the award of that asset to the other party.

C. Financial affidavits filed in divorce, legal separation, annulment, or parenting petition cases shall be confidential to non-parties. Access to such financial affidavits shall be pursuant to Family Division Rule 1.30.

2.17 CHILD SUPPORT DOCUMENTS:

The family division Uniform Support Order, Uniform Support Order-Standing Order, and Instructions for Completion of the Uniform Support Order shall be used in all cases involving dependent children in which child support may be ordered. These forms should not be abbreviated and no provision shall be deleted. If a particular provision does not apply, then the words “not applicable” should be used.

In cases in which the parties are in agreement on support issues, only one child support guideline worksheet and one uniform support order shall be filed. If the parties are not in agreement, each party shall file a child support guideline worksheet and a proposed uniform support order.

In cases involving child support where the obligor has failed to file a financial affidavit or otherwise disclose the obligor’s income, the obligee should make a reasonable estimate of the obligor’s income, use that amount in calculating support on the child support guideline worksheet, and include a statement to that effect in the proposed uniform support order.

Stipulations, agreements, or proposed decrees must state whether the child support award is in accordance with the child support guidelines and, if not, explain the proposed deviation.

2.18 PARENTING PLANS:

A. Requirements:

(1) Parenting plans shall be filed in all divorce and legal separation actions where there are minor children, and in all parenting actions. Parents shall work together to agree upon as many provisions of the parenting plan as possible. Exceptions to the requirement that parents work together in parenting plans include cases where there is evidence of domestic violence, child abuse or neglect, or as otherwise excused by the Court.

(2) For all temporary and final hearings requiring parenting plans, the parties are expected to file a joint parenting plan, which includes all provisions with which they are in agreement. The parties shall file separate proposed parenting plans for those parenting items which are in dispute. Additionally, parenting plans must be filed in all actions to modify final parenting plans or prior final parenting-related orders issued in divorce, legal separation, or parenting actions.

(3) Parties may use the parenting plan form provided by the court or may create their own parenting plan. However, parties who create their own parenting plans must adhere to the standard order of lettered paragraphs set forth in these rules.

(4) All parenting plans required by this rule shall be filed as separate documents, signed by one or more parties.

B. *Standard Order of Paragraphs for Parenting Plan.*

(1) All parenting plans shall be set forth in the following order of paragraphs.

- (a) Decision-Making Responsibility
 - (i) Major Decisions
 - (ii) Day-to-Day Decisions
 - (iii) Other

- (b) Residential Responsibility & Parenting Schedule
 - (i) Routine Schedule
 - (ii) Holiday and Birthday Planning
 - (iii) Three-day weekends
 - (iv) Vacation Schedule
 - (v) Supervised Parenting Time
 - (vi) Other Parental Responsibilities

- (c) Legal Residence of a Child for School Attendance

- (d) Transportation and Exchange of the Child(ren)

- (e) Information Sharing and Access, Including Telephone and Electronic Access
 - (i) Parent-Child Telephone Contact
 - (ii) Parent-Child Written Communication

- (f) Relocation of a Residence of a Child

- (g) Procedure for Review and Adjustment of Parenting Plan

- (h) Method(s) for Resolving Disputes

- (i) Other Parenting Agreements Attached

(2) For any of the above, “N/A” may be used to denote paragraphs that do not apply to a particular situation.

2.19 TEMPORARY HEARING:

A. Subject to the rules regarding mediation, the Court may schedule a temporary hearing if one is requested by either party. The notice of this hearing shall indicate the amount of time allotted for the hearing, generally thirty (30) minutes. Temporary hearings shall be conducted by offers of proof. Parties shall comply with the provisions of Family Division Rule 1.28 pertaining to Offers of Proof.

B. Motions for extended or evidentiary temporary hearings shall be heard at the time specified in the notice of hearing, unless ruled upon in advance by the Court.

C. If a temporary hearing is scheduled, a scheduling conference shall generally also be held at the same date and time. In the event a temporary agreement is reached, the parties must still appear for the scheduling conference.

D. Seven (7) days prior to the temporary hearing, the parties shall file and exchange financial affidavits and proposed temporary decrees; and if minor children are involved, agreed upon and proposed parenting plans, uniform support orders, and child support worksheets.

E. No agreement for temporary orders shall be approved without the current financial affidavit of each party, or an affidavit of impossibility, having been filed.

2.20 SCHEDULING CONFERENCE: A scheduling conference may be scheduled if the other party has filed an appearance and the matter has not been settled. At the scheduling conference, the Court may (1) refer the parties to mediation, (2) appoint a guardian ad litem for the child(ren), (3) issue discovery orders, and (4) determine the future schedule of the case, including the dates for pretrial, status, motion, final and/or other hearings, as well as issue other orders necessary to the further scheduling of the case. Counsel and parties must be prepared at the scheduling conference to set specific dates for each event. Dates established shall not be extended except in extraordinary circumstances.

2.21 PRETRIAL CONFERENCE:

A. A pretrial conference will generally be held prior to the final hearing to identify contested issues, identify witnesses, mark exhibits, exchange documents, and complete any other matters the Court deems appropriate, including setting further conference and/or hearing dates. At the pretrial conference, the parties shall file and exchange pretrial statements, current financial affidavits, and proposed decrees; and if there are minor children, child support worksheets, uniform support orders, and agreed upon and proposed parenting plans. Following the pretrial conference, the court shall not accept modifications to documents presented at the pretrial

conference unless the modified documents have been exchanged within a reasonable time before final hearing. This rule shall be strictly enforced.

B. In divorce actions, legal separation actions, and parenting cases to the extent applicable, pretrial statements must include:

- (1) A list of disputed issues;
- (2) Special circumstances under child support guidelines;
- (3) Factors justifying sole decision-making responsibility;
- (4) Factors justifying unequal property division;
- (5) Circumstances justifying alimony;
- (6) Unresolved discovery issues;
- (7) Valuation(s) agreement status/values;
- (8) A list of witnesses, including expert witnesses;
- (9) A list of exhibits;
- (10) Estimated time for final hearing;
- (11) Likelihood of settlement; and
- (12) Special circumstances affecting trial scheduling.

2.22 UNCONTESTED FINAL HEARING FOR DIVORCE OR LEGAL SEPARATION: A decree of divorce may be issued without conducting a final hearing, and without the presence of the parties, if all required documents have been filed, both parties have waived, in writing, their attendance at the final hearing, and the Court is satisfied with the clarity of the documents submitted.

2.23 SETTLEMENTS AND AGREEMENTS:

A. All stipulations and agreements shall be typed and signed by the parties and, if represented by counsel, by attorneys for the parties. The Court may accept handwritten agreements, but may require the parties to file a typewritten substitute (conformed copy) with the court within ten (10) days. A typewritten substitute does not need to contain signatures.

B. Whenever the Clerk receives a Mediation Report indicating that a case has settled, or written notice from a party or an attorney that a case has settled, the parties shall have thirty (30) days in which to file all required settlement documents. If the documents are not filed within this timeframe, the Court shall take such action as justice may require, including dismissal of the case where appropriate.

C. No agreement for temporary or final orders shall be approved without a current financial affidavit of each party having been filed, or an affidavit indicating that there has been no change in the financial status of the party since the last time the party filed a financial affidavit.

2.24 CONTESTED FINAL HEARING:

A. For final hearings which were not preceded by a pretrial conference, the parties shall, unless excused by the Court, file and exchange no later than thirty (30) days before the final hearing, the following:

(1) list of witnesses

(2) copies of all exhibits to be offered at final hearing

(3) proposed final decrees

(4) where minor children are involved, an agreed upon parenting plan on those issues to which the parties agree, proposed parenting plans for the issues not agreed upon, child support guidelines worksheets, and proposed uniform support orders.

B. In addition to the requirement for submitting documents at a pretrial conference, or in the event a pretrial conference was not held as outlined above, updated financial affidavits, or affidavits of no financial change if appropriate, shall be filed and exchanged seven days prior to the final hearing.

C. Seven (7) days prior to the final hearing, the parties shall submit jointly prepared agreements and parenting plans on all issues which are not in dispute, and a jointly filed list of personal property, indicating those items which the parties agree each may have, and those items which remain in dispute.

D. Failure to disclose the identity of a witness in accordance with these rules may preclude the party from offering the testimony of that witness at the final hearing. Failure to list and exchange an exhibit in accordance with these rules may result in the Court's denying the admission of the exhibit.

E. The parties are expected to communicate with each other in advance of the final hearing with respect to the sharing and management of the allotted hearing time. The Court reserves the right to participate in this process by conducting a trial management conference.

2.25 VITAL STATISTICS FORM. No divorce, legal separation, or annulment shall be heard on its merits, or a final agreement approved, until a completed typewritten vital statistics report is filed with the court by the petitioner/attorney.

2.26 DECREES IN DIVORCE OR LEGAL SEPARATION:

A. *Temporary.* All temporary agreements and proposed decrees shall be set forth in the following order of paragraphs. “N/A” may be used to denote paragraphs that do not apply to a particular situation.

- (1) Type of Case
- (2) Parenting Plan and Uniform Support Order
- (3) Tax Exemptions for Children
- (4) Guardian ad Litem Fees
- (5) Alimony
- (6) Health Insurance for Spouse
- (7) Life Insurance
- (8) Motor Vehicles
- (9) Furniture and Other Personal Property
- (10) Retirement Plans and Other Tax-Deferred Assets
- (11) Other Financial Assets
- (12) Business Interests of the Parties
- (13) Division of Debt
- (14) Marital Home
- (15) Other Real Property
- (16) Restraints against the Property
- (17) Restraining Order
- (18) Other Requests

B. *Final.* All final agreements and proposed decrees shall be set forth in the following order of paragraphs. “N/A” may be used to denote paragraphs that do not apply to a particular situation.

- (1) Type of Case
- (2) Parenting Plan and Uniform Support Order

- (3) Tax Exemptions for Children
- (4) Guardian ad Litem Fees
- (5) Alimony
- (6) Health Insurance for Spouse
- (7) Life Insurance
- (8) Motor Vehicles
- (9) Furniture and Other Personal Property
- (10) Retirement Plans and Other Tax-Deferred Assets
- (11) Other Financial Assets
- (12) Business Interests of the Parties
- (13) Division of Debt
- (14) Marital Home
- (15) Other Real Property
- (16) Enforceability after Death
- (17) Signing of Documents
- (18) Restraining Order
- (19) Name Change
- (20) Other Requests

2.27 DECREES IN PARENTING PETITION ACTIONS:

All agreements and proposed decrees in parenting actions shall be set forth in the following order of paragraphs. "N/A" may be used to denote paragraphs that do not apply to a particular situation.

- (1) Parenting Plan and Uniform Support Order
- (2) Tax Exemptions for Children
- (3) Guardian ad Litem Fees
- (4) Life Insurance

- (5) Enforceability after Death
- (6) Restraining Order
- (7) Other Requests

2.28 EFFECTIVE DATES:

A. *Uncontested Matters.* Decrees in uncontested cases where the parties have filed a permanent agreement shall become final on the date signed by the judge pursuant to RSA 490-D:9, unless otherwise specified by the Court.

B. *Contested and Defaulted Matters.* In contested cases or upon the default of either party, where no post-decree motion has been filed, the decree will not become final until the thirty-first (31st) day from the date of the Clerk's notice of decision. If a timely appeal is filed, the decree will not become final until the expiration of the appeal period pursuant to Supreme Court Rule 7. If a timely post-decree motion is filed, and there is no appeal taken, the decree becomes final thirty (30) days from the Court's action on the post-decree motion.

C. *Inactive Cases.* All domestic relations cases which have been placed on hold by request of the parties shall be dismissed after six (6) months unless there is a request by a party to reactivate the case, or a request for a further extension for good cause.

D. Once a decree becomes final, any further request for relief must be by petition, accompanied by a filing fee and a personal data sheet, with notice given to the other party, as set forth in Family Division Rule 2.4. Prior to a decree becoming final, no filing fee is required, and notice may be provided by regular US mail.

2.29 MODIFICATION OF FINAL DECREE:

A. *General.* After a decree becomes final, either party may petition the court to change the final court order in their case. The petition must be provided to the other party as though it were a new case, with service to be accomplished as set forth in Family Division Rule 2.4. Regardless of which party files the petition, the parties will maintain original party designations. The original petitioner is always the petitioner, and the original respondent is always the respondent, even though the respondent may be the party requesting change.

B. *Proper Filing.* A properly filed petition to change the court order includes: A Petition to Change Court Order that states the names, dates of birth, and address(es) of the parties; the names and dates of birth the parties' children; the parts of the Court's order that are being requested to be changed; the specific changes that are being sought; reason(s) why the Court should

change the order; a statement about the receipt of public/medical assistance; a personal data sheet; and the filing fee.

C. *Where to File Petitions to Change Court Order.*

(1) A Petition to Change Court Order that refers to a family division order should be brought in the family division location that issued the order.

(2) A Petition to Change Court Order that refers to a superior court order issued before the existence of the family division should be filed in the family division location where it would have been filed under Family Division Rule 2.3 B if the family division had been in existence at the time of original filing.

D. *Mediation.* If the issues raised in the petition are not resolvable at the first post-decree hearing, the Court may order the parties to engage in mediation before scheduling further hearings.

E. *By Agreement.* If the parties agree to change the final order, they may file an agreement with the court. No petition, service, or filing fee is required. The Court, in its discretion, may approve an agreement to change the final order without a hearing.

F. *Legal Separation To Divorce.* Parties may agree in writing to change a decree of legal separation to one of divorce, subject to the Court's determination that justice requires such a change.

2.30 ENFORCEMENT OF COURT ORDER:

A. *General.* Any party may request that another party be found in contempt for violating an order of the Court by way of motion or petition, as the case may require.

B. *Requirements.*

(1) Open cases. When a contempt action is brought in an open case, a proper filing includes: A Motion for Contempt that explains what court order is believed to have been violated; what specific conduct is alleged to have occurred in violation of the court order; and what relief is being requested of the Court. No filing fee is required. Notification to all parties may be accomplished by regular US mail.

(2) Closed cases. When a contempt action is brought in a closed case, a proper filing includes: A Petition for Contempt that explains what court order is believed to have been violated; what specific conduct is alleged to have occurred in violation of the court order; and what relief is being requested of the Court. A filing fee and personal data sheet are required. Notice to the party alleged to be in contempt must be accomplished by sheriff's service in New Hampshire, or by any person

authorized to make service if done outside of New Hampshire. Notice to other parties of the original action may be by regular US Mail.

C. *Attachments, Arrests, Incarceration.* Attachments or arrests and incarceration for civil contempt may be ordered by the Court upon a finding of the violation of any Court order, after notice and an opportunity to be heard. Parties may be arrested upon Court order and required to post bonds for appearance and compliance with court orders in any case where it shall be deemed necessary.

Section 3 -- JUVENILE DELINQUENCY AND CHILDREN IN NEED OF SERVICES

3.1 SCOPE: These rules, unless otherwise stated, apply to RSA 169-B Delinquency cases and RSA 169-D Children in Need of Services cases.

3.2 MULTIPLE REPRESENTATION OF JUVENILES:

An attorney shall have an affirmative duty to immediately notify the court in all cases involving multiple representation. An attorney shall not be permitted to represent more than one juvenile involved in the same case unless counsel and the court have established a record, in accordance with this rule, that indicates convincingly that the potential for conflict is very slight.

Counsel shall, upon commencement of representation, investigate the possibility of conflict of interest between clients and discuss that possibility with each client. If counsel determines that conflict is highly unlikely and that counsel may therefore continue to represent each client, the court shall be so notified and shall promptly convene a hearing at which the relevant facts shall be made a part of the record, which may be a mechanical record on tape. Such record shall include evidence of counsel's discussion of the matter with each client, evidence of each client's informed consent to multiple representation based on the client's understanding that the client is entitled to independent counsel, and either a written or oral waiver by each client of any conflict arising from the multiple representation.

3.3 DISCOVERY:

A. Within seven (7) days after the arraignment, the prosecutor shall furnish the juvenile's attorney or the juvenile and parent(s), if the juvenile has no attorney, with the following:

- (1) A copy of records of statements or confessions, signed or unsigned, by the juvenile, to any law enforcement officer or officer's agent;
- (2) A list of any tangible objects, papers, documents or books obtained from or belonging to the juvenile;
- (3) A list of names of witnesses, including experts and their reports;

- (4) Copies of any lab reports;
- (5) All exculpatory materials required to be disclosed pursuant to the doctrine of *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, including *State v. Laurie*, 139 N.H. 325 (1995).
- (6) Notification of the State's intention to offer at trial, pursuant to NH Rule of Evidence 404B, evidence of other crimes, wrongs, or acts committed by the juvenile, as well as copies of or access to all statements, reports, or other materials that the State will rely on to prove the commission of such other crimes, wrongs, or acts; and
- (7) A statement as to whether the foregoing evidence, or any part thereof, will be offered at the adjudicatory hearing.

B. Within fourteen (14) days after the arraignment, the juvenile shall provide the prosecutor with a list of names of witnesses, including experts and their reports and copies of any lab reports, that the juvenile anticipates introducing at the adjudicatory hearing.

C. In the event of a petition filed by a party other than the State, the above discovery rules shall apply, except that the petitioner shall forward materials to the juvenile or attorney, and the juvenile or the juvenile's attorney shall forward materials to the petitioner within the applicable time frames.

3.4 ACKNOWLEDGMENT OF RIGHTS AND WAIVER OF COUNSEL:

In all Delinquency or CHINS cases, except those filed by a parent, guardian, or custodian, if the juvenile elects to enter a plea of true or *nolo contendere*, without counsel, the juvenile and a parent shall review and sign:

- (1) A Juvenile Acknowledgment of Rights form; and
- (2) A Waiver of Counsel form.

The judge shall review these documents with the juvenile and the parent(s) to ensure they are understood.

If the juvenile is represented by counsel, the juvenile and counsel shall execute a Juvenile Acknowledgment of Rights form.

No plea from a juvenile shall be taken unless a Juvenile Acknowledgment of Rights form is executed by the juvenile, and parent(s) or counsel, except for good cause shown.

In all Delinquency or CHINS cases filed by a parent, the Court shall appoint counsel to represent the juvenile before a plea of true or *nolo contendere* may be considered by the Court.

3.5 AFFIRMATIVE DEFENSES:

If a juvenile intends to rely upon the defense of alibi, the juvenile shall notify the prosecution in writing of that intention and a copy of the notice shall be filed with the court within fourteen (14) days of the arraignment. The notice of alibi shall be signed by the juvenile, or counsel if represented, and shall state the specific place at which the juvenile claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom the juvenile intends to rely to establish such alibi.

Within five (5) days after the receipt of the notice of alibi, the prosecution shall furnish the juvenile, or counsel, in writing with a list of the names and addresses of any additional witnesses not previously identified.

If, prior to or during the adjudication, a party learns of an additional witness whose identity, if known, should have been included in the information required by this rule, the party shall immediately notify the other party, or counsel, of the witness' existence, identity and address.

Upon the failure of either party to comply with the requirements of this rule, the Court may exclude the testimony of any undisclosed witness offered by such party as the juvenile's absence from, or presence at, the scene of the alleged offense. This rule shall not limit the right of the juvenile to testify concerning the alibi, even notice has not been filed.

If a juvenile intends to claim any defense specified by the Criminal Code, a notice of that intention identifying its basis of the intention shall be filed with the court, with a copy going to the prosecution, within fourteen (14) days of the arraignment. If the juvenile fails to comply with this rule, the Court may exclude any testimony relating to such defense or make such other order as justice requires.

3.6 CONDITIONS OF RELEASE: In juvenile cases, the Court may place a juvenile on conditional release under the supervision of a Juvenile Probation and Parole Officer (JPPO). The terms and conditions of release, unless otherwise prescribed by the Court, shall be as follows:

- (a) You shall comply with all orders of the Court.
- (b) You shall be of good behavior and remain arrest free, obey all laws and cooperate with your parent(s) or custodian at all times.
- (c) You shall, if under 18 years of age or until you have graduated, attend school full-time and follow all school rules.
- (d) You shall attend school full-time and follow all school rules. If lawfully allowed to attend school only part-time, you shall also be lawfully employed or actively engaged in an employment plan approved by your JPPO.

- (e) You shall not consume or possess alcoholic beverages or controlled drugs or any substance or thing determined to be contraband by your JPPO.
- (f) You shall submit to random drug testing as ordered by the Court.
- (g) You shall attend, and meaningfully participate in, all treatment and counseling as ordered by the Court.
- (h) You shall not possess, transport, control or receive any weapon, explosive device, or firearm.
- (i) You shall report to your JPPO at such times and places as directed by your JPPO.
- (j) You shall immediately notify your JPPO of any arrest, summons, or questioning by a law enforcement officer.
- (k) You shall report any change of address, telephone number, school status, or employment to your JPPO within 24 hours.
- (l) You shall submit to reasonable searches as requested by your JPPO of your person, property, possessions, vehicle(s), school locker(s), bags, containers, or any other items under your custody, care, or control.
- (m) You shall submit to visits by your JPPO to your residence and to examinations and searches of your room in the enforcement of your conditions of release.
- (n) You shall regularly report your earnings to your JPPO and be in compliance with your specified budget as approved by your JPPO.
- (o) You shall not associate with any person or be at any place in violation of Court orders or the directives of your JPPO.
- (p) You shall not leave the State of New Hampshire for longer than 24 hours without advance written permission from your parent(s) or guardian or those having legal custody of you. You shall provide your JPPO with said written permission within 24 hours of receipt of said written permission.
- (q) You shall also obtain a Travel Permit when required by the Interstate Compact on Juveniles and Association of Juvenile Compact Administrators (AJCA) Rules regarding out-of-state travel.
- (r) You shall agree to return to the State of New Hampshire from any State in the United States or any other place voluntarily and without formality as directed by the Court or your JPPO.
- (s) You shall comply with designated curfew/home restriction provisions.

- (t) The Court may impose all or part of the conditions as well as other terms and conditions.

3.7 NOTICE AND RIGHT TO BE HEARD-- FOSTER PARENTS, PRE-ADOPTIVE PARENTS, AND RELATIVE CAREGIVERS: When a juvenile is placed out of home, foster parents, pre-adoptive parents and/or relatives providing care for the juvenile are entitled to notice of all review hearings, permanency hearings and post-permanency hearings and shall be allowed to be heard at these hearings, but shall not be given party status unless otherwise granted by the Court.

3.8 CONSULTATION WITH JUVENILE REGARDING PROPOSED PERMANENCY PLAN AND/OR TRANSITION PLAN: The juvenile's attorney shall consult in an age-appropriate manner with the juvenile about the juvenile's views of the proposed permanency plan and/or transition plan. The attorney shall report about the consultation to the court in writing and/or orally at a permanency hearing. Such consultation shall not preclude the juvenile from attending and/or being heard at a permanency hearing.

3.9 PROTECTION OF CHILDREN IN SEX-RELATED CASES:

In any proceeding under RSA 169-B alleging a sex-related offense in which a minor child is an alleged victim or a witness, the Court shall allow the use of anatomically correct drawings and/or anatomically correct dolls as demonstrative evidence to assist the alleged victim or witness in testifying unless otherwise ordered by the Court for good cause shown.

In the event that the alleged victim or witness is nervous, afraid, timid, or otherwise reluctant to testify, the Court may allow the use of leading questions during the initial testimony but shall not allow the use of such questions relating to any essential element of the offense.

3.10 JUVENILE DRUG COURT: Certain cases brought under the CHINS and Delinquency statutes may be referred to the Juvenile Drug Court (JDC). JDC is a more intensified session of either of these proceedings. It is not a separate court, nor is a separate petition required. Procedures in cases in JDC are governed by these rules, the appropriate statutes, and court protocols.

Section 4 -- ABUSE AND NEGLECT

4.1 SCOPE: The family division has jurisdiction in RSA 169-C Child Protection Act cases.

4.2 ATTENDANCE OF NON-PARTIES: Any party wishing to bring other persons to hearings held in RSA 169-C cases shall first obtain permission of the Court, either by written motion in advance of the hearing, or upon oral motion at the beginning of the hearing. Such other persons will not be allowed into the hearing until the Court approves the request. Such persons shall not be entitled to participate but may do so with the permission of the Court. See RSA 169-C:14.

4.3 OPEN HEARINGS PILOT PROJECT: Other than in those counties in which the legislature has adopted a presumption of open hearings, hearings under RSA 169-C are closed to the public. In those counties in which hearings under this chapter are presumed open, parties to the action must inform the court in writing before any hearing, or orally and on the record at the beginning of any hearing, if they believe the hearing should be closed to the public, in full or in part. See Chapter Law 134 (2006) pertaining to open hearings in Grafton, Rockingham and Sullivan Counties.

4.4 NOTICE AND RIGHT TO BE HEARD-- FOSTER PARENTS, PRE-ADOPTIVE PARENTS, AND RELATIVE CAREGIVERS: When a child is placed out of home, foster parents, pre-adoptive parents and/or relatives providing care for a child are entitled to notice of all review hearings, permanency hearings and post-permanency hearings and shall be allowed to be heard at these hearings, but shall not be given party status unless otherwise granted by the Court.

4.5 CONSULTATION WITH CHILD REGARDING PROPOSED PERMANENCY PLAN AND/OR TRANSITION PLAN: The child's Court Appointed Special Advocate (CASA), guardian ad litem (GAL), and/or attorney, shall consult in an age-appropriate manner with the child about the child's views of the proposed permanency plan and/or transition plan. The CASA, GAL or attorney shall report about the consultation to the court in writing and/or orally at a permanency hearing. Such consultation shall not preclude the child, at the child's own request or the request of the Court, from attending and/or being heard at a permanency hearing.

Section 5 -- GUARDIANSHIP OF MINORS

5.1 SCOPE: The family division has jurisdiction of guardianship of minors, when there is not a related estate of the minor.

5.2 PROPER FILING: A properly filed guardianship action includes a completed petition, a copy of the minor's birth certificate (certified copy when filing pursuant to RSA 463:18-a for activated members of the armed services), the filing fee, a death certificate of any deceased parent of the minor, and completed NH State Police and DHHS background check forms for all members of the household who are eighteen (18) years or older.

5.3 NOTICE: Certified mail, return receipt requested, shall be used to provide notice to each parent individually, and to any person who has had principal custody or care of the minor during the sixty (60) days prior to the filing of the petition. The orders of notice shall be sent by regular first class mail to the following: the petitioner(s); the minor if fourteen (14) years of age or older; the person nominated to be guardian; any person named as a testamentary guardian in the will of the deceased parent; DHHS if there is a pending juvenile proceeding affecting the minor; and others as identified in the statute as may be appropriate.

5.4 ATTENDANCE AT THE HEARING : The parent(s) with legal custody are required to attend the hearing, even if they consent to the guardianship. A minor fourteen (14) years of age or older shall attend the hearing unless excused by the Court.

5.5 REPORTS OF THE GUARDIAN : The guardian shall file a report on the status of the guardianship six (6) months after the initial appointment, twelve (12) months after the initial appointment, and annually thereafter. A late fee may be charged to a guardian for any report that is not filed on time.

5.6 REPORTS OF THE PARENT: Either or both of the parents may file a statement or report with the court on or before each review date.

5.7 TERMINATION OF GUARDIANSHIP: Any person, including the minor if fourteen (14) years of age or older, may petition the court to terminate a guardianship. The court will determine by a preponderance of the evidence whether substitution or supplementation of parental care and supervision is no longer needed to ensure the minor's safety and physical and psychological well-being.

In addition to terminating a guardianship by Court order, guardianships terminate upon the death of the minor or upon the minor's eighteenth (18th) birthday. The guardian must notify the court within thirty (30) days of either event. Guardianships may also terminate upon the minor's adoption or emancipation. However, if the minor consents, jurisdiction may be extended beyond the eighteenth (18th) birthday if DHHS is the guardian and supports continued jurisdiction, and the minor is attending high school and considered likely to complete it. If extended, jurisdiction shall terminate if the minor revokes consent and such revocation is approved by the Court, completes high school or attains age twenty-one (21), whichever first occurs, or if DHHS revokes its consent and such revocation is approved by the Court. See RSA 463:15.

5.8 CONFIDENTIALITY: The existence of a guardianship case or the fact that a guardianship hearing is on the docket is not confidential. However, guardianship hearings shall be closed to the public, except for persons other than the parties, their counsel, witnesses and agency representatives whom the Court may, in its discretion, admit. Records, reports and evidence shall be confidential to the extent that they contain information relating to the personal history or circumstances of the minor and the minor's family . If any person other than a party wishes to review a case file, a motion must be filed and submitted to the Court for consideration.

Section 6 -- SURRENDERS OF PARENTAL RIGHTS

6.1 SCOPE: The family division has jurisdiction of adoptions in conjunction with proceedings brought pursuant to RSA 169-C, RSA 170-C and RSA 463. Hence, its jurisdiction over surrenders pursuant to RSA 170-B is similarly restricted.

6.2 IN LIEU OF TERMINATION HEARING: The surrender may be filed in lieu of the Court conducting a contested termination of parental rights hearing. Upon approval of the surrender, the termination hearing may be cancelled.

6.3 BACKGROUND INFORMATION: Upon filing the surrender, the parent shall file information on the age and medical and personal backgrounds of the birth parents and the child. See RSA 170-B:9, III.

6.4 NOTICE: Upon filing the surrender, notice will be provided by the court by way of certified mail, return receipt requested, signed by the addressee only, to all persons entitled to receive notice as set forth in RSA 170-B:6. If notice by certified mail is not successful, or is not likely to be successful, the court may provide notice by alternate means.

6.5 TIME TO REQUEST HEARING: Such persons shall have thirty (30) days from the date of the court's notice to request a hearing. Failure to make a timely request for a hearing shall result in forfeiture of any parental rights.

6.6 PROPER SIGNING OF SURRENDER: The surrender must be signed by the parent in the presence of the Court, or upon prior approval of the Court, may be signed in the presence of another individual or judicial officer.

6.7 PARENT UNDER EIGHTEEN: If the surrendering parent is under the age of eighteen (18), the Court may require the assent of the minor's parents or legal guardian.

6.8 FRAUD OR DURESS: In the absence of fraud or duress, the surrender shall be final.

6.9 WITHDRAWAL: A surrender may not be withdrawn unless the court is notified in writing prior to the issuance of the final decree of adoption. An evidentiary hearing on the request to surrender shall be conducted, but the rules of evidence shall not apply and the Court shall have discretion to determine who shall be permitted at the hearing. The Court may allow the withdrawal of the surrender only if it finds fraud or duress and that the withdrawal is in the best interests of the adoptee. If a withdrawal of one parent is authorized, the other parent shall be notified and given an opportunity to request, within thirty (30) days, that this parent's surrender also be withdrawn.

SECTION 7 -- ADOPTION

7.1 Scope: The family division has jurisdiction of adoptions in conjunction with proceedings brought pursuant to RSA 169-C, RSA 170-C or RSA 463.

SECTION 8 -- TERMINATION OF PARENTAL RIGHTS

8.1 SCOPE: The family division has jurisdiction in termination of parental rights actions brought pursuant to RSA 170-C.

SECTION 9 -- NAME CHANGE ACTIONS

9.1 SCOPE: Pursuant to RSA 490-D:2(X), a petition to change name may be filed in matters related to cases within the jurisdiction of the family division. All other name change actions must be filed in the probate court.

9.2 SEPARATE PETITION REQUIRED: To obtain a name change, a separate petition must be filed unless:

- (a) An individual seeks to restore a former name prior to the issuance of a final decree of divorce under RSA 458; or
- (b) An individual seeks to change a child's name as part of an adoption proceeding.

9.3 JURISDICTION: Petitions for name change may be filed if they relate to an open or closed case within the jurisdiction of the family division, even if not originally filed or heard in a family division location.

9.4 PROPER FILING: A properly filed name change request includes:

- A Petition for Change of Name Relating to family division jurisdiction;
- A Name Change Affirmation;
- A Personal Data Sheet;
- Certified copy of birth certificate;
- A Criminal Record Release Authorization (for name change of anyone 17 years of age or older);
- A valid photograph identification (for name change of an adult);
- The filing fee; and
- If the petition relates to a minor, a consent if the parent/guardian is in agreement with the change.

9.5 CRIMINAL BACKGROUND CHECK: Results of criminal record checks are confidential and shall not be disclosed to anyone other than a party to the case, without prior Court approval.

9.6 NOTICE: Absent good cause shown, the petitioner shall provide notice to all parties involved in the case. In open cases, notice may be provided by regular US mail. In closed cases, notice shall be by certified mail, return receipt requested.

9.7 MINOR CHILD NAME CHANGE: If the name change request pertains to a minor child, notice is not required if the non-petitioning parent/guardian has

consented in writing under oath, or if that parent's rights have been terminated.

9.8 HEARING NOT REQUIRED: The Court, in its discretion, may act upon the petition without a hearing, under circumstances where no objections have been filed and where the criminal record check results report no finding.

9.9 PRESENCE AT HEARING OF OLDER CHILD: If the request pertains to a minor child who is fourteen (14) years or older, a hearing must be held and that child must attend the hearing.

9.10 CERTIFICATE OF CHANGE OF NAME: If the Court grants the petition to change name, a Certificate of Change of Name will be issued to the petitioner for filing with appropriate agencies.

SECTION 10 -- DOMESTIC VIOLENCE

10.1 SCOPE: The family division has jurisdiction in cases brought pursuant to RSA 173-B.

SECTION 11 – NOMINATIONS, APPOINTMENTS AND REAPPOINTMENTS OF MARITAL MASTERS

11.1 ORIGINAL NOMINATIONS:

- (a) When a marital master position is to be filled, the Administrative Judge shall form a committee to evaluate each applicant in the manner it deems appropriate and which shall make a recommendation to the Administrative Judge of the Judicial Branch Family Division who shall determine the candidate(s) to be submitted to the Governor and Council for appointment.
- (b) TERM OF APPOINTMENT AND CONDITIONS: The original term of appointment by Governor and Council shall be three years pursuant to RSA 490-B:7, III. Thereafter, the term of office shall be five years. The Administrative Judge of the Family Division may, at any time, consider and act on any grievance or complaint concerning a marital master and take whatever action is appropriate, including termination. Marital masters shall be bound by the Canons of the Code of Judicial Conduct and serve at the pleasure of the Administrative Judge of the Family Division.

11.2 REAPPOINTMENT:

- (a) A marital master desiring to be reappointed at the expiration of the master's original term, must file a request with the Administrative

Judge of the Judicial Branch Family Division, no later than ninety (90) days prior to the expiration of the term.

- (b) In making the decision to reappoint, the Administrative Judge shall review all performance evaluations conducted during the master's term of office, conduct a personal interview with the master as deemed necessary, and consider any other relevant information received from any person concerning the master's performance during the master's term of office.
- (c) Reappointment shall be at the discretion of the Administrative Judge of the Judicial Branch Family Division, subject to such conditions as may be appropriate.