

**Michigan Court Rule 3.201 *et seq***  
**APPLICABILITY OF RULES (revised)**

Issue

Should the Michigan Court Rules include procedures that apply specifically to attorney-approved divorce and separate maintenance agreements that are signed before the divorce or separate maintenance case is filed?

Synopsis

Currently, spouses who sign attorney-approved settlement agreements before they file a Complaint for Divorce or Complaint for Separate Maintenance are required to litigate pursuant to court rules that were established for parties who do not sign an attorney-approved settlement agreement prior to filing.

The proponents desire to achieve the following goals by eliminating the litigious steps required by the current court rules with these changes:

1. Encourage lawyers and spouses to engage in alternative dispute resolution mechanisms, such as facilitative mediation and collaborative law, to resolve without litigation all issues necessary to enter a Judgment of Divorce or Separate Maintenance, thereby:
  - a. eliminating the negative effects of litigation on families, especially minor children;
  - b. assisting parents in the acquisition of communication skills during the ADR process that will help them to better co-parent after the divorce is finalized;
  - c. arriving at terms that stand a higher chance of compliance because they were arrived at by the parties, themselves;
2. Reduce the workload of court clerks, judges and their staff members;
3. Allow parties to focus the use of their financial resources on assistance with dispute resolution including the retention of financial and mental health experts, detailed drafting by their attorneys and follow-up advice and/or services from attorneys, such as tax preparation and estate planning;
4. Reduce the paperwork for attorneys and their staff members.

Fiscal and Staffing Impact on State Bar of Michigan

None. Prior Action by Representative Assembly

None. Suggested Changes

Additions are underlined.

Deletions are ~~stricken~~.

### **MCR 3.201 APPLICABILITY OF RULES**

(A) Subchapter 3.200 applies to

(1) actions for divorce, pre-filing divorce settlements, separate maintenance, pre-filing separate maintenance agreements, the annulment of marriage, the affirmation of marriage, paternity, family support under MCL 552.451 et seq.; MSA 25.222(1) et seq., the custody of minors under MCL 722.21 et seq.; MSA 25.312(1) et seq., and visitation with minors under MCL 722.27b; MSA 25.312(7b), and to

(2) proceedings that are ancillary or subsequent to the actions listed in subrule (A)(1) and that relate to

- (a) the custody of minors,
- (b) visitation with minors, or
- (c) the support of minor and spouses or former spouses.

(B) As used in this subchapter with regard to child support, the terms “minor” or “child” may include children who have reached the age of majority, in the circumstances where the legislature has so provided.

(C) Except as otherwise provided in this subchapter, practice and procedure in domestic relations actions is governed by other applicable provisions of the Michigan Court Rules.

(D) When used in this subchapter, unless the context otherwise indicates:

(1) “Case” means an action initiated in the family division of the circuit court by:

- (a) submission or an original complaint, petition, or citation;
- (b) acceptance of transfer of an action from another court or tribunal;

or

- (c) filing or registration of a foreign judgment or order.

(2) “File” means the repository for collection of the pleadings and other documents and materials related to a case. A file may include more than one case involving a family.

(3) “Jurisdiction” means the authority of the court to hear case and make decisions and enter orders on cases.

(4) “Pre-filing Divorce Settlement” means an action for divorce in which both parties, each represented by counsel, have signed a settlement agreement and proposed judgment of divorce resolving all issues of their case and containing all provisions necessary for the proposed judgment of divorce to satisfy the requirements set forth by statute and court rule.

(5) “Pre-filing Separate Maintenance Agreement” means an action for separate maintenance in which both parties, each represented by counsel, have signed a settlement agreement and proposed judgment of separate maintenance resolving all issues of their

case and containing all provisions necessary for the proposed judgment of separate maintenance to satisfy the requirements set forth by statute and court rule.

STATE BAR OF MICHIGAN POSITION

By vote of the Representative Assembly on April 29, 2006

MCR 3.201 should be amended to include procedures that apply specifically to attorney-approved divorce and separate maintenance agreements that are signed before the divorce or separate maintenance case is filed.

a. Yes

or

b. No