

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 12th day of November, 2008, the following order was made and entered:

RE: Provisional Amendments to Rule 37a. of the Rules of Practice and Procedure for Family Court.

On this day came the Court, upon the recommendation of Lisa Tackett, Director of Family Court Services, and proceeded to consider amendments to Rule 37a of the Rules of Practice and Procedure for Family Court.

Upon consideration whereof, the Court is of the opinion to and doth hereby provisionally approve said amendments, effective immediately, with any public comment to be filed with the Clerk of the Court by December 12, 2008. Justice Albright not participating. Senior Status Justice McHugh, sitting by temporary assignment, by administrative order entered on September 11, 2008.

The text of the amended rule to read as follows, deletions are indicated by strikethroughs and insertions are indicated by underscoring.

“Rule 37a. Advanced Child-focused Parent Education.

(a) *Course format and content.* – In addition to the mandatory parent education class described in Rule 37, family courts in regions designated by the supreme court of appeals may order parties in proceedings involving minor children to attend advanced child-focused parent education classes sponsored by the supreme court of appeals. The advanced child-focused parent education classes shall include six sessions and educate parties on reducing parental conflict, focusing on their children’s best interests, and effectively negotiating parenting plans. Parties in a particular case shall attend the class together, unless otherwise ordered by the court.

(b) *Mandatory attendance.* – Family courts in designated advanced child-focused parent education regions may order parties to attend advanced child-focused parent education classes for reasons including, but not limited to, the following: repeated court appearances on modification and/or contempt issues related to parenting time and decision-making authority; parties’ apparent inability or unwillingness to resolve conflict effectively; or parties’ communicating inappropriate messages through the children or speaking negatively about the other party or the other party’s family in the presence of the

children. Only by order of the court may parties attend the advanced child-focused parent education classes approved by the supreme court of appeals.

(c) *Screening.* – Before parties may attend advanced child-focused parent education classes together, the family court shall consider whether domestic violence, child abuse or neglect, acts or threats of duress or coercion, substance abuse, mental illness or other such elements would adversely affect the safety of a party or the ability of a party to participate meaningfully, freely, and voluntarily in the parent education class. If the family court determines that it is inappropriate for the parties to attend the class together, then it may require the parties to attend separate classes.

(d) *Fees.* – The Fee for each party to attend is ~~\$60, which includes~~ \$10 for each of the six advanced child-focused parent education ~~sessions, classes.~~ The fee for each class shall be paid in full prior to attending for a total of \$60 and is payable to the circuit clerk in the county in which the case is pending. The clerk of the circuit court shall, on the or before the tenth day of each month, shall transmit all fees collected under this rule to the state treasurer for deposit in the state treasury to the credit of the special revenue fund known as “parent education fund” established by West Virginia Code, Chapter 48, Article 9, Section 104. The order requiring parties to attend an advanced child-focused parent education class shall specify the fee each party shall pay prior to attending the advanced child-focused parent education class. A party who has filed a financial affidavit and received a fee waiver shall not be required to pay a fee. The family court may review any fee waiver in accord with W. Va. Code 51-2A-8(e). The family court, in its sound discretion, may waive or reduce the fee for a party who has not filed a financial affidavit or the family court may require one party to pay the fees for both parties.

(e) *Presenters and Security.* – Presenters of the advanced child-focused parent education classes shall be selected by the family courts and approved by the supreme court of appeals. Presenters shall use a class format approved by the supreme court of appeals. Each child-focused parent education session shall have a security guard in attendance.

(f) *Confidentiality.* – Advanced child-focused parent education sessions shall be considered confidential settlement negotiations subject to Rule 25.12 of the Trial Court Rules. An advanced child-focused parent education presenter shall maintain the confidentiality of all parent education sessions and records. The only information that a presenter shall provide to the court is the number of sessions that a party completes. An advanced child-focused parent education presenter shall not be subpoenaed or called to testify or otherwise be subject to process requiring disclosure of confidential information.

(g) *Information Reporting.* – All court personnel and providers of advanced child-focused parent education shall provide the supreme court of appeals such information as the court determines necessary for assessing these programs.

(h) *Immunity.* – Advanced child-focused parent education presenters shall have immunity in the same manner and to the same extent as a family court judge.”

A True Copy

Attest: _____
Deputy Clerk, Supreme Court of Appeals