

Order

**Michigan Supreme Court
Lansing, Michigan**

February 1, 2012

Robert P. Young, Jr.,
Chief Justice

ADM File No. 2012-05

Michael F. Cavanagh
Marilyn Kelly

Adoption of Rule 3.616
of the Michigan Court Rules

Stephen J. Markman
Diane M. Hathaway
Mary Beth Kelly
Brian K. Zahra,
Justices

On order of the Court, this is to advise that the Court is adopting Rule 3.616 of the Michigan Court Rules, effective April 1, 2012, but to ensure the rule's compliance with federal Title IV-E funding requirements, Rule 3.616 has been adopted pending public comment. Before determining whether the proposal should be changed, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt/resources/administrative/ph.htm.

[The text of the rule is new.]

Rule 3.616. Proceeding to Determine Continuation of Voluntary Foster Care Services.

- (A) **Scope of Rule.** This rule governs review of all voluntary foster care agreements made pursuant to article II of the Young Adult Voluntary Foster Care Act, MCL 400.645 through MCL 400.663.
- (B) **Jurisdiction.** Upon the filing of a petition under this rule, the family division of the circuit court has jurisdiction to review an agreement for the voluntary extension of foster care services after age 18.
- (C) **Court File.** Upon the filing of a petition under subrule (E), the court shall open a file using the appropriate case classification code from MCR 8.117(A)(9). The file shall be closed following the issuance of the court's determination under subrule (F).
- (D) **Form.** The petition and the judicial determination shall be prepared on forms approved by the state court administrator.

- (E) Ex Parte Petition; Filing, Contents, Service. Within 150 days after the signing of a voluntary foster care agreement, the Department of Human Services shall file with the family division of the circuit court, in the county where the youth resides, an ex parte petition requesting the court's determination that continuing in voluntary foster care is in the youth's best interests.
- (1) Contents of Petition. The petition shall contain
 - (a) the youth's name, date of birth, gender, and current address;
 - (b) the name, date of birth, and residence address of the youth's parents or legal custodian (if parental rights have not been terminated);
 - (c) the name and address of the youth's foster parent or parents;
 - (d) a statement that the youth has been notified of the right to request a hearing regarding continuing in foster care;
 - (e) a showing that jurisdiction of a court over the youth's child protective proceeding has been terminated, including the name of the court and the date jurisdiction was terminated;
 - (f) a statement of facts that supports the voluntary foster care agreement and includes both
 - (i) the reasonable efforts made to achieve permanency for the youth, and
 - (ii) the reasons why it remains in the youth's best interests to continue in voluntary foster care; and
 - (g) any other information the Department of Human Services, parent or legal custodian, youth, or foster parent wants the court to consider.
 - (2) Supporting Documents. The petition shall be accompanied by a written report prepared pursuant to MCL 400.655 and a copy of the signed voluntary foster care agreement.
 - (3) Service. The Department of Human Services shall serve the petition on
 - (i) the youth;

- (ii) the court that had jurisdiction pursuant to MCL 712A.2(b) during the neglect/abuse proceeding, if different than the court in which the petition is filed; and
 - (iii) the foster parent or parents, if any.
- (F) **Judicial Determination.** The court shall review the petition, report, and voluntary foster care agreement filed pursuant to subrule (E), and then make a determination whether continuing in voluntary foster care is in the best interests of the youth.
 - (1) **Written Order; Time.** The court shall issue an order that includes its determination and individualized findings that support its determination. The findings shall be based on the Department of Human Services' written report and other information filed with the court. The order must be signed and dated within 21 days of the filing of the petition.
 - (2) **Service.** The court shall serve the order on
 - (i) the Department of Human Services;
 - (ii) the youth;
 - (iii) the court that had jurisdiction pursuant to MCL 712A.2(b), if different than the court in which the petition is filed; and
 - (iv) the foster parent or parents, if any.

Staff Comment: New MCR 3.616 implements the judicial action requirements of 2011 PA 225, the Young Adult Voluntary Foster Care Act, MCL 400.641 *et seq.*

This Court adopted the new rule to become effective April 1, 2012, to coincide with implementation of the Department of Human Services' new program to provide continuing voluntary foster care for youth between the ages of 18 and 21, which will begin operating on April 1, 2012. Having this new court rule in place will enable Michigan to receive federal Title IV-E funding for that program.

By this same order, the Court is inviting public comment to allow interested persons an opportunity to comment and to provide an opportunity to be heard at a future public hearing. This will allow the Court to consider amending the rule in response to any comments that it receives.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by May 1, 2012, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2012-05. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 1, 2012

Corbin R. Davis

Clerk