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October 1, 2019

Larry Royster
Clerk of the Court
Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File No. 2015-21: Proposed Amendment of Rules 3.965, 3.971, 3.972, 3.973, and 3.993 of the Michigan Court Rules

Dear Clerk Royster:

At its September 25, 2019 meeting, the State Bar of Michigan Board of Commissioners (Board) considered the above-referenced proposed rule amendments published by the Court for comment. As part of its review, the Board considered recommendations from the Access to Justice Policy Committee, the Appellate Practice Section, and the Civil Procedure & Courts Committee.

After this review, the Board voted unanimously to support the rules changes in concept as an excellent first step in responding to the *In re Ferranti* decision; however, the Board notes that the rules need more attention. The Board understands that the Court has formed a workgroup of stakeholders – including judges, representatives from the Department of Health and Human Services, court administrators, and practitioners – to further review these rules. The Board supports the workgroup’s efforts in improving the rules.

To clarify the rules, the Board urges that the Court address two specific issues. First, to avoid confusion, the Court should clarify whether litigants should follow the time deadline set forth in MCL 712A.21 or MCL 3.992. As currently written, MCL 712A.21 says that the petition for rehearing must be filed within **20 days** after the date of entry of the order terminating parental rights, whereas MCR 3.992 says a motion for new trial, rehearing, reconsideration or other postjudgment relief shall be filed within **14 days** after the date of the order terminating parental rights. The Board takes no position on which time deadline is appropriate.

Second, assuming that the purpose of MCR 3.973(G)(1) is to advise people that the procedure for challenging the continued exercise of jurisdiction in this situation is contained in MCL 712A.21 and MCR 3.992, then the word, “under,” or some similar phrase, should be inserted prior to the MCL 712A.21, such that it would read:

...that at any time while the court retains jurisdiction over the minor, the respondent may challenge the continuing exercise of that jurisdiction by filing a motion for rehearing, under MCL 712A.21 or MCR 3.992, or by filing an application for leave to appeal with the Michigan Court of Appeals.

We thank the Court for the opportunity to convey the Board's position on this rule proposal.

Sincerely,



Janet K. Welch
Executive Director

cc: Anne Boomer, Administrative Counsel, Michigan Supreme Court
Dennis M. Barnes, President, State Bar of Michigan