

### Appointment of Chief Judges of Michigan Courts

To read ADM File No. 2015-01, dated October 14, 2015, visit <http://courts.michigan.gov/courts/michigansupreme> court and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

### Administrative Order No. 2015-10 Adoption of Concurrent Jurisdiction Plan for the 51st Circuit Court, the 79th District Court, and the Mason County Probate Court (Dated October 14, 2015)

Administrative Order No. 2003-1 and MCL 600.401 *et seq.* authorize Michigan trial courts to adopt concurrent jurisdiction plans within a county or judicial circuit, subject to approval of the Court.

The Court hereby approves adoption of the following concurrent jurisdiction plan effective immediately:

- the 51st Circuit Court, the 79th District Court, and the Mason County Probate Court.

The plan shall remain on file with the state court administrator.

Amendments to concurrent jurisdiction plans may be implemented by local administrative order pursuant to MCR 8.112. Plan amendments shall conform to the requirements of Administrative Order No. 2003-1 and MCL 600.401 *et seq.*

### Proposed Amendments of Rule 3.979 of the Michigan Court Rules

On order of the Court, dated October 14, 2015, this is to advise that the Court is considering amendments of Rule 3.979 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at Administrative Matters & Court Rules page.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions to the text are indicated in underlining  
and deleted text is shown by strikeover.]

#### Rule 3.979 Juvenile Guardianships

(A)–(B) [Unchanged.]

(C) Court Jurisdiction; Review Hearings; Lawyer-Guardian ad Litem.

(1) Jurisdiction.

- (a) Except as otherwise provided in this rule, the court's jurisdiction over a juvenile guardianship shall continue until terminated by court order. The court's jurisdiction over a juvenile under section 2(b) of the Juvenile Code, MCL 712A.2(b), and the jurisdiction of the MCI under

section 3 of 1935 PA 220, MCL 400.203, shall be terminated after the court appoints a juvenile guardian under this section and conducts a review hearing pursuant to MCR 3.975 when parental rights to the child have not been terminated, or a review hearing pursuant to MCR 3.978 when parental rights to the child have been terminated. Upon notice by the Department of Human Services that extended guardianship assistance beyond age 18 will be provided to a youth pursuant to MCL 400.665, the court shall retain jurisdiction over the guardianship until that youth no longer receives extended guardian assistance.

- (b) Unless terminated by court order, the court's jurisdiction over a juvenile guardianship ordered under MCL 712A.19a or MCL 712A.19c for a youth 16 years of age or older shall continue until 120 days after the youth's eighteenth birthday. Upon notice by the Department of Health and Human Services that extended guardianship assistance beyond age 18 will be provided to a youth pursuant to MCL 400.665, the court shall retain jurisdiction over the guardianship until that youth no longer receives extended guardianship assistance.

(2) Review Hearings. The review hearing following appointment of the juvenile guardian must be conducted within 91 days of the most recent review hearing if it has been one year or less from the date the child was last removed from the home, or within 182 days of the most recent review hearing if it has been more than one year from the date the child was last removed from the home.

(3) Lawyer-Guardian ad Litem. The appointment of the lawyer-guardian ad litem in the child protective proceeding terminates upon entry of the order terminating the court's jurisdiction pursuant to MCL 712A.2(b). At any time after a juvenile guardian is appointed, the court may reappoint the lawyer-guardian ad litem or may appoint a new lawyer-guardian ad litem if the court is satisfied that such action is warranted. A lawyer-guardian ad litem appointed under this subrule is subject to the provisions of MCL 712A.17d.

(D) Court Responsibilities.

(1) Annual Reviews.

- (a) Review on Condition of Child. The court shall conduct an annual review of a juvenile guardianship annually as to the condition of the child until the child's eighteenth birthday. The review shall be commenced within 63 days after the anniversary date of the appointment of the guardian. The court may conduct a review of a juvenile guardianship at any time it deems necessary. If the report ~~of~~ by the juvenile guardian has not been filed as required by subrule (E)(1), the court shall take appropriate action.

- (b) Review on Extended Guardianship Assistance. If, under subrule (C)(1)(b), the Department of Health and Human Services has notified the court that extended guardianship assistance has been provided to a youth pursuant to

MCL 400.665, the court shall conduct an annual review hearing at least once every 12 months thereafter the youth's eighteenth birthday to determine that the guardianship meets the criteria under MCL 400.667. The duty to conduct an annual review hearing on extended guardianship assistance shall discontinue when the youth is no longer eligible for extended guardianship assistance. Notice of the hearing under this subrule shall be sent to the guardian and the youth as provided in MCR 3.920(D)(1).

- (i) The hearing conducted under this subrule may be adjourned up to 28 days for good cause shown.
- (ii) If requested by the court, the guardian must provide proof at the review hearing that the youth is in compliance with the criteria of MCL 400.667.
- (iii) Following a review hearing under this subrule, ~~The~~ the court shall issue an order to support its determination and serve the order on the Department of Health and Human Services, the guardian, and the youth.

- (c) Termination of Juvenile Guardianship. Upon receipt of notice from the Department of Health and Human Services that it will not continue guardianship assistance, the court shall immediately terminate the juvenile guardianship.

(2)–(4) [Unchanged.]

(E)–(F) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 3.979 would require a court to maintain jurisdiction over a juvenile guardianship for 120 days after a juvenile's 18th birthday in cases where DHHS is making an eligibility determination for extended guardianship assistance. The proposed revisions of MCR 3.979 also would reflect recent amendments of the Young Adult Voluntary Foster Care Act (MCL 400.669) and the Juvenile Code (MCL 712A.2a).

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on the proposal may be sent to the Office of Administrative Counsel in writing or electronically by February 1, 2016, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2015-05. Your comments and the comments of others will be posted under the chapter affected by this proposal at Proposed & Recently Adopted Orders on Admin Matters page.

### Amendments of Rules 2.614 and 7.209 of the Michigan Court Rules

On order of the Court, dated October 21, 2015, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendments

of Rules 2.614 and 7.209 of the Michigan Court Rules are adopted, effective January 1, 2016.

[The present language is amended as indicated below by underlining for new text and strikeover for text that has been deleted.]

#### Rule 2.614 Stay of Proceedings to Enforce Judgment

(A) Automatic Stay; Exceptions: Injunctions, Receiverships, and Family Litigation.

- (1) Except as provided in this rule, execution may not issue on a judgment and proceedings may not be taken for its enforcement until the expiration of 21 days after a final judgment (as defined in MCR 7.202[6]) is entered in the case's entry. If a motion for new trial, a motion for rehearing or reconsideration, or a motion for other relief from judgment is filed and served within 21 days after entry of the judgment or within further time the trial court has allowed for good cause during that 21-day period, execution may not issue on the judgment and proceedings may not be taken for its enforcement until the expiration of 21 days after the entry of the order deciding the motion, unless otherwise ordered by the court on motion for good cause. Nothing in this rule prohibits the court from enjoining the transfer or disposition of property during the 21-day period.

(2)–(3) [Unchanged.]

(B)–(G) [Unchanged.]

#### Rule 7.209 Bond; Stay of Proceedings

(A) Effect of Appeal; Prerequisites.

- (1) Except for an automatic stay pursuant to MCR 2.614, or except as otherwise provided under this rule, an appeal does not stay the effect or enforceability of a judgment or order of a trial court unless the trial court or the Court of Appeals otherwise orders. An automatic stay under MCR 2.614(D) operates to stay any and all proceedings in a cause in which a party has appealed a trial court's denial of the party's claim of governmental immunity.

(2)–(3) [Unchanged.]

(B) Responsibility for Setting Amount of Bond in Trial Court.

- (1) Civil Actions. Unless determined by law, or except as otherwise provided by this rule, the dollar amount of a stay or appeal bond in a civil action must be set by the trial court in an amount adequate to protect the opposite party.

(2) [Unchanged.]

(C)–(D) [Unchanged.]

(E) Stay of Proceedings by Trial Court.

- (1) Except as otherwise provided by law or rule, the trial court may order a stay of proceedings, with or without a bond as justice requires. Unless otherwise provided by rule, statute, or court order, an execution may not issue and proceedings may not be taken to enforce an order or judgment until expiration of the time for taking an appeal of right.

(2) An appeal does not stay execution unless:

~~(a) When the stay is sought before an appeal is filed and a bond is required, With respect to a money judgment, the party seeking the stay shall file with the court a bond in compliance with MCR 3.604 and in an amount not less than 110% of the judgment or order being enforced, including any costs, interest, attorney fees, and sanctions assessed to the date of filing the bond, with the party in whose favor the judgment or order was entered as the obligee, by which the party promises to~~

~~(i) perform and satisfy the judgment or order stayed if it is not set aside or reversed; and~~

~~(ii) prosecute to completion any appeal subsequently taken from the judgment or order stayed and perform and satisfy the judgment or order entered by the Court of Appeals or Supreme Court; or~~

~~(b) If a stay is sought after an appeal is filed, any bond must meet the requirements set forth in subrule 7.209(F). With respect to all other judgments, including those obtained in a domestic relations matter, the trial court grants a stay with or without bond, or with a reduced bond, as justice requires or as otherwise provided by statute (see MCL 500.3036).~~

~~(c) The court may order, on stipulation or otherwise, other forms of security in lieu of the bond in subsection (E)(2)(a), including but not limited to an irrevocable letter of credit.~~

~~(3) When the bond or other security in subsections (E)(2)(a)–(c) is filed, the judgment or order shall automatically be stayed pending entry of a final order under subsection (G).~~

~~(2)–(4) [Renumbered as (4)–(6), but otherwise unchanged.]~~

(F) Conditions of Appeal Stay Bond.

~~(1)–(2) [Unchanged.]~~

~~(G) Sureties and Filing of Bond; Service of Bond; Objections; Stay Orders.~~ Except as otherwise specifically provided in this rule, MCR 3.604 applies. A bond must be filed with the clerk of the court ~~which that~~ entered the order or judgment to be stayed.

~~(1) Civil Actions. A bond in a civil action need not be approved by a court or clerk before filing but is subject to the objection procedure provided in MCR 3.604.~~

~~(a) A copy of a bond and any accompanying power of attorney or affidavit must be promptly served on all parties in the manner prescribed in MCR 2.107. At the same time, the party seeking the stay shall file a proposed stay order pursuant to MCR 2.602(B)(3). Proof of service must be filed promptly with the trial court in which the bond has been filed.~~

~~(b) Objections shall be filed and served within 7 days after service of the bond. Objections to the amount of the bond are governed by MCR 2.602(B)(3). Objections to the surety are governed by MCR 3.604(E).~~

~~(c) If no timely objections to the bond, surety, or stay order are filed, the trial court shall promptly enter the order staying enforcement of the judgment or order pending all appeals. The stay shall continue until otherwise ordered by the trial court or an appellate court.~~

~~(d) Any stay order must be promptly served on all parties in the manner prescribed in MCR 2.107. Proof of service must be filed promptly with the trial court.~~

~~(e) All hearings under this rule may be held by telephone conference as provided in MCR 2.402.~~

~~(f) For good cause shown, the trial court may set the amount of the bond in a greater or lesser amount adequate to protect the interests of the parties.~~

~~(g) A bond may be secured under MCL 600.2631.~~

~~(2) [Unchanged.]~~

~~(H)–(I) [Unchanged.]~~

STAFF COMMENT: These amendments relate to stay bonds. The amendments of MCR 7.209 are modeled on the recent revisions of MCR 7.108, the circuit court appeals rule, and provide that filing a bond automatically stays enforcement of a money judgment or order. The amendments further clarify that the automatic stay provision does not apply to domestic relations matters, in which a stay must be ordered by the trial court. The amendment of MCR 2.614 coordinates with the amendment of MCR 7.209 and clarifies that execution may not issue until 21 days after a *final* judgment enters in a case.

The staff comment is not an authoritative construction by the Court. In addition, adoption of a new rule or amendment in no way reflects a substantive determination by this Court.

### Supreme Court Appointment of Commissioners-at-Large to the State Bar of Michigan Board of Commissioners

On order of the Court, dated October 14, 2015, pursuant to State Bar Rule 5, Section 2, Robert C. Gardella is reappointed commissioner-at-large of the State Bar of Michigan Board of Commissioners to serve a first full three-year term commencing on adjournment of the 2015 annual meeting of the outgoing board of commissioners.

On further order of the Court, Brian D. Shekell and Krista L. Haroutunian are appointed commissioners-at-large of the State Bar of Michigan Board of Commissioners to serve three-year terms commencing on adjournment of the 2015 annual meeting of the outgoing board of commissioners.