

STATE OF WEST VIRGINIA

On April 13, 2026, the Supreme Court of Appeals of West Virginia made and entered the following order:

RE: REQUEST FOR PUBLIC COMMENT ON AMENDMENTS TO RULE 15 OF THE WEST VIRGINIA RULES OF PROCEDURE FOR CHILD ABUSE AND NEGLECT PROCEEDINGS, No. 25-561

Under Article VIII, §§ 1 and 3 of the West Virginia Constitution, this Court has jurisdiction over court rules to be implemented in the West Virginia Judiciary. By this authority, the Court has considered proposed amendments to Rule 15 of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings.

Upon consideration and review, the Court is of the opinion that the following proposed amendments to Rule 15 of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings are to be published for a period of public comment for 30 days. Following the public comment period, the Court will consider whether the proposed amendments should be adopted. Public comments may be filed in writing with the office of the clerk on or before May 13, 2026. Additions are indicated by underscoring, and deletions are indicated by strike-through.

West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings

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Rule 15. Visitation

(a) Visitation before final disposition

(1) The court may address terms of visitation in any initial order causing the child's removal from the custody of his parent(s), guardian(s), or custodian(s) but must address visitation, including sibling visitation, at the preliminary hearing and at subsequent hearings thereafter prior to final disposition.

(2) If, at any time, the ~~either~~ 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~~ another responsible person, the court ~~may shall order make provisions for~~ reasonable visitation between the parent(s), ~~or other individual~~ guardian(s), or custodian(s), and the child

during the pendency of the case if such visitation, consistent with the goal of family reunification, except in limited circumstances. Visitation under this rule shall not be limited, restricted, or denied solely as a sanction or penalty for a parent, guardian, or custodian's failure to comply with services. The court, however, may limit, restrict, or deny such visitation upon finding that such visitation is not consistent with the child's best interests.

(3) If siblings are not placed together following removal, the court shall provide for reasonable visitation between siblings unless the court determines it is not in the best interests of either the child or his or her sibling(s).

(4) Any order denying visitation under subsection (2) or (3) shall include specific findings as to why visitation was denied and why limitations or restrictions, including supervision, are insufficient to protect the health, safety, or welfare of the child.

(5) Any order granting visitation between the child and his or her parent(s), guardian(s), custodian(s), or for sibling visitation, shall include a written visitation plan which specifies the frequency, duration, and types of appropriate visitation; sets other reasonable terms consistent with the age and developmental needs of the child; and, if needed, implements limits or restrictions, including supervision, to address known concerns related to the health, safety, or welfare of the child.

(6) When visitation has been denied, the affected parent, guardian, or custodian, the Department, or the guardian ad litem may later move the court, orally or in writing, to modify the order denying visitation and request that the court provide for reasonable visitation between the parent(s), guardian(s), or custodian(s) and the child consistent with this rule.

~~(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~~ that person's 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~~ shall 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~~ shall adopt a written visitation plan specifying terms or limitations to visitation consistent with the child's best interests, provided that any terms or limitations are incorporated into the court's written order.

(3) Visitation between the child and ~~their~~ his or her siblings shall continue, and a plan for regular contact between siblings, ~~where~~ when 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~~ his or her sibling(s).

(4) If a party seeks modification of a dispositional order to amend terms of post-termination visitation previously granted by the court, such motions to modify shall be addressed under Rule 6, Rule 46, and West Virginia Code § 49-4-606(a).

(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) In establishing written visitation plans under this Rule, the court may not delegate discretion over visitation with the child to other parties or individuals.

(f) 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

