

# Informal Adjustment

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## Preliminary Inquiry

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Conduct an interview with the child and child's parents, guardian or legal custodian. At the beginning of the interview, the officer shall explain the nature of the complaint and inform the child of the right to counsel.

T.C.A. § 37-1-126 provides that a child is entitled to be represented by an attorney in any delinquent proceeding. A child is entitled to an attorney when charged with an unruly offense when the child is in jeopardy of being removed from the home pursuant to T.C.A. § 37-1-132(b). Not all children charged with an unruly offense are entitled to an attorney. The right attaches when the child is in jeopardy of being placed outside the child's home with a person, agency or facility.

If the child invokes the right to an attorney, the designated court officer shall immediately suspend the interview, allow for the appointment or retention of counsel, and reschedule the matter.

## Waiver of Attorney

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If the child chooses to proceed with the interview without counsel, the designated court officer shall obtain a written waiver from the child and proceed with the interview.

### Add a document

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#### Document Detail

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Document date/time:

Template:\* List templates containing:

Send notice  Normal  Confidential  Sealed

Document for:\* **Laura Ingalls**

Case(s):  [Laura Ingalls: Case 4 - Defendant - 83SCJ-2019-JR-10 \(Active; Informal Adj](#)

## Example: Waiver of Attorney

### IN THE JUVENILE COURT OF CHESTER COUNTY, TENNESSEE

IN THE MATTER OF:

**Laura Ingalls - DOB 4/12/2007**

A child under 18 years of age  
(at the time of the offense)

Case No. 12JC1-2019-JD-1

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#### STATEMENT OF RIGHTS

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Appearing before the Juvenile Court, you have the following rights:

1. The right to be present during the hearing of this case.
2. The right to present my own testimony.
3. The right to have witnesses subpoenaed.
4. The right to cross-examine witnesses against me.
5. The right to have an attorney at each stage of the proceedings against me.
6. The right to appointed counsel.
7. The right to remain silent.
8. The right to not incriminate myself.
9. The right and method for appeal and time requirements as to appeal.
10. To know the maximum penalties the Court may impose.
11. The right to plead "Not Guilty".
12. If a plea of "Guilty" is entered, the only evidence taken will be for the purpose of verifying the plea and for disposition (sentencing) purposes.
13. If a plea is entered acknowledging guilt, I may be asked questions by the Court concerning the conduct.
14. Prior findings of delinquent or unruly behavior may be used against me in determining treatment or rehabilitation at disposition.
15. This case may be used to enhance future offenses if I am again brought to Court for later offenses.
16. There must be some factual basis for a guilty plea entered.
17. The plea must be voluntary and independently made.
18. If I plea guilty or no contest I waive my right to appeal the adjudication (plea). If the plea includes an agreement as to the disposition (sentence), I also waive the right to appeal the disposition (sentence).
19. The right of access to recording of the hearing.

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#### WAIVER OF ATTORNEY

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I am not waiving my right to an attorney.

I am waiving my right to an attorney and understand that:

1. I understand the charge(s) against me and what they mean.
2. I know that I have the right to get help from a lawyer about the charge(s) against me. If I choose not to get help from a lawyer now, I have the right to get help from a lawyer later while my case is still open.
3. I know that if I cannot pay for a lawyer, the Court will get me one for free.
4. I had the chance to ask questions about my right to get help from a lawyer. All my questions were answered.
5. I do not want a lawyer right now.

---

Child's Signature

Date

Parent, Guardian, Legal Custodian's Signature

Date

## Informal Adjustment Agreement

After you have followed the steps for a [new petition/citation or complaint](#), and you've met with the family and have decided an Informal Adjustment would be appropriate, create the Informal Adjustment Agreement.

### Add a document

- Documents/docket entries View CCS Top Add docket entry Add document  
(View) 8/30/2019 7:53:26 AM - Petition for Delinquent/Unruly (Filed - 8/30/2019)

### Document Detail

Document date/time:  
Template:\* List templates containing: inf  
JD-IAA - Informal Adjustment Agreement  
Informal Adjustment Agreement  
 Send notice  Normal  Confidential  Sealed  
Document for:\* Laura Ingalls  
Case(s):  Laura Ingalls: Case 4 - Defendant - 83SCJ-2019-JR-10 (Active; Case Filed)

- **List templates containing:** Search for a partial word, such as inf for informal, Press the **TAB** button on your keyboard. This will narrow the list of templates to only those that contain that word.
  - Choose the template you want from the drop-down options.

Answer all the questions in this document, clicking the **Update** button to move forward through the questions and the **Backward** button to move backward through the document.


You can then print the agreement and have the parties sign, or if you have a signature pad, have the parties sign the agreement, by clicking on the **Sign** button while viewing the finished document.

[See more about Documents](#)


Not allowed to include restitution in an informal adjustment or to send supervision to DCS probation.

When FINISHED the Informal Adjustment Agreement will do the following:

Add a **Case status** of Informal Adjustment.



- Case status history	Close case
4/29/2019 - Informal Adjustment	
4/15/2019 - Case Filed	

Add a **Deadline** to “check diversion status” out 80 days.


- Open Deadlines for Sumner County Juvenile Court	Top
6/29/2019 11:44:40 AM - Traffic School Certificate Due	
7/19/2019 11:44:40 AM - Check Diversion Status	

Update the **Filed statute Disposition** to “informal adjustment”. (this puts it on the monthly state statistical report). The Plea section remains empty as we don’t take a plea with informal adjustment.

Name	Count	Petition	Plea	Disposition
Laura Ingalls	1 - Reckless Driving (TCA 55-10-205), a Misdemeanor; Filed 4/15/2019			Informal Adj





Adds **Requirements**, including one for Informal Adjustment with a scheduled end date out 90 days.

Name	Assigned	Requirement	Start	Status
Laura Ingalls	4/29/2019	Informal Adjustment 	4/29/2019 2 days	
Laura Ingalls	4/29/2019	Driver's License Restricted	4/29/2019 2 days	
Laura Ingalls	4/29/2019	Defensive Driving School	4/29/2019 2 days	
Laura Ingalls	4/29/2019	Cell Phone Held Informally	4/29/2019 2 days	
Charles Ingalls	4/30/2019	Court Costs	4/30/2019 1 day	(Balance: \$108.00)

Adds a **Supervision Level** of Informal Adjustment.

Adds a **Supervising officer** to the names assigned to the case.

- Names currently assigned to the case <a href="#">Top</a>			
Name	Role	Notice	Represents
<a href="#">Ty Wilson</a>	<a href="#">Petitioner</a>	No	
<a href="#">Tammytha Barnes</a>	<a href="#">YSO/PO</a> 	No	<a href="#">Laura Ingalls</a>
<a href="#">Sumner County Fairground</a>	<a href="#">Victim</a>	No	

## Example: Informal Adjustment Agreement

### IN THE JUVENILE COURT OF CHESTER COUNTY, TENNESSEE

IN THE MATTER OF:

Case No. 12JC1-2019-JD-1

**Laura Ingalls - DOB 4/12/2007 AGE 12 years**

A child under 18 years of age

(at the time of the offense)

CHARGE(S): Case 1, Count 1 - Shoplifting/Theft of merchandise (TCA 39-14-146), a Misdemeanor  
Case 1, Count 2 - Simple possession or casual exchange (TCA 39-17-418), a Misdemeanor

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### INFORMAL ADJUSTMENT AGREEMENT

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In accordance with Rule 201 of the Tennessee Rules of Juvenile Practice and Procedure, an informal adjustment is requested in this case.

1. The child and the parent, guardian or legal custodian agree to the juvenile court officer informally adjusting this case - this is voluntary.
2. The child and the parent, guardian or legal custodian have been advised of the child's right to legal counsel and if they cannot afford one, one will be appointed.
3. The child has a right to remain silent and any statements made by the child will not be admissible in any proceeding prior to a dispositional hearing.
4. The juvenile court officer may terminate the informal adjustment and request dismissal of the charges at any time.
5. If the child successfully completes the informal adjustment program, the complaint will be closed, and no further action taken by the Court. If a petition/citation has been filed, the petition/citation shall be dismissed with prejudice. After one (1) year the child may petition the Court to expunge the informal adjustment case at no cost.
6. The period of informal adjustment will not extend beyond three (3) months unless the extension is approved by the Court. The total period of informal adjustment may not exceed six (6) months.
7. The child and the parent, guardian or legal custodian understand that the child has a right to a trial and that the informal adjustment is voluntary.
8. The child may terminate the informal adjustment at any time and request a trial.
9. The designated juvenile court officer may file a petition or proceed on a previously filed petition if the child has not followed the conditions of the informal adjustment agreement.

#### REQUIREMENTS OF INFORMAL ADJUSTMENT:

1. Obey your parent, guardian, or legal custodian(s).
2. Obey all laws including offenses only applicable to juveniles.
3. You will not possess or consume any alcohol, drug, or tobacco product.
4. You are required to attend school daily. Any absences must be accompanied by a parent or doctor note.

5. The child shall be placed under the supervision of the Chester County Juvenile Court on supervised county juvenile probation. Said child and parent(s)/guardian(s) shall comply respectfully with any and all the lawful and reasonable requests of the probation officer and any and all the rules of county juvenile probation.
6. The child shall apologize in person or shall complete a hand-written letter of apology to Mother.
7. The child shall complete 20 hours of court-approved community service work and provide the Court with proof of completion.
8. Caroline Ingalls (Mother of Laura Ingalls) will pay:
  - Court costs in the amount of \$64.00.
  - Sheriff Service fee in the amount of \$42.00.
  - A Juvenile Fine in the amount of \$50.00.
9. All fees and costs are to be paid to the Chester County Juvenile Clerk.

I have read and understand the above requirements and have been provided a copy of this agreement. I will abide by the requirements.

Child's Signature	7/12/19 Date
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I have read and understand the above requirements and have been provided a copy of this document. I agree to report any violations to the juvenile court officer.

Parent, Guardian, Legal Custodian's Signature	7/12/19 Date
---	-----------------

Karlene Thompson, Juvenile Court Officer	7/12/19 Date
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## Request to Extend Informal Adjustment:

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If you need to extend the informal adjustment, before the 3-month expiration date, create a document called Request to Extend Informal Adjustment. The request may be electronically submitted to the Judge to approve.

### Add a document

#### Document Detail

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Document date/time:

Template:\* List templates containing:

▾

Send notice  Normal  Confidential  Sealed

Document for:\* **Laura Ingalls**

Case(s):  Laura Ingalls: Case 4 - Defendant - 83SCJ-2019-JR-10 (Active; Informal Adj)

The document is finished and electronically sent to the Judge for approval. After approval it will go to the Clerk's office to be file stamped and mailed to the parties.

When finished the document will do the following updates to Quest:

- The old **Deadline** is closed and a new one added to remind you to check the diversion status in another 80 days.
- The **Informal Adjustment Requirement** is updated with a new end date out 180 days from the original informal adjustment date.
- A **Case status** of Informal Adjustment Extended is added.

<a href="#">- Case status history</a>	<a href="#">Close case</a>	<a href="#">Top</a>
8/30/2019 - Informal Adjustment Extended		
6/10/2019 - Informal Adjustment		
5/30/2019 - Case Filed		

## Example: Request to Extend Informal Adjustment

### IN THE JUVENILE COURT OF CHESTER COUNTY, TENNESSEE

IN THE MATTER OF:

Case No. 12JC1-2019-JD-1

**Laura Ingalls - DOB 4/12/2007 AGE 12 years**

A child under 18 years of age

(at the time of the offense)

CHARGE(S): Case 1, Count 1 - Shoplifting/Theft of merchandise (TCA 39-14-146), a Misdemeanor  
Case 1, Count 2 - Simple possession or casual exchange (TCA 39-17-418), a Misdemeanor

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### REQUEST TO EXTEND INFORMAL ADJUSTMENT

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Comes now Karlene Thompson, Youth Services Officer, and requests this Honorable Court extend the informal adjustment process of the above-named child for three (3) additional months to give the child time to complete the provisions of the informal adjustment agreement as follows:

Laura broke her foot in the first month of supervision so was unable to complete the community service hours. I believe Laura will benefit from completing these hours.

Dated: July 12, 2019

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Karlene Thompson, Youth Services Officer

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### APPROVAL OF REQUEST TO EXTEND INFORMAL ADJUSTMENT

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The Court having reviewed the Request to Extend Informal Adjustment now approves this request. The informal adjustment is extended for an additional three (3) months.

ENTERED this 12th day of July, 2019.

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The Honorable Larry F. McKenzie  
(TCA § 16-1-115)

### CERTIFICATION OF SERVICE

## Successful Completion of Informal Adjustment

Once the child successfully completes the informal adjustment, if there was a Petition or Citation filed, you must file a Motion to Dismiss the Petition/Citation. There is no need for a Motion to Dismiss on a Complaint since it is not filed with the Clerk's office. This is filed regardless of whether the offense was a delinquent or unruly offense.

### Add a document

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### Document Detail

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Document date/time:

Template:\* List templates containing:

Send notice    Normal    Confidential    Sealed

Document for:\* **Laura Ingalls**

Case(s):  **Laura Ingalls: Case 4 - Defendant - 83SCJ-2019-JR-10 (Active; Informal Adj)**

The document will prompt you to ensure all the requirements are closed. Finishing this document will close the case.

The document is finished and electronically sent to the Judge for approval. After approval it will go to the Clerk's office to be file stamped and mailed to the parties.

When finished the document will do the following updates to Quest:


- Adds a **Case status** of Dismissed; Successfully Completed Informal Adjustment if there was a Petition/Citation filed.

- Case status history	Close case	Top
4/30/2019 - Dismissed; Successfully Completed Informal Adjustment		
4/29/2019 - Informal Adjustment		
4/15/2019 - Case Filed		

- Adds a **Case status** of Closed; Successfully Completed Informal Adjustment if there was a Complaint filed.


- Case status history	Close case	Top
4/30/2019 - Closed; Successfully Completed Informal Adjustment		
4/29/2019 - Informal Adjustment		
4/15/2019 - Case Filed		

The **Filed statute Disposition** of informal adjustment will remain, so we don't lose that statistic.



- Filed statutes <a href="#">Top</a>				
Name	Count	Petition	Plea	Disposition
Laura Ingalls	1 - Reckless Driving (TCA 55-10-205), a Misdemeanor; Filed 4/15/2019			Informal Adj

All the **Requirements** are closed with the appropriate status.



- Requirements <a href="#">Top</a>					
Name	Assigned	Requirement	Start	Status	Status date
Laura Ingalls	4/29/2019	Informal Adjustment	4/29/2019	Successfully Completed	4/30/2019
Laura Ingalls	4/29/2019	Driver's License Restricted	4/29/2019	Successfully Completed	4/30/2019
Laura Ingalls	4/29/2019	Defensive Driving School	4/29/2019	Successfully Completed	4/30/2019
Laura Ingalls	4/29/2019	Cell Phone Held Informally	4/29/2019	Cell Phone Returned	4/30/2019
Charles Ingalls	4/30/2019	Court Costs	4/30/2019	Paid in Full	4/30/2019

## Example: Motion to Dismiss Delinquency Petition/Citation

### IN THE JUVENILE COURT OF CHESTER COUNTY, TENNESSEE

IN THE MATTER OF:

Case No. 12JC1-2019-JD-1

**Laura Ingalls - DOB 4/12/2007 AGE 12 years**

A child under 18 years of age  
(at the time of the offense)

CHARGE(S): Case 1, Count 1 - Shoplifting/Theft of merchandise (TCA 39-14-146), a Misdemeanor  
Case 1, Count 2 - Simple possession or casual exchange (TCA 39-17-418), a Misdemeanor

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### MOTION TO DISMISS

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Comes now Karlene Thompson, Youth Services Officer, and moves this Honorable Court to dismiss the petition in this case.

The child, Laura Ingalls, has successfully completed the provisions of the informal adjustment.

Dated: July 12, 2019

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Karlene Thompson, Youth Services Officer

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### ORDER GRANTING MOTION TO DISMISS

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The Court having reviewed the Motion to Dismiss and the entire record now ORDERS that the Motion to Dismiss be granted. The petition filed in this case is dismissed with prejudice.

ENTERED this 12th day of July, 2019.

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The Honorable Larry F. McKenzie  
(TCA § 16-1-115)

### CERTIFICATION OF SERVICE

## Letter Closing Informal Adjustment

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Now the case is closed, and the petition has been dismissed, but a record remains. You can send a letter to the family informing them of this and providing them with a Motion for Expunction of Juvenile Court Records which they can file with the Clerk in one year or less if wish.

### Add a document

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#### Document Detail

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Document date/time:

Template:\* List templates containing:

▾

Send notice    Normal    Confidential    Sealed

Document for:\* **Laura Ingalls**

Case(s):  Laura Ingalls: Case 4 - Defendant - 83SCJ-2019-JR-10 (Active; Informal Adj)

This letter will ask if you wish to send a Motion for Expunction. If you say yes, it will walk you through the questions to create the Motion. You can then mail the letter and motion to the family.

## Example: Letter Closing Informal Adjustment

**Judge Larry McKenzie**  
*Juvenile Court Judge*



**Roger Boleyn**  
*Director Juvenile Court  
Services*  
731-989-7938

### **Chester County Juvenile Court**

P.O. Box 218 - Henderson, Tennessee 38340

July 12, 2019

Caroline Ingalls  
126 Crook Avenue  
Henderson, TN 38340

RE: Laura Ingalls (1/1; 12JC1-2019-JD-1)

This letter is notification that Laura Ingalls successfully completed the provisions of the informal adjustment.

Although the case is now closed or dismissed, a juvenile record still exists. If you wish to request expungement of this juvenile record, you can do so after one (1) year by filing the enclosed petition with the Juvenile Court Clerk. There is no cost for filing this petition.

If you have any questions regarding this release, please feel free to contact our office.

Sincerely,

A handwritten signature in cursive that reads "Roger".

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Roger Boleyn  
Director Juvenile Court Services

# Example: Motion for Expunction of Juvenile Court Records

## IN THE JUVENILE COURT OF CHESTER COUNTY, TENNESSEE

IN THE MATTER OF:

Case No. 12JC1-2019-JD-1

**Laura Ingalls - DOB 4/12/2007 AGE 12 years**

A child under 18 years of age

(at the time of the offense)

CHARGE(S): Case 1, Count 1 - Shoplifting/Theft of merchandise (TCA 39-14-146), a Misdemeanor  
Case 1, Count 2 - Simple possession or casual exchange (TCA 39-17-418), a Misdemeanor

### **MOTION FOR EXPUNCTION OF JUVENILE COURT RECORDS**

COMES, Laura Ingalls - DOB 4/12/2007, pursuant to T.C.A. § 37-1-153(f), and moves this Court for an order of expunction of the juvenile court records related to Case No. 12JC1-2019-JD-1, involving the violation of the following statutes/ordinances: Shoplifting/Theft of merchandise (TCA 39-14-146), a Misdemeanor and Simple possession or casual exchange (TCA 39-17-418), a Misdemeanor.

In support of this Motion, movant states that: The case was disposed by an informal adjustment, pretrial diversion, or judicial diversion, and it has been at least 1 year since I successfully completed the informal adjustment, pretrial diversion, or judicial diversion.

Respectfully submitted,

Dated: \_\_\_\_\_

\_\_\_\_\_  
Laura Ingalls, Child

Dated: \_\_\_\_\_

\_\_\_\_\_  
Parent, Guardian or Legal Custodian



## Violation of Informal Adjustment

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Pursuant to Rule 201:

(5) The designated court officer may terminate the informal adjustment and proceed with formal court action if at any time the child or the child's parents, guardian or legal custodian:

- (A) Declines to participate further in the informal adjustment process;
- (B) Denies the jurisdiction of the juvenile court over the instant matter;
- (C) Expresses a desire that the facts be determined by the court;
- (D) Fails to comply with the terms of the informal adjustment program.

(6) Upon termination of the informal adjustment process, the designated court officer shall notify the child and the child's parent, guardian or legal custodian thereof, and the victim. The termination shall be reported to the court. Such notification shall include the basis for the termination.

### Add a document

#### Document Detail

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Document date/time:

Template:\* List templates containing:

Send notice  Normal  Confidential  Sealed

Document for:\* **Laura Ingalls**

Case(s):  **Laura Ingalls: Case 4 - Defendant - 83SCJ-2019-JR-10 (Active; Informal Adj**

Create the Notice of Termination of Informal Adjustment. The Notice is filed with the Court and sent to the family.

You can schedule a hearing for the original petition to be heard. Attach this document to that hearing.

You will select the reason you are terminating the informal adjustment and type the basis for the termination.

When FINISHED this document will update Quest as follows:

The remaining **Requirements** should be closed as unsuccessful.

- Requirements Top					
Name	Assigned	Requirement	Start	Status	Status date
Laura Ingalls	4/29/2019	Informal Adjustment	4/29/2019	Failed to Complete Successfully	4/30/2019
Laura Ingalls	4/29/2019	Driver's License Restricted	4/29/2019	Successfully Completed	4/30/2019
Laura Ingalls	4/29/2019	Defensive Driving School	4/29/2019	Failed to Complete Successfully	4/30/2019
Laura Ingalls	4/29/2019	Cell Phone Held Informally	4/29/2019	Cell Phone Returned	4/30/2019
Charles Ingalls	4/30/2019	Court Costs	4/30/2019	Paid in Full	4/30/2019

A **Case Status** of Informal Adjustment Terminated is added.

- Case status history Close case Top		
4/30/2019 - Informal Adjustment Terminated		
4/29/2019 - Informal Adjustment		
4/15/2019 - Case Filed		

If the child is adjudicated on the charges, the filed statute disposition must be changed to adjudicated. This is the only time we would change the filed statute disposition.

- Case status history Close case Top		
5/1/2019 - Adjudicated; Delinquent Child		
4/30/2019 - Informal Adjustment Terminated		
4/29/2019 - Informal Adjustment		
4/15/2019 - Case Filed		

Count	Petition	Plea	Disposition
1 - Reckless Driving (TCA 55-10-205), a Misdemeanor; Filed 4/15/2019		Guilty	Guilty

## Example: Notice of Termination of Informal Adjustment

### IN THE JUVENILE COURT OF CHESTER COUNTY, TENNESSEE

IN THE MATTER OF:

Case No. 12JC1-2019-JD-1

**Laura Ingalls - DOB 4/12/2007 AGE 12 years**

A child under 18 years of age

(at the time of the offense)

CHARGE(S): Case 1, Count 1 - Shoplifting/Theft of merchandise (TCA 39-14-146), a Misdemeanor  
Case 1, Count 2 - Simple possession or casual exchange (TCA 39-17-418), a Misdemeanor

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### NOTICE OF TERMINATION OF INFORMAL ADJUSTMENT

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Comes now Karlene Thompson, Youth Services Officer, and informs this Honorable Court that the informal adjustment is being terminated because the child or the child's parents, guardian or legal custodian failed to comply with the terms of the agreement as follows:

The child is failing to report to the YSO as directed. The mother is not answering the phone with this officer calls.

Dated: July 12, 2019

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Karlene Thompson, Youth Services Officer

### CERTIFICATION OF SERVICE

## **TCA 37-1-110: Informal adjustment without adjudication -- Pretrial Diversion.**

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**(a)** Before or after a petition is filed, a designated court officer may informally resolve a complaint containing delinquent or unruly allegations without adjudication by giving counsel and advice to the child if such informal resolution would be in the best interest of the public and the child, and the child and the child's parents, guardian, or other custodian consent to the informal adjustment with knowledge that consent is not obligatory. The informal adjustment shall not extend beyond three (3) months from the day commenced unless extended by the court and does not authorize the detention of the child if not otherwise permitted by this part.

**(b) (1)** After a petition has been filed and a designated court officer determines that an unruly or delinquent case is an appropriate case for diversion from adjudication, the parties may agree to pretrial diversion that suspends the proceedings and places the child under supervision on terms and conditions agreeable to the designated court officer and approved by the court. A child may not be placed on pretrial diversion if the delinquent act alleged is an offense described in § 37-1-153(b).

**(2)** A pretrial diversion agreement shall remain in force for a maximum of six (6) months unless the child is discharged sooner by the court. Upon application of any party to the proceedings, made before expiration of the six-month period and after notice and a hearing, pretrial diversion may be extended by the court for an additional six (6) months.

**(3)** If, prior to discharge by the court or expiration of the pretrial diversion period, the child fails to fulfill the terms and conditions of the pretrial diversion agreement, the original petition may be reinstated and the case may proceed to adjudication just as if the agreement had never been entered.

**(c)** The petition shall be dismissed with prejudice once a child completes an informal adjustment pursuant to subsection (a) or pretrial diversion pursuant to subsection (b) without reinstatement of the original delinquent or unruly petition.

## **RULE 201: Preliminary Inquiry & Informal Adjustment**

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

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

(A) Those matters over which the juvenile court has no jurisdiction;

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

(C) Those matters in which sufficient evidence may exist to bring a child within the jurisdiction of the juvenile court but which are not serious enough to require official action under the juvenile court law or which may be suitably referred to a non-judicial agency available in the community;

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

(b) Receipt of Complaint. Any person or agency having knowledge of the facts may file a complaint with the juvenile court or an officer designated by the court alleging facts to indicate a child is delinquent or unruly. The court representative accepting the complaint shall note thereon the date and time of receipt of the complaint.

(c) Duties of Designated Court Officer. Upon receipt of the complaint, the designated court officer shall:

(1) Interview or otherwise seek information from the complainant, victim and any witness to the alleged offense.

(2) Conduct an interview with the child who is the subject of the complaint and the child's parents, guardian or legal custodian. At the beginning of the interview, the officer shall explain the nature of the complaint and inform the child of the right to counsel, where applicable, that if the child cannot afford an attorney one will be appointed if applicable, and that the child has a right to remain silent and any statements made by the child will not be admissible in any proceeding prior to the dispositional hearing.

(A) If the child invokes the right to an attorney, the designated court officer shall immediately suspend the interview, allow for the appointment or retention of counsel, and reschedule the matter.

(B) If the child chooses to proceed with the interview without counsel, the designated court officer shall obtain a written waiver from the child and proceed with the interview.

(3) If the designated court officer determines that the juvenile court does not have jurisdiction over the matter or there appears to be insufficient evidence to support the complaint, then the complaint shall be closed and no further action taken by the court.

(d) Informal Adjustment.

(1) If the designated court officer determines that the matter is not serious enough to require official action before the juvenile court judge, then the designated court officer may remedy the situation by giving counsel and advice to the parties through an informal adjustment. In determining whether informal adjustment should be undertaken, the designated court officer may consider:

(A) Whether the child has had a problem in the home, school or community which indicates that counsel and advice would be desirable;

(B) Whether the child and the parents, guardian or legal custodian seem able to resolve the matter with the assistance of the designated court officer or other court staff, and without formal juvenile court action;

(C) Whether further observation or evaluation by the designated court officer is needed before a decision can be reached;

(D) The attitude of the child, parents, guardian, or legal custodian;

(E) The concerns of the victim, child, the parents, guardian, or legal custodian, and/or any other affected persons or agencies;

(F) The age, maturity and mental condition of the child;

(G) The prior history or record, if any, of the child;

(H) The recommendation, if any, of the referring party or agency;

(I) The results of any mental health, drug and alcohol or other assessments or screenings of the child; and

(J) Any other circumstances which indicate that informal adjustment would be consistent with the best interest of the child and the public.

(2) The informal adjustment shall not occur without the consent of the child and the child's parents, guardian or other legal custodian. Prior to giving consent, the child must be notified that participation is optional and may be terminated by the child at any time.

(3) The informal adjustment process shall not continue beyond a period of 3 months from its commencement unless such extension is approved by the court for an additional period not to exceed a total of 6 months. The process shall only include counsel and advice, or referral to an agency available in the community for successful completion of a suitable treatment program, class or some form of alternative dispute resolution.

(4) Upon successful completion of a period of informal adjustment, the complaint shall be closed and no further action taken by the court. If a petition has been filed, then the petition shall be dismissed with prejudice.

(5) The designated court officer may terminate the informal adjustment and proceed with formal court action if at any time the child or the child's parents, guardian or legal custodian:

(A) Declines to participate further in the informal adjustment process;

(B) Denies the jurisdiction of the juvenile court over the instant matter;

(C) Expresses a desire that the facts be determined by the court;

(D) Fails to comply with the terms of the informal adjustment program.

(6) Upon termination of the informal adjustment process, the designated court officer shall notify the child and the child's parent, guardian or legal custodian thereof, and the victim. The termination shall be reported to the court. Such notification shall include the basis for the termination.

(e) **Informal Adjustment Determined Inappropriate.** If the designated court officer determines informal adjustment to be inappropriate, then formal court proceedings shall commence with the filing of a petition or citation.

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

#### Advisory Commission Comments.

The 2016 amendment combines two previous rules regarding intake in and informal adjustment in delinquent and unruly cases. The intent of this rule is to allow local courts flexibility in how they handle informal adjustment, but also to spell out those basic procedures which must take place in every case in which informal adjustment is undertaken to ensure that informal adjustment is voluntary, as required in T.C.A. § 37-1-110.

The requirement in subdivision (b) that the court representative accepting a complaint shall note thereon the date and time of receipt of the complaint has been added to ensure that complaints are reduced to writing and documentation exists as to when the complaint was received. The term “complaint” includes, but is not limited to, a petition or citation. The complaint may be filed with the clerk of the court or another person designated by the court. The term “complaint” as used in these rules is not equivalent to a complaint referenced in the Rules of Civil Procedure.

As part of the preliminary inquiry, subdivision (c) requires the designated court officer to notify the child of the child’s right to an attorney at the beginning of the interview with the child. T.C.A. § 37-1-126 provides that a child is entitled to be represented by an attorney in any delinquent proceeding. A child is entitled to an attorney when charged with an unruly offense when the child is in jeopardy of being removed from the home pursuant to T.C.A. § 37-1-132(b). Not all children charged with an unruly offense are entitled to an attorney. The right attaches when the child is in jeopardy of being placed outside the child’s home with a person, agency or facility. Prior to placing custody of an unruly child with the Department of Children’s Services, the court is obligated to refer the child to the Department’s juvenile-family crisis intervention program pursuant to T.C.A. § 37-168. A child’s assertion of the right to counsel should not preclude an informal adjustment when appropriate.

It should be noted that, although attitude may be a factor under subdivision (d)(1)(iv) to consider in determining whether to undertake informal adjustment, it should not be the sole basis for denying informal adjustment. Each locality is encouraged to adopt and implement standardized risk and needs assessment tools in order to assist in this process.

Because informal adjustment allows only for counseling and advice, subdivision (d)(3) does not allow for sanctions such as restitution. However, in many instances, the child or the child’s family may desire to pay the alleged victim for any harm done. If the child and the victim agree to restitution, this can be done independently of the informal adjustment and not as a prerequisite or condition of the informal adjustment. If the intent is to make restitution a condition, the appropriate resolution is pretrial diversion and not informal adjustment.

Subdivision(e) provides that when an informal adjustment is determined to be inappropriate then formal court proceedings shall commence with the filing of a petition or citation. If a petition has not been filed at this point in time, then such petition should be filed with the clerk of the court. If a citation has been filed that meets the requirements of T.C.A. § 40-7-118, then a petition need not be filed in order to commence formal proceedings. If an informal adjustment is determined to be inappropriate, the designated court officer should assess whether a pretrial diversion is appropriate.

Courts should develop written local procedures and criteria for initiating informal adjustments. Such criteria might include a listing of the types of cases, or charges, which might be handled by informal adjustment. Local rules should include a process by which the district attorney general, petitioner, or victim of the offense may object to an informal adjustment.

## TCA 37-1-153: Expunction

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37-1-153. Court files and records -- Inspection limited -- Exceptions for certain violent offenders -- Confidentiality -- Expunction.

**(f) (1)** Notwithstanding any law to the contrary, any person who is tried and adjudicated delinquent or unruly by a juvenile court may subsequently petition the juvenile court for expunction of all court files and records. The court may order all or any portion of the requested expunction if, by clear and convincing evidence, the court finds that the petitioner:

**(A) (i)** Is currently eighteen (18) years of age or older;

**(ii)** Is at least one (1) year removed from the person's most recent delinquency or unruly adjudication; and

**(iii)** Has never been convicted of a criminal offense as an adult, has never been convicted of a criminal offense following transfer from juvenile court pursuant to § 37-1-134, and has never been convicted of a sexual offense as defined in § 40-39-202, whether in juvenile court, following transfer from juvenile court pursuant to § 37-1-134, or as an adult;

**(iv)** Does not have an adjudication of delinquency for a violent juvenile sexual offense as defined in § 40-39-202;

**(B)** Has maintained a consistent and exemplary pattern of responsible, productive and civic-minded conduct for one (1) or more years immediately preceding the filing of the expunction petition; or

**(C)** The juvenile has made such an adjustment of circumstances that the court, in its discretion, believes that expunction serves the best interest of the child and the community.

**(2)** Nothing in this subsection (f) shall be construed to apply to any law enforcement records, files, fingerprints or photographs pertaining to any delinquency or unruly adjudication.

**(3) (A)** In any case in which there is successful completion of an informal adjustment without adjudication under § 37-1-110, all court files and records shall be expunged by the juvenile court after one (1) year, upon a petition by the child pursuant to § 40-32-101(a), and without cost to the child. The court shall inform the child, at the time of the informal adjustment, of the need to petition for expunction after a year of successful completion of an informal adjustment and provide the child with a model expunction petition prepared by the administrative office of the courts. The administrative office of the courts shall create a petition that can be completed by a child and shall be circulated to all juvenile court clerks. All juvenile court clerks shall make this model expunction petition accessible to all petitioners.

**(B)** In any case that is dismissed, excluding a case dismissed after successful completion of an informal adjustment, all court files and records shall be expunged by the juvenile court as a part of the court's order of dismissal, without the filing of a petition for expunction, and at no cost to the child.

**(4)** Any person whose records are expunged under subdivisions (f)(1)-(3) shall be restored to the status that the person occupied before arrest, citation, the filing of a juvenile petition, or referral.