

# ADMINISTRATIVE PROCEDURES ACT OF 1969 (EXCERPT)

## Act 306 of 1969

### CHAPTER 6

### JUDICIAL REVIEW

#### **24.301 Judicial review as of right or by leave.**

Sec. 101. When a person has exhausted all administrative remedies available within an agency, and is aggrieved by a final decision or order in a contested case, whether such decision or order is affirmative or negative in form, the decision or order is subject to direct review by the courts as provided by law. Exhaustion of administrative remedies does not require the filing of a motion or application for rehearing or reconsideration unless the agency rules require the filing before judicial review is sought. A preliminary, procedural or intermediate agency action or ruling is not immediately reviewable, except that the court may grant leave for review of such action if review of the agency's final decision or order would not provide an adequate remedy.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970.

**Popular name:** Act 306

**Popular name:** APA

#### **24.302 Judicial review; method.**

Sec. 102. Judicial review of a final decision or order in a contested case shall be by any applicable special statutory review proceeding in any court specified by statute and in accordance with the general court rules. In the absence or inadequacy thereof, judicial review shall be by a petition for review in accordance with sections 103 to 105.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970.

**Popular name:** Act 306

**Popular name:** APA

#### **24.303 Petition for review; filing; contents; copy of agency decision or order.**

Sec. 103. (1) Except as provided in subsection (2), a petition for review shall be filed in the circuit court for the county where petitioner resides or has his or her principal place of business in this state, or in the circuit court for Ingham county.

(2) As used in this subsection, "adoptive" means a child who is to be or who is adopted. In the case of an appeal from a final determination of the office of youth services within the department of social services regarding an adoption subsidy, a petition for review shall be filed:

(a) For an adoptee residing in this state, in the probate court for the county in which the petition for adoption was filed or in which the adoptee was found.

(b) For an adoptee not residing in this state, in the probate court for the county in which the petition for adoption was filed.

(3) A petition for review shall contain a concise statement of:

(a) The nature of the proceedings as to which review is sought.

(b) The facts on which venue is based.

(c) The grounds on which relief is sought.

(d) The relief sought.

(4) The petitioner shall attach to the petition, as an exhibit, a copy of the agency decision or order of which review is sought.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1980, Act 289, Eff. Oct. 17, 1980.

**Popular name:** Act 306

**Popular name:** APA

#### **24.304 Petition for review; filing, time; stay; record; scope.**

Sec. 104. (1) A petition shall be filed in the court within 60 days after the date of mailing notice of the final decision or order of the agency, or if a rehearing before the agency is timely requested, within 60 days after delivery or mailing notice of the decision or order thereon. The filing of the petition does not stay enforcement of the agency action but the agency may grant, or the court may order, a stay upon appropriate terms.

(2) Within 60 days after service of the petition, or within such further time as the court allows, the agency shall transmit to the court the original or certified copy of the entire record of the proceedings, unless parties

to the proceedings for judicial review stipulate that the record be shortened. A party unreasonably refusing to so stipulate may be taxed by the court for the additional costs. The court may permit subsequent corrections to the record.

(3) The review shall be conducted by the court without a jury and shall be confined to the record. In a case of alleged irregularity in procedure before the agency, not shown in the record, proof thereof may be taken by the court. The court, on request, shall hear oral arguments and receive written briefs.

**History:** 1969, Act 306, Eff. July 1, 1970;—Am. 1970, Act 40, Imd. Eff. July 1, 1970.

**Popular name:** Act 306

**Popular name:** APA

#### **24.305 Inadequate record; additional evidence, modification of findings, decision order.**

Sec. 105. If timely application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that an inadequate record was made at the hearing before the agency or that the additional evidence is material, and that there were good reasons for failing to record or present it in the proceeding before the agency, the court shall order the taking of additional evidence before the agency on such conditions as the court deems proper. The agency may modify its findings, decision or order because of the additional evidence and shall file with the court the additional evidence and any new findings, decision or order, which shall become part of the record.

**History:** 1969, Act 306, Eff. July 1, 1970.

**Popular name:** Act 306

**Popular name:** APA

#### **24.306 Grounds for reversals.**

Sec. 106. (1) Except when a statute or the constitution provides for a different scope of review, the court shall hold unlawful and set aside a decision or order of an agency if substantial rights of the petitioner have been prejudiced because the decision or order is any of the following:

- (a) In violation of the constitution or a statute.
- (b) In excess of the statutory authority or jurisdiction of the agency.
- (c) Made upon unlawful procedure resulting in material prejudice to a party.
- (d) Not supported by competent, material and substantial evidence on the whole record.
- (e) Arbitrary, capricious or clearly an abuse or unwarranted exercise of discretion.
- (f) Affected by other substantial and material error of law.

(2) The court, as appropriate, may affirm, reverse or modify the decision or order or remand the case for further proceedings.

**History:** 1969, Act 306, Eff. July 1, 1970.

**Popular name:** Act 306

**Popular name:** APA