

RULE 11 – CRIMINAL/JUVENILE CASE DISCOVERY

- 11.1** The Court may hold a Pre-Trial Conference (also designated as Status Conference) on all charges, at which time the Court shall review the production of Discovery by the State, set dates for the filing of all Motions (Dispositive Motions, Motions to Suppress, Procedural, etc.), Plea Agreement Deadlines, if deemed necessary, and otherwise address procedural matters. The Court, in its own discretion, or upon request of the State or the Defendant, may set an additional Pre-Trial Conference closer to the date of Trial so as to anticipate last minute matters which pertain to Trial.
- 11.2** The Disclosures, set forth in Criminal Rule 16, shall be made by the Prosecutor in felony cases, on or before the date of the Pre-Trial Conference. No Written Request need be made to obtain such Disclosures under this Rule. If a question of failure to provide complete Disclosure, as required by Criminal Rule 16, arises, the Court shall address the issue at the Pre-Trial Conference or upon the filing of an appropriate Motion for Enforcement of said Discovery, which Motion shall be filed by Defendant not later than fourteen (14) days after the date of the Pre-Trial or the date Discovery is provided, whichever shall later occur.
- 11.3** Upon the Defendant having received the above-mentioned Discovery from the State said Defendant shall make the Disclosures set forth in Criminal Rule 16 not later than fourteen (14) days after the Pre-Trial Conference or after the date of receipt of Discovery from the State, whichever later occurs; however, in no event not later than ten (10) days before Trial. No Written Request by the State is necessary to obtain such Disclosures under this Rule. If Disclosures are not made by Defendant, the prosecution shall apply to the Court for enforcement.
- 11.4** In the event of the failure of either the State or the Defendant to provide Discovery in accord with this Rule, the Court shall decide whether such failure to provide Discovery has resulted from an intentional, negligent, or otherwise inadvertent action and/or the imposition of an appropriate sanction, if any, to include imposition of fines and/or reasonable expenses, including attorneys fees, caused by the failure and/or an order prohibiting the introduction of designated matters into evidence, or whatever reasonable sanction the Court deems appropriate.

Rule 11(A) – Mediation

The Court incorporates by reference herein, R.C. 2710 “Uniform Mediation Act” (UMA), R.C. 3109.052 Mediation of Differences as to Allocation of Parental Rights and Responsibilities, and Rule 16 of the Supreme Court of Ohio Rules of Superintendence.

11(A).1 Referral

Any time after filing, the Court may, upon its own motion or upon the motion of a party, refer any case to mediation that the Court deems appropriate.

11(A).2 Fees

- (a) No additional deposit fees are charged for cases referred to the (Belmont County Mediation Program)
- (b) The Judge or Magistrate shall consider the following approaches to allocating mediation fees, but retain discretion to allocate fees in any manner deemed appropriate:
 - (1) The Court may divide fees for mediation services equally based on the family’s financial situation and ability to pay
 - (2) The Court may approve any agreement reached by the parties regarding the payment of mediation services
 - (3) The Court may allocate all fees to one party or the other based on financial ability to pay for services
 - (4) The Court may waive mediation fees based on both parties ability to pay for such services

11(A).3 Pro se Cases

All cases involving pro se litigants shall be automatically referred to the Court’s mediation program: Pro se litigants shall be fully and clearly informed by the mediator of what the pro se litigant is and is not required to do in mediation, including the nature of mediation and the purpose for the mediation.

11(A).4 Counsel

- (a) The parties may waive the presence of any counsel, or the Court also may require counsel for all parties to attend.
- (b) The parties shall have the opportunity to consult or appear with counsel before the Court approves the mediation agreement.

11(A).5 Time Frame for Completion

- (a) The Court may stay the proceedings for mediation for a period of time not to exceed 45 days.
- (b) The assigned Judge or Magistrate must approve or deny any agreement reached by the parties and reduced to writing within 10 days.
- (c) If either parties fails to appear for mediation, if no agreement is reached in mediation, or if the agreements reached is not approved by the Judge or Magistrate, the case shall be scheduled for a pretrial or trial hearing.

11(A).6 Confidentiality

- (a) Any disclosure made by the parties or information received from any source or person during mediation shall be deemed confidential and shall not be admissible as evidence in any other action before the Court: Mediators shall not disclose or testify about any statements or discussions which occurred during the mediation.
- (b) A written confidentiality agreement shall be executed by all those in attendance prior to beginning the mediation session. If new or different persons attend a subsequent session, their signatures shall be obtained prior to proceeding further in the process.

11(A).7 Sanctions

If any party fails to attend mediation as ordered by the Court, without good cause, the Court may impose sanctions which may include, but are not limited to, the award of attorney's fees and other costs, contempt, or other appropriate sanctions at the discretion of the assigned Judge or Magistrate.

Rule 11(B) – Juvenile Competency

General Purpose

The purpose of these rules is to expedite proceedings under sections 2152.51 to 2152.59 of the Revised Code, to ensure that proper notice of competency hearings is provided to the appropriate persons, and to ensure that any proceedings on an underlying complaint are stayed pending the determinations under these sections.

Expedited Hearings

Juvenile competency proceedings shall be scheduled and heard on an expedited basis. Hearings in juvenile competency proceedings shall be held in strict compliance with applicable deadlines as established by statute or by this rule.

Notice

Upon the conclusion of each hearing, the court shall provide written notice to the prosecuting attorney, the child's attorney, the child's guardian ad litem, and the child's parents, guardian, or custodian of the date, time and place of the next scheduled hearing. Mailed notice shall not be required for any party or other individual designated in this rule to whom notice of the next hearing was provided in writing upon conclusion of the immediately preceding hearing.

Stay of Proceedings

Upon the filing of a motion for determination regarding a child's competency or upon the court's own motion the court shall stay all delinquency proceedings pending a determination of competency. If, upon a determination of competency, the court determines that the child is not competent but could likely attain competency, the court order staying the delinquency proceedings shall remain in effect until such time as the child attains competency or the proceeding is dismissed.