

AMENDMENT TO PRESIDING JUVENILE JUDGE ORDER 2015-2

RE: CONFIRMATION OF POSITIVE DRUG URINE TESTS IN DEPENDENCY AND NEGLECT CASES

In order to ensure and protect the fundamental liberty interests of the litigants involved in Dependency and Neglect cases and the integrity of the drug screening program relied upon so heavily in matters of this nature, it shall be the presumptive policy of this court that all positive drug tests utilized in Dependency and Neglect cases shall be first confirmed by a gas chromatography-mass spectrometry or a similar scientifically reliable confirmation test with appropriate documentation of such confirmation. As a general proposition, preliminary “positive” tests without confirmation and documentary support will not be considered reliable information for purposes of non-emergency verbal orders or courtroom proceedings.

Notwithstanding this presumptive policy, the consensus of the bench is that there are also true emergency situations wherein the informed use of preliminary tests may be permissible under narrow circumstances. These, however, should be true emergencies and the judicial officer from whom the order is requested should be specifically advised that it is a preliminary test in order that its weight may be properly considered in addition to any other evidence which may support or not support the order. It will be up to the judicial officer to determine whether a preliminary test may be considered and whether the situation is a true emergency. A specific example would be a newborn baby case in which a preliminary test is conducted by medical staff which reflects an illicit substance. If the Department believes a medical preliminary screen supports emergency orders, the on-call judge shall be informed that this test is only preliminary so its weight may be considered along with any other information available which may or may not reflect a safety concern for the child. If the order is granted based upon an emergency – whether a new born baby case or otherwise – the Department shall coordinate with the hospital or other reporting agency to ensure a timely confirmation test is provided to the court.

DONE AND SIGNED on this 30th day of JULY, 2015.



G. DAVID MILLER
Presiding Juvenile Judge
Fourth Judicial District