

MEMORANDUM

TO: All Family Court Judges and Magistrate Judges; Child Welfare Attorneys; Child and Family Services personnel; Child Welfare Consortium personnel; Court managers and administrators; Courtroom clerks; Family Court Branches.

FROM: William M. Jackson
Presiding Judge, Family Court

RE: Second Revised Procedures for the Scheduling of Child Abuse and Neglect Hearings

DATE: April 29, 2009

On March 14, 2003, the Chief Judge issued Administrative Order 03-09 vacating Administrative Order 01-26, which related to the scheduling of child abuse and neglect cases. On the 1st day of May 2003, procedures for the scheduling of child abuse and neglect cases were instituted for all neglect and abuse cases. On November 21, 2007, the “Revised Procedures for the Scheduling of Child Abuse and Neglect Hearings” were issued. **Those procedures are hereby further revised and will become effective for all neglect and abuse cases as well as those cases derived from neglect and abuse cases as of May 18, 2009.**

1. Double Booking

Attorneys and social workers shall not double-book hearings or Mediation Conferences, unless it is necessary to accommodate statutory hearing deadlines or emergencies.

Attorneys and social workers must inform the judge before whom they are appearing, of any potential conflicts when scheduling hearings.

In cases in which a hearing is running over the scheduled duration, attorneys or social workers due in another Courtroom shall inform the judicial officer before whom they are currently appearing of their need to appear at another hearing. If the second Courtroom is ready and waiting for that attorney or social worker to arrive, the judicial officers are strongly encouraged to confer directly with one another about the situation.

2. Duration of the hearing

When scheduling post-disposition and permanency hearings, the Court, in consultation with the participants in the case, will attempt to pre-determine the

duration of the hearing. All post-disposition and permanency hearings will be scheduled in half-hour increments that must begin and end on the hour and half-hour. The Court will set a time for each post-disposition and permanency hearing to begin and a time for each hearing to end.

3. **Free Monday Mornings**

The Family Court will not schedule hearings on neglect cases on Mondays during the hours of 9:00 a.m. to 12:00 p.m., except consistent with subparagraph 2c.

- a. Between 9:00 a.m. and 12:00 p.m. on Mondays, the Family Court will not schedule pretrial hearings, disposition hearings, post-disposition hearings, permanency hearings, show cause hearings, and other non-emergency hearings in neglect cases and derivative cases in which representatives from the Office of Attorney General for the District of Columbia, Counsel for Child Abuse and Neglect, and Child and Family Services Agency would be required to appear. At the judge's discretion, matters unrelated to neglect cases may be set during this time period.
- b. The Family Court may not schedule neglect trials or derivative trials (i.e., related adoption, termination of parental rights, guardianship, and custody trials) to begin during this time period.
- c. This provision does not apply to initial or further initial hearings, continuation of ongoing trials, and emergency hearings.

4. **Cancellation of Hearings:**

- a. When the Court has to cancel a hearing, judges and their staff will give as much advance notice as possible, based upon the circumstances and time frames involved, to attorneys and social workers in the case.
- b. The responsibility for notifying attorneys and social workers of a change in date for a hearing will fall on the party responsible for the change. If an attorney or social worker becomes unavailable for a hearing, they will notify all those involved. The responsibility of arranging for another date is that of the party requesting the change.
- c. If the Court is unexpectedly closed, except for trial matters, counsel shall contact chambers at the earliest possible time for rescheduling. Trial matters shall be handled pursuant to Section 8(f), below.

5. **Initial hearings/Scheduling order**

In all removal cases, when the Complaint Form is filed with the Central Intake Center, the Initial Hearing will be scheduled for 11 a.m. on the day indicated in the attached Charts for "Daytime Removals" or "Midnight Removals", depending on the date and time of the removal. The Initial Hearing shall be scheduled in the IJIS system.

The Magistrate Judge assigned to hear the Initial Hearing (or another designated judicial officer) shall appoint the Guardian Ad Litem as soon as possible (but no later than 24 hours after the removal) after receiving notice of the filing of the Complaint Form. When making such appointment, the Magistrate Judge may change the time of the Initial Hearing to a time after 11 a.m. **ONLY** if doing so will not violate the 72-hour rule and if it is necessary in order to avoid attorney conflicts, if there are multiple hearings set that day or if otherwise required by the judge's calendar needs. However, if the time is changed, the Magistrate Judge's chambers **MUST** notify the Case Coordinator in the Central Intake Center, the CCAN Office and the assigned Assistant Attorney General and/or his or her supervisor of the changed time and the new time shall be entered into the IJIS system. The time of the Initial Hearing cannot be set before 11 a.m. Both the Case Coordinator and the CCAN Office shall check to see that the newly set time does not violate the 72-hour rule and shall inform the judge's chambers immediately if a violation is discerned.

When the Initial Hearing will fall on a weekday, all parties will be notified by the Child and Family Services Agency to appear at Room 4415, Office of Child Abuse and Neglect ("CCAN"), in the Courthouse for the Initial Hearing at 10:00 a.m. Parents and custodians will be interviewed for eligibility for court-appointed counsel, told of the time and location of the Initial Hearing (first checking to see if the time of the hearing has been changed by the judge) and provided assistance in meeting with their lawyers, which should occur about one hour before the start time of the hearing. All attorneys who have been appointed for initial hearings shall report to the CCAN Office by 10 a.m. if the hearing is set for 11 a.m., or **ONE HOUR** before the newly set time of the hearing. Parties and their attorneys should meet one hour before the hearing and, at a minimum, discuss the advisability of requesting a probable cause hearing or entering a waiver and any paternity issues, and should prepare any documents relating to those issues.

For cases set for an initial hearing on Saturdays and holidays, the parties shall be notified to appear at Courtroom JM-15 by 10:00 a.m. Counsel shall meet with their clients and the cases shall be called beginning at 10:30 a.m.

Magistrate Judges and all assigned counsel should ensure that they are available to schedule follow-up further initial hearings (for placement and other issues) during the 4 to 10 business days following initial hearings. This is typically the time frame required for CFSA to make appropriate recommendations about potential relative placements.

At the initial hearing or further initial hearing, the Court shall schedule the mediation conference, pre-trial and trial dates. All parties are required to reserve 3 hours for the mediation conference. In addition, in order to avoid difficulty in scheduling dispositions within 15 days of a stipulation hearing, in all cases a disposition control date will be set. That event will be set within 15 days of the mediation date. If a stipulation results from mediation, then a disposition hearing

will be held on that control date. Social workers shall file and serve disposition reports 5 days prior to the disposition control date. If no stipulation results from mediation, the disposition control date shall be vacated and no disposition report is required to be filed in advance of the control date.

In scheduling trials, it should be expected that a disposition hearing will be held immediately following the conclusion of a trial at which a finding of neglect is made. Social workers should serve their disposition reports five (5) days before the scheduled trial date.

If the Government elects not to paper a case, it shall file a Praecipe with the Family Court so indicating as soon as possible. If the Praecipe has been filed before the start time of the hearing, assigned counsel need not appear, but the social worker shall meet with the parents and custodians and notify them of the decision and the arrangements for return of the child(ren). If the Praecipe has not been filed prior to the start time of the hearing, parties and counsel shall appear for the hearing and the Government may make oral representations concerning its decision.

6. Stipulation hearings

If a stipulation is reached at mediation, Multi-Door personnel shall determine whether the assigned judicial officer is able to conduct the stipulation hearing that day. If the assigned judge is unavailable, Multi-Door personnel should check with the judicial officers assigned to Initial Hearings or any other judge assigned to Family Court. The stipulation shall be heard immediately following the mediation.

7. Scheduling Emergency Hearings

In scheduling emergency hearings, the Court and counsel shall follow these guidelines when possible.

A party seeking an emergency hearing shall contact the judge's chambers to alert the judge of the need for such a hearing. If the judicial officer agrees that an emergency hearing is necessary within five (5) business days, then the judge will set a hearing date with telephone notice to all counsel. If necessary, parties and counsel may request permission to attend the hearing by telephone.

A party seeking a non-emergency hearing, outside of the five (5) business day emergency period, shall contact chambers for available dates. Upon confirming a convenient date with all counsel in the case, the counsel seeking the hearing will contact the judge's chambers to set the hearing.

A judge may require that the request be made by written motion.

Counsel are responsible for contacting the parties to inform them of the hearing date.

8. **Scheduling Neglect and Derivative Trials** (i.e., Guardianship, Adoption Termination of Parental Rights and Custody Trials)

- a. When the Court schedules a trial, the Court will tell the attorneys, social workers, and parties approximately how long they need to set aside for trial.
- b. Attorneys should not schedule other hearings during the time that the Court allots for trial. When a trial has been scheduled, no hearing should be scheduled in such a way as to conflict with the previously scheduled trial.
- c. Social workers, when they are needed only as witnesses, may schedule post-disposition and permanency hearings during the time allotted for trial. However, the need for trial testimony takes precedence over all other hearings.
- d. The Court may schedule trials on days when attorneys or social workers already have other hearings scheduled, but the Court will allow the individual with the conflict to attend the previously scheduled hearing and to arrive at the hearing on time.
- e. When the Court schedules a trial that conflicts with a previously scheduled hearing, the individual with the conflict will apprise the Court of the time and duration of the conflicting hearing so that all participants in the proceeding are on notice. The Court should schedule breaks in the proceedings when appropriate.
- f. When the Court is unexpectedly closed, attorneys with trials scheduled for that date shall report to the Court at 9:30 a.m. on the next business day that the Court is open for the selection of a new trial date.

9. **Case Conferences:**

- a. The judge may order that case conferences be held prior to any post-disposition or permanency hearing.
- b. These case conferences will occur during the first part of the time scheduled for the hearing.
- c. The case conferences will occur in anterooms or other space that is available for this purpose. The Court will furnish these rooms with chairs and, when space and budget permit, small tables.
- d. It is anticipated that case conferences will, on average, take about fifteen minutes.
- e. All parties must arrive prior to the designated starting time of the hearing and must check in with the courtroom clerk upon their arrival, before going to the case conference. The courtroom clerk will take notice of the arrival times of all counsel, social workers and parties. All counsel, social workers and parties are expected to arrive on time; late arrivals will be reported to the judge.

- f. The substance of the case conferences will differ from case to case, but in general, case conferences should provide the participants with an opportunity to share information, identify concerns, clarify positions, and build consensus. When scheduling a case conference, the Court may instruct the participants to address specific issues during the case conference. These case conferences will not be a substitute for communication among parties, attorneys, and social workers between court hearings. Rather, the conferences will afford the participants the opportunity to resolve some issues before going into court and to begin to prepare court orders.
- g. Additional case conferences scheduled between hearing dates may be arranged by the parties or ordered by the court.

10. Court Reports:

- a. When appropriate, the Family Court will order GALs, parents' attorneys, and social workers to file interim reports.
- b. Social workers must file interim reports when there are unusual incidents, including, but not limited to, change of placement of the child, abscondance of the child, emergency psychiatric hospitalization of the child, and any physical or sexual injury to the child.
- c. Social workers will comply with the statutory requirements of filing disposition reports at least 5 days and permanency hearing reports at least 10 days in advance of the hearing. In addition, social workers must attach to each report copies of any related reports (e.g. psychological evaluation.)
- d. With all reports, unless the assigned judge instructs otherwise, it is the responsibility of the social worker or party filing the report to file the original report and supporting documents in the Central Intake Center and to serve copies on all counsel, the social worker and assigned judge.