

## STATE OF WEST VIRGINIA

On December 29, 2025, the Supreme Court of Appeals of West Virginia made and entered the following order:

**RE: Adoption of Amendments Rules 3 and 15 of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings**

No. 25-256

On April 24, 2025, the Court published for public comment, and provisionally approved, proposed amendments to Rules 3 and 15 of the Rules of Procedure for Child Abuse and Neglect Proceedings. No comments were filed.

The Court has jurisdiction under Article VIII, §§1 and 3 of the West Virginia Constitution.

Upon consideration and review of the proposed amendments, the Court is of the opinion to and does adopt the following rule amendments, effective immediately.

Deletions to the rules are indicated by strike-through and additions by underlining.

## RULES OF PROCEDURE FOR CHILD ABUSE AND NEGLECT PROCEEDINGS

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### Rule 3. Definitions.

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(q) “**Visitation**” shall mean supervised or unsupervised contact; telephone or video calls; messaging; letters; email; or other communication consistent with the child’s best interests.

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### ~~Rule 15. Visitation and other communication with child.~~

~~—— If at any time the court orders a child removed from the custody of his or her parent(s) and placed in the custody of the Department or of some other responsible person, the court may make such provision for reasonable visitation, telephone or video calls, letters, email, or other communication as is consistent with the child’s well-being and best interests. The court shall assure~~

~~that any supervised visitation shall occur in surroundings and in a safe place, dignified, and suitable for visitation, taking into account the child's age and condition. The person requesting visitation shall set forth his or her relationship to the child and the degree of personal contact previously existing with the child. In determining the appropriateness of granting visitation rights to the person seeking visitation, the court shall consider whether or not the granting of visitation would interfere with the child's case plan and the overall effect granting or denying visitation will have on the child's best interests. The visitation order of the circuit court shall be enforceable upon entry unless a stay of execution of said order is issued by the circuit court or the Supreme Court of Appeals. The effect of entry of an order of termination of parental rights shall be, inter alia, to prohibit all contact and visitation between the child who is the subject of the petition and the parent who is the subject of the order and the respective grandparents, (footnote 1) unless the Court finds the child consents and it is in the best interest of the child to retain a right of visitation. Visitation between the child and his siblings shall continue, and a plan for regular contact between siblings, where they are not placed together, shall be incorporated into the permanent plan for the child whenever possible, unless the court finds it is not in the best interest of both the child and his siblings to retain a right of visitation.~~

(a) Visitation before final disposition

(1) If at any time the circuit court orders a child removed from the custody of his or her parent(s), guardian(s), or custodian(s), and places the child in the custody of the Department, or of some other responsible person, the court may make provisions for reasonable visitation between the parent(s) or other individual and the child during the pendency of the case if such visitation:

(A) is consistent with the child's wellbeing and best interests; and

(B) will not interfere with the child's case plan.

(2) Whenever possible, the court must make provisions for reasonable visitation between siblings who are not placed together unless the court determines it is not in the best interests of either the child or their sibling(s).

(3) The court shall assure that any visitation occurs in a safe place suitable for visitation, taking into account the child's age and condition.

(b) Visitation after final disposition

(1) If parental rights are not terminated, visitation may be ordered consistent with Rule 6.

(2) The guardian ad litem or any party may move, orally or in writing, for post-termination visitation at the dispositional hearing or at any time prior to the entry of the final dispositional order. After entry of the final dispositional order, the court may permit the motion upon good cause shown. Provided, that the court may not consider a motion filed by a person whose rights have been terminated after ten days have passed from the entry of the final dispositional order terminating their rights.

(A) The court may grant post-termination visitation only if it finds that such visitation is in the child's best interests, taking into consideration:

i. The guardian ad litem's oral or written recommendation on whether post-termination visitation is in the child's best interests,

ii. If the child is of sufficient age or maturity, whether the child wishes to have visitation; and

iii. Any other relevant evidence, including, but not limited to, the nature of the abuse and/or neglect that prompted termination of rights and the existence of a bond.

(B) Whether granting or denying the motion for post-termination visitation, the court must enter an order containing its ruling on the motion and supportive findings sufficient to permit appellate review.

(C) If granting the motion for post-termination visitation, the court may impose terms or limitations to visitation consistent with the child's best interests, provided that any terms or limitations are incorporated into the order.

(3) Visitation between the child and their siblings shall continue, and a plan for regular contact between siblings, where they are not placed together, shall be incorporated into the permanency plan for the child whenever possible, unless the court finds it is not in the best interest of either the child or their sibling(s).

(c) Any visitation order of the circuit court shall be enforceable upon entry unless a stay of execution of said order is issued by the circuit court or the Supreme Court of Appeals of West Virginia.

(d) Any order entered under this rule may be modified as set forth under Rule 6.

(e) This rule is intended to neither increase nor decrease any rights of the grandparents as set forth in West Virginia Code §§ 49-4-101 through 49-4-610 and 48-10-101 through 48-10-1201.

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A True Copy

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

