

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on September 14, 2016, the following order was made and entered:

RE: APPROVAL OF AMENDMENT TO RULE 39(c) OF THE RULES OF JUVENILE PROCEDURE, Docket No. 16-RULES-07

On a former day, May 24, 2016, came Nikki Tennis, former Director of the Division of Children's Services, and presented to the Court a proposed amendment to Rule 39(c) of the Rules of Juvenile Procedure. The proposed amendment was published for comment and the public comment period closed on August 15, 2016. No comments were received.

The Court has carefully considered the proposed amendment. Upon consideration, the Court is of the opinion to and does hereby approve and adopt the following amendment. The insertion is indicated by underscoring and the deletion by strikethrough as follows:

Rule 39. Delinquency Disposition.

* * *

(c) Division of Juvenile Services Commitments. Upon a finding that the best interests of the juvenile or the welfare of the public require it, the court may commit the juvenile to the custody of the Director of the Division of Juvenile Services for placement in a juvenile services facility for the treatment, instruction, and rehabilitation of juveniles; provided, that the court maintains discretion to consider alternative dispositional arrangements. The order shall further find and state that continuation in the home is contrary to the best interest of the juvenile and why; and whether or not the DHHR made reasonable efforts to prevent out-of-home placement or that the exigent circumstances leading to the delinquency adjudication made such efforts unreasonable or impossible. Commitments shall not exceed the maximum term for which an adult could have been sentenced for the same offense and any such maximum allowable commitment to be served in a juvenile services facility ~~may~~ shall take into account any time served by the juvenile in a detention center pending adjudication, disposition, or transfer.

A True Copy

Attest: //s// Edythe N. Gaiser
Deputy Clerk of Court

