

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on October 25, 2016, the following order was made and entered:

IN RE: REQUEST FOR PUBLIC COMMENT ON AMENDMENTS TO RULES 6 AND 16a OF THE RULES OF PROCEDURE FOR CHILD ABUSE AND NEGLECT PROCEEDINGS, Docket No. 16-RULES-19

On a former day, October 6, 2016, The Honorable John W. Hatcher, Jr., Circuit Court Judge of the Twelfth Judicial Circuit of West Virginia, presented proposed amendments to Rules 6 and 16a of the West Virginia Rules of Procedure for Child Abuse and Neglect Proceedings.

Upon review of the proposal, the Court hereby approves publication of the proposed amendments for a sixty-day period of public comment. **Comments may be filed, in writing, with the Clerk of the Court on or before January 3, 2017.** The proposed additions are indicated by underscoring and deletions are indicated by strikethrough as follows:

Rule 6. Maintaining case on court docket.

Each child abuse and neglect proceeding shall be maintained on the circuit court's docket until permanent placement of the child has been achieved. The court retains exclusive jurisdiction over placement of the child while the case is pending, as well as over any subsequent requests for modification, including, but not limited to, changes in permanent placement or visitation, except that (1) if the petition is dismissed for failure to state a claim under Chapter 49 of the W.Va. Code, or (2) if the petition is dismissed, and the child is thereby ordered placed in the legal and physical custody of both of his/her cohabitating parents without any visitation or child support provisions, then any future child custody, visitation, and/or child support proceedings between the parents may be brought in family court, or (3) if the petition is dismissed, and the child is thereby ordered placed in the legal and physical custody of only one of his/her parents, then the circuit court may confer limited jurisdiction with the family court over matters of child support, only, provided that no action by the family court shall contravene the circuit court's placement of the child, which shall remain in the exclusive purview of the circuit court. However, should allegations of child abuse and/or neglect arise in the family court proceedings, then the matter shall proceed in compliance with Rule 3a.

Rule 16a. Required Entry of Support Orders.

(d) Transfer to family court prohibited. — No portion of a an active and ongoing child abuse and neglect proceeding may be transferred or remanded to a family court for assessment of a child support obligation. Upon permanency being achieved and the case having been removed from the circuit court's docket, the family court may be conferred limited jurisdiction by the circuit court over matters of child support as delineated in Rule 6 in this section.

A True Copy

Attest: //s// Edythe A. Nash Gaiser
Deputy Clerk of Court

