

EXHIBIT F3



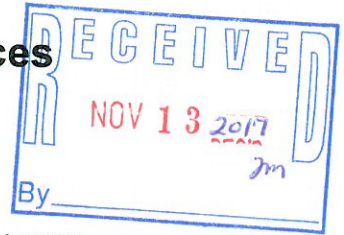
Arkansas Department of Human Services Division of Children and Family Services

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Little Rock, Arkansas 72203-1437

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November 13, 2017

Varnaria Vickers-Smith, Legislative Analyst
Senate Interim Children and Youth Committee and the
House Aging, Children and Youth, Legislative and Military Affairs Committee
Arkansas Bureau of Legislative Research
One Capital Mall, 5th Floor, Room R-516
Little Rock, AR 72201

RE: Initial Filing - Regular Promulgation

Dear Ms. Vickers-Smith:

Please place the Division of Children & Family Services on the Children & Youth Committee agenda for review of the Rules as listed on the Questionnaire. The public comment period is from November 13, 2017 to December 13, 2017, with a proposed effective date of March 1, 2018.

Enclosed are copies of the Questionnaire, Summary of Changes, Financial Impact Statement and Rule.

If you have any questions or comments, please contact Christin Harper, Assistant Director, Division of Children and Family Services, P.O. Box 1437, (Slot S570), Little Rock, Arkansas 72203-1437; phone 682-8541; email christin.harper@dhs.arkansas.gov or fax 682-6968.

Sincerely,

A handwritten signature in blue ink that reads "Mischa K. Martin".

Mischa Martin

Director, Division of Children and Family Services

BUREAU OF LEGISLATIVE RESEARCH

DEPARTMENT OF HUMAN SERVICES
Division of Children and Family Services
AMENDING ADMINISTRATIVE REGULATIONS

TITLE:

New Rule

- **POLICY VIII-F: Resumption of Services Post-Termination and Reinstatement of Parental Rights and related procedures**

PROPOSED EFFECTIVE DATE:

March 1, 2018

STATUTORY AUTHORITY:

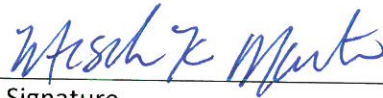
A.C.A. 9-28-103

NECESSITY AND FUNCTION:

New Rule

- **POLICY VIII-F: Resumption of Services Post-Termination and Reinstatement of Parental Rights and related procedures**
 - To create Division policy and procedure per Act 994 of the 91st General Assembly, Regular Session, specifically to provide guidance regarding determining appropriate cases for resumption of services and how to proceed if the court determines that, following resumption of services, a reinstatement of parental rights is in the best interest of the child. This will provide more permanency options to youth who have been in foster care for an extended period of time and whose parents have had a material change in circumstance.

PAGES FILED:



Signature

Name: Mischa Martin

Title: Director

Section: Division of Children and Family Services

Department of Human Services

PROMULGATION DATES:

November 13, 2017-December 13, 2017

CONTACT PERSON:

Christin Harper
DHS-DCFS Policy Unit
Phone: (501) 682-8541
Fax: (501) 683-4854
Email: christin.harper@dhs.arkansas.gov

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Department of Human Services
 DIVISION Division of Children and Family Services
 DIVISION DIRECTOR Mischa Martin
 CONTACT PERSON Christin Harper, Assistant Director
 ADDRESS P. O. Box 1437, Slot S570, Little Rock, AR 72203-1437
 PHONE NO. (501)682-8541 FAX NO. (501) 683-4854 E-MAIL christin.harper@dhs.arkansas.gov
 NAME OF PRESENTER AT COMMITTEE MEETING Christin Harper
 PRESENTER E-MAIL christin.harper@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
 Administrative Rules Review Section
 Arkansas Legislative Council
 Bureau of Legislative Research
 One Capitol Mall, 5th Floor
 Little Rock, AR 72201**

1. What is the short title of this rule? Resumption of Services Post-Termination and Reinstatement of Parental Rights

2. What is the subject of the proposed rule? To create policy and procedure regarding resumption of services and reinstatement of parental rights per Act 994 of the 91st General Assembly, Regular Session.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
 If yes, please provide the federal rule, regulation, and/or statute citation. _____

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
 If yes, what is the effective date of the emergency rule? _____

When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. The Department may petition the Court to resume services to parents of children in foster care whose rights have been previously terminated under circumstances identified in the Act to work toward a possible reinstatement of parental rights if determined to be in the child's best interest.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. § 9-28-103

7. What is the purpose of this proposed rule? Why is it necessary?

POLICY VIII-F: Resumption of Services Post-Termination and Reinstatement of Parental Rights and related procedures

• To create Division policy and procedure per Act 994 of the 91st General Assembly, Regular Session, specifically to provide guidance regarding determining appropriate cases for resumption of services and how to proceed if the court determines that, following resumption of services, a reinstatement of parental rights is in the best interest of the child. This will provide more permanency options to youth who have been in foster care for an extended period of time and whose parents have had a material change in circumstance for the better.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

AR Secretary of State Website

<https://ardhs.sharepointsite.net/CW/Notice%20of%20Rule%20Making/Forms/AllItems.aspx>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

December 13, 2017

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Children and Family Services
PERSON COMPLETING THIS STATEMENT Christin Harper
TELEPHONE NO. (501)682-8541 **FAX NO.** (501) 683-4854 **EMAIL:** christin.harper@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Resumption of Services Post-Termination and Reinstatement of Parental Rights

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

(a) How the additional benefits of the more costly rule justify its additional cost;

(b) The reason for adoption of the more costly rule;

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0

Next Fiscal Year

General Revenue 0
Federal Funds 0
Cash Funds 0

Special Revenue 0
Other (Identify) 0

Special Revenue 0
Other (Identify) 0

Total 0.00

Total 0.00

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0.00

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
 - (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
 - (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

DCFS SUMMARY OF CHANGES FOR NOVEMBER 2017 PROMULGATION

SUMMARY OF DCFS REGULAR PROMULGATION

The purpose of this regular promulgation is to create Division policy and procedure regarding resumption of services to parents whose parental rights have been previously terminated, but who have had a material change in circumstance and whose children remain in foster care. Based on the resumption of services period, a reinstatement of parental rights may then be considered, as appropriate. This new rule will ensure the State is in compliance with Act 994 of the 91st General Assembly, Regular Session.

POLICY VIII-F: Resumption of Services Post-Termination and Reinstatement of Parental Rights

03/2018

OVERVIEW

Given that behavior change and the work of change is a part of the child welfare system's daily challenge, the Division recognizes that there may be parents who previously had their parental rights terminated, but at a later point in time significantly alter the life circumstances that contributed to the removal of their children and the subsequent termination. These parents may qualify for resumption of services as described in the policy below. Based on the outcome of the resumption of services, the court may then consider reinstatement of parental rights. Resumption of services and a subsequent reinstatement of parental rights may provide additional permanency options for children in foster care, particularly for youth who have been in the foster care system for an extended period of time without finding a permanent family.

INITIAL ELIGIBILITY

The Department of Human Services, Division of Children and Family Services (DCFS) or an attorney ad litem may file a motion to resume services for a parent whose parental rights were previously terminated. Resumption of services may be considered if the child:

- A. Does not have a legal parent;
- B. Is not in an adoptive placement, pre-adoptive placement, or under another permanent placement and there is some evidence that the child is not likely to achieve permanency within a reasonable period of time as viewed from the child's perspective; or,
- C. Was previously adopted, appointed a permanent guardian, or placed in the permanent custody of another individual and the adoption, guardianship, or custodial placement was disrupted or otherwise dissolved.

In addition, at least three years must have passed between the date the order terminating parental rights was entered and the date a motion to resume services on behalf of that parent is filed. It must also be determined that the parent in no way interfered with the child's ability to achieve permanency prior to the consideration of resumption of services.

ASSESSMENT

If all of the criteria above are met, the agency must then assess whether the parent and child are appropriate candidates for resumption of services before DCFS requests to file a motion to resume services. This will be determined, at a minimum, through:

- A. An initial walk-through of the parent's home to identify any safety factors or risk concerns;
- B. Discussions with the parent, child, parties to the case, and relevant stakeholders (e.g., child's therapist, child's teacher, etc.); and,
- C. The completion of a home study.

The home study will include background checks to identify current issues and differentiate between current maltreatment and criminal issues versus issues occurring prior to the termination of parental rights.

Through the assessment above, it must be determined that the parent is appropriate at the time of filing the motion for resumption of services. DCFS Area Director approval must be obtained prior to moving forward with a petition for resumption of services.

When determining whether to grant or deny a motion to resume services, the court will consider:

- A. Efforts made by DCFS to achieve adoption or other permanent placement for the child, including any barriers preventing permanency from being achieved;
- B. Current status of the parent, including the extent to which the parent has remedied any conditions that led to the termination of parental rights (TPR);
- C. Willingness of the parent to participate in services offered; and,

- D. The child's wishes regarding resumption of contact, visitation, or placement with the parent.

RESUMPTION OF SERVICES

If an order granting a motion for resumption of services is entered, a staffing will be held within 30 days. An updated Child and Adolescent Needs and Strengths (CANS) assessment and corresponding case plan will also be developed within 30 days. Extensive services or supports should not be required to establish parental fitness. Rather, services and supports offered through a case plan for resumption of services will be designed to help facilitate the re-establishment of the parent-child bond. Examples may include regular visitation and family counseling. Such services and supports will be put in place through the case plan in an effort to work toward a reinstatement of parental rights, if appropriate, and, ultimately, a stable and permanent reunification.

If multiple counties have been involved over the life of a case that is deemed appropriate for resumption of services, the applicable DCFS Area Directors will collaborate to determine which county will serve as primary regarding the development, execution, and oversight of the case plan.

A parent will not be named as a party to a motion filed for resumption of services, but the parent will have the right to be heard at a hearing on the motion. The court may order the parent to pay for some or all of the costs associated with the court-ordered family services.

REINSTATEMENT OF PARENTAL RIGHTS

Based on the outcome of the resumption of services, the court may then consider reinstatement of parental rights, as appropriate. Services to the family must continue for at least 180 days before DHS or an attorney ad litem may file a petition to reinstate parental rights. A petition to reinstate parental rights will be filed in the circuit court that had jurisdiction over the petition to terminate parental rights. Parental rights may be reinstated if the court finds by clear and convincing evidence that:

- A. Reinstatement of parental rights is in the best interest of the child; and,
- B. There has been a material change in circumstance for the parent since TPR.

If parental rights are reinstated, the case will remain open until the child has resided with the parent for at least six months.

An order reinstating parental rights restores all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including custody, control, and support of the child. However, an order reinstating parental rights does not vacate or affect the validity of a previous order terminating parental rights.

PROCEDURE VIII-F1: Resumption of Services Post-Termination

03/2018

The Family Service Worker will:

- A. Determine if the juvenile qualifies for a motion for resumption of services (see Initial Eligibility above).
- B. Contact the parent who is the subject of the motion for resumption of services and determine if the parent is fit by:
 - 1) Conducting a walk-through of the family home and identifying any safety factors or risk concerns;
 - 2) Discussing the motion for resumption of services and determine if the parent is willing to participate in the resumption of services;
 - a) Detail for the parent the financial and logistical implications for the parent if the parent agrees to a motion for resumption of services.
 - 3) Identifying any evidence that the parent engaged in conduct that interfered with the child's ability to achieve permanency;
 - 4) Identifying any barriers to placement of the juvenile in the parent's home and determining if the barriers may be remedied with limited assistance from the Department;

- 5) Determining whether the parent has remedied the conditions that existed at the time of the termination of his or her parental rights.
- C. Consult with County Supervisory staff and Area Director to obtain DCFS position on appropriateness of resumption of services based on information gathered.
 - 1) Area Director approval must be obtained in writing prior to moving forward with a petition for resumption of services.
- D. Complete a home study on the parent who is the subject of the motion for resumption of services.
- E. Provide the completed home study to OCC and request that the attorney take action to file a motion for resumption of services.
- F. Upon receipt of a written order to resume services to the parent:
 - 1) Update the CANS assessment with input from the family, parties to the case, and other stakeholders;
 - 2) Develop a case plan with input from the family, parties to the case, and other stakeholders;
 - 3) Hold a staffing within thirty (30) days of the date on which the order granting a motion for resumption of services is entered to review the CANS and case plan and discuss other relevant information related to the resumption of services;
 - 4) Complete visits to the parent's home as outlined in POLICY VII-J until parental rights have been re-established or the resumption of services has been dismissed by the court and the juvenile has returned to a licensed out-of-home placement;
 - 5) Complete a court report and provide to all parties seven (7) business days prior to each hearing;
 - 6) Attend review hearings every ninety (90) days until the court has closed the court case.
 - 7) Monitor the case for a minimum of six (6) months prior to recommending reinstatement of parental rights.

The FSW Supervisor will:

- A. Participate in internal staffing with FSW and Area Director to determine if a motion to resume services is in the juvenile's best interest based on information presented during the staffing.
- B. Ensure all DCFS court reports demonstrate best interest for the juvenile.

The Area Director will:

- A. Participate in internal staffing with FSW and FSW Supervisor to determine if a motion to resume services is in the juvenile's best interest based on information presented during the staffing.
- B. Provide a best interest determination in writing upon conclusion of the staffing.

PROCEDURE VIII-F2: Reinstatement of Parental Rights

03/2018

The Family Service Worker will:

- A. Seven (7) business days prior to any hearing on the motion, provide the parent, parent's counsel, attorney ad litem, court-appointed special advocate, and any other parent to the petition with a written report that includes:
 - 1) The efforts made by the Department to achieve adoption or another permanent placement for the child, including any barriers to the adoption or permanent placement of the child;
 - 2) The extent to which the parent who is the subject of the petition has complied with the case plan and order of the court as of the date on which services were ordered to be resumed;
 - 3) The impact of the resumed services on the parent and on the health, safety, and well-being of the child; and,
 - 4) Recommendations of the Department.
- B. Monitor the family for at least six (6) months after a reinstatement of parental rights has been granted to ensure a successful reunification.

The FSW Supervisor will:

- A. Ensure DCFS maintains consistent contact with the family while the juvenile is placed in the parent's home.
- B. Ensure all DCFS court reports are provide to the parties timely and demonstrate best interest for the juvenile.