

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on April 3, 2025, the following order was made and entered:

RE: REQUEST FOR PUBLIC COMMENT ON AMENDMENTS TO RULES 2 AND 27 OF THE RULES OF PRACTICE AND PROCEDURE FOR DOMESTIC VIOLENCE CIVIL PROCEEDINGS, No. 24-139

The Court has considered proposed amendments to Rules 2 and 27 of the Rules of Practice and Procedure for Domestic Violence Civil Proceedings. The Court has jurisdiction of court rules under Article VIII, §§ 1 and 3 of the West Virginia Constitution.

Upon consideration and review, the Court is of the opinion that the following amendments to Rules 2 and 27 of the Rules of Practice and Procedure for Domestic Violence Civil Proceedings should be published for a period of public comment for 30 days. Comments may be filed in writing with the Office of the Clerk on or before May 5, 2025. Additions are indicated by underscoring, and deletions are indicated by strike-through.

WEST VIRGINIA TRIAL COURT RULES

RULES OF PRACTICE AND PROCEDURE FOR DOMESTIC VIOLENCE CIVIL PROCEEDINGS

Rule 2. Terminology

(e) Remote Domestic Violence and Sexual Assault Outreach Program.---The remote outreach program approved for use by the Supreme Court of Appeals of West Virginia in magistrate and family court for a petitioner seeking a protective order under Chapter 48 and Chapter 53 of the West Virginia Code, to appear remotely at an advocacy center approved by the Supreme Court of Appeals of West Virginia, or other permissible use under Rule 27(b) herein.

Rule 27. Telephonic and video conference hearings.

~~_(a) Rule 18 of the Rules of Practice and Procedure for Family Court shall govern the telephonic and video conference hearings in domestic violence civil proceedings. Telephonic and~~

videoconference hearings. The court may conduct any hearing, including an evidentiary hearing, telephonically or by videoconference, and may permit any witness to testify or be deposed by such methods. In telephonically conducted proceedings the official record shall be made in the manner prescribed by the court. Videoconference proceedings shall be conducted in accordance with the requirements established by the Supreme Court of Appeals of West Virginia.

(b) Remote Domestic Violence and Sexual Assault Outreach Program Process.

(i) Petition and Emergency Hearing. An individual may file a petition for a protective order in person in magistrate court or may file a petition remotely from an advocacy center approved by the Supreme Court of Appeals of West Virginia as part of the Remote Domestic Violence and Sexual Assault Outreach Program. Upon receiving notification by the advocacy center that an individual is seeking a protective order at the center, the magistrate shall hold a remote emergency hearing to review the petition filed and issue an order.

(ii) Notice of Participation. The petitioner shall file a Notice of Remote Participation when filing the petition for a protective order or forty-eight (48) hours prior to the final hearing on a form approved by the Supreme Court of Appeals of West Virginia. The petitioner shall be permitted to appear remotely upon filing the notice in accordance with these rules. The remote participation shall be at an advocacy center approved by the Supreme Court of Appeals of West Virginia as part of the Remote Domestic Violence and Sexual Assault Outreach Program. The petitioner, the petitioner's counsel, and the petitioner's witnesses may appear remotely through this program.

(iii) Counterclaim. When a counterclaim is filed, as required in Rule 9(b) of the rules herein, the court shall permit the first party filing the Notice of Remote Participation to appear remotely at an approved advocacy center.

(iv) Service of Order on the Petitioner Participating Remotely. Any order, issued by a magistrate or family court judge in a proceeding using the Remote Domestic and Sexual Assault Outreach Program, shall be transmitted by facsimile or email to the advocacy center immediately upon the conclusion of the remote hearing and served by an advocate on the petitioner. Service obtained in this manner shall satisfy the service requirements provided in Rule 11 of the rules herein.

(v) Permissible Use of the Remote Domestic Violence and Sexual Assault Outreach Program. The court may use the Remote Domestic Violence and Sexual Assault Outreach Program in other family court proceedings when a party alleges to be a victim of domestic violence, sexual assault, harassment and/or stalking, provided however, the court shall coordinate with the approved advocacy center to schedule the remote hearing.

A True Copy

Attest: /s/ C. Casey Forbes
Clerk of Court

