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Proposed Amendments of Rules 2.625 and 3.101 of the Michigan Court Rules

Proposed Amendment of Rules 3.903, 3.932, and 3.936 of the Michigan Court Rules

To read ADM File No. 2016-40, dated December 21, 2016; and ADM File No. 2016-39, dated December 21, 2016; visit <http://courts.michigan.gov/courts/michigansupremecourt> and click “Administrative Matters & Court Rules” and “Proposed & Recently Adopted Orders on Admin Matters.”

Rescission of Administrative Order No. 1981-5 and Administrative Order No. 1992-3

On order of the Court, dated December 14, 2016, Administrative Order No. 1981-5 and Administrative Order No. 1992-3 are rescinded, effective immediately.

Termination of Administrative Order No. 2014-19
(Dated December 21, 2016)

Administrative Order No. 2014-19 is terminated, effective immediately.

Proposed Adoption of Rule 5.731a of the Michigan Court Rules

On order of the Court, dated December 14, 2016, the Court declines to adopt proposed Rule 5.731a of the Michigan Court Rules, which was published for comment at 497 Mich 1224–1225 (2015), and an opportunity provided for comment in writing and at a public hearing. This administrative file is closed without further action.

Proposed Amendment of Rule 9.108 of the Michigan Court Rules

On order of the Court, dated December 21, 2016, this is to advise that the Court is considering an amendment of Rule 9.108 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 9.108 Attorney Grievance Commission

(A)–(D) [Unchanged.]

(E) Powers and Duties. The commission has the power and duty to:

(1)–(3) [Unchanged.]

(4) seek an injunction from the Supreme Court against an attorney’s misconduct or from the practice of law when prompt action is required, even if a disciplinary proceeding concerning that conduct is not pending before the board;

(5)–(8) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 9.108 would clarify that the Court has the authority to enjoin an attorney from practicing law.

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 April 1, 2017, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2015-18. 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, 3.903, 3.923, 3.943, 3.955, 3.979, 5.140, 6.445, 7.203, 7.209, 7.312, 8.108, 9.122, and 9.126 of the Michigan Court Rules

On order of the Court, dated December 14, 2016, the following corrections are adopted, effective immediately.

[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)–(C) [Unchanged.]

(D) Stay on Appeal. Stay on appeal is governed by MCR 7.108, 7.209, and ~~7.302~~7.305(I). If a party appeals a trial court’s denial of the party’s claim of governmental immunity, the party’s appeal operates as an automatic stay of any and all proceedings in the case until the issue of the party’s status is finally decided.

(E)–(G) [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~~ the provision for obtaining a stay of a money judgment by filing a bond under MCR 7.209(E)(2)(a) 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.

Rule 3.903 Definitions

(A) General Definitions. When used in this subchapter, unless the context otherwise indicates:

(1)–(25) [Unchanged.]

(26) “Register of actions” means the ~~permanent~~ case history maintained in accord with the Michigan Supreme Court Case File Management Standards. See MCR 8.119(D)(1)(c).

(27) [Unchanged.]

(B)–(F) [Unchanged.]

Rule 3.923 Miscellaneous Procedures

(A)–(D) [Unchanged.]

(E) Electronic Equipment; Support Person. The court may allow the use of ~~closed-circuit television~~ videoconferencing technology, speaker telephone, or other similar electronic equipment to facilitate hearings or to protect the parties. The court may allow the use of videotaped statements and depositions, anatomical dolls, or support persons, and may take other measures to protect the child witness as authorized by MCL 712A.17b.

(F)–(G) [Unchanged.]

Rule 3.943 Dispositional Hearing

(A)–(D) [Unchanged.]

(E) Dispositions.

(1)–(6) [Unchanged.]

(7) Mandatory Detention for Use of a Firearm.

(a) In addition to any other disposition, a juvenile, other than a juvenile sentenced in the same manner as an adult under MCL 712A.18(1)(~~n~~)(m), shall be committed under MCL 712A.18(1)(e) to a detention facility for a specified period of time if all the following circumstances exist:

(i)–(iii) [Unchanged.]

(b)–(c) [Unchanged.]

Rule 3.955 Sentencing or Disposition in Designated Cases

(A) Determining Whether to Sentence or Impose Disposition. If a juvenile is convicted under MCL 712A.2d, sentencing or disposition shall be made as provided in MCL 712A.18(1)(~~n~~)(m) and the Crime Victim's Rights Act, MCL 780.751 *et seq.*, if applicable. In deciding whether to enter an order of disposition, or impose or delay imposition of sentence, the court shall consider all the following factors, giving greater weight to the seriousness of the offense and the juvenile's prior record:

(1)–(6) [Unchanged.]

(B)–(E) [Unchanged.]

Rule 3.979 Juvenile Guardianships

(A)–(C) [Unchanged.]

(D) Court Responsibilities.

(1) Annual Reviews.

(a)–(b) [Unchanged.]

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

(2)–(4) [Unchanged.]

(E)–(F) [Unchanged.]

Rule 5.140 Use of Videoconferencing Technology

(A) [Unchanged.]

(B) In a mental health proceeding, if the subject of the petition wants to be physically present, the court must allow the individual to be present unless the court excludes or waives the physical presence of the subject pursuant to MCL 330.1455. This does not apply to proceedings concerning a person originally committed as a result of MCL 330.2050.

(C)–(E) [Unchanged.]

Rule 6.445 Probation Revocation

(A)–(F) [Unchanged.]

(G) Sentencing. If the court finds that the probationer has violated a condition of probation, or if the probationer pleads guilty to a violation, the court may continue probation, modify the conditions of probation, extend the probation period, or revoke probation and impose a sentence of incarceration. The court may not sentence the probationer to prison without having considered a current presentence report. ~~The court and~~ may not sentence the probationer to prison or jail (including for failing to pay fines, costs, restitution, and other financial obligations imposed by the court) without having complied with the provisions set forth in MCR 6.425(B) and (E).

(H) [Unchanged.]

Rule 7.203 Jurisdiction of the Court of Appeals

(A)–(F) [Unchanged.]

~~(G) Appeals from Orders Granting or Denying Motions for Summary Disposition. Appeals arising solely from orders granting or denying motions for summary disposition under MCR 2.116 are to be processed in accordance with Administrative Order 2004-5.~~

Rule 7.209 Bond; Stay of Proceedings

(A)–(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~~ the provision for obtaining a stay of a money judgment by filing a bond under MCR 7.209(E)(2)(a) does not apply to domestic relations matters, in which a stay must be ordered by the trial

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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.

Rule 7.312 Briefs and Appendixes in Calendar Cases

(A) Form. Briefs in calendar cases must be prepared in the form provided in MCR 7.212(B), (C), ~~and (D), and (G)~~. Briefs shall be printed on only the front side of the page of good quality, white unglazed paper by any printing, duplicating, or copying process that provides a clear image. Original typewritten pages may be used, but not carbon copies.

(B)–(J) [Unchanged.]

Rule 8.108 Court Reporters and Recorders

(A)–(F) [Unchanged.]

(G) Certification.

(1)–(2) [Unchanged.]

(3) Certification by Testing.

(a) The board shall approve administration of an examination to be offered at ~~At least twice each year the board shall administer an examination~~ testing knowledge and speed, and, as to a recorder, operator, or voice writer, familiarity with basic logging techniques and minor repair and maintenance procedures. The board shall determine the passing score.

(b)–(e) [Unchanged.]

(f) The registration~~certification~~ fee is \$60.

(4)–(7) [Unchanged.]

Rule 9.122 Review by Supreme Court

(A) Kinds Available; Time for Filing

(1) A party aggrieved, including the complainant, by a final order entered by the board on review under MCR 9.118, may apply for leave to appeal to the Supreme Court under ~~MCR 7.302~~7.305 within 28 days after the order is entered. If a motion for reconsideration is filed before the board's order takes effect, the application for leave to appeal to the Supreme Court may be filed within 28 days after the board enters its order granting or denying reconsideration.

(2) If a request for investigation has been dismissed under MCR 9.112(C)(1)(a) or 9.114(A), a party aggrieved by the dismissal may file a complaint in the Supreme Court under ~~MCR 7.304~~7.306.

(B)–(E) [Unchanged.]

Rule 9.126 Open Hearings; ~~Privileged~~Privileged, Confidential Files and Records

(A)–(D) [Unchanged.]

(E) Other Information. Notwithstanding any prohibition against disclosure set forth in this rule or elsewhere, the commission shall disclose the substance of information concerning attorney or judicial misconduct to the Judicial Tenure Commission, upon request. The commission also may make such disclosure to the Judicial Tenure Commission, absent a request, and to:

(1) the State Bar of Michigan Client ~~Security~~Protection Fund,

(2)–(8) [Unchanged.]

STAFF COMMENT: These amendments update cross-references and make other nonsubstantive revisions to clarify the rules.

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.

Appointment of Chief Judge of the Courts
in Alcona, Arenac, Iosco, and Oscoda Counties
(Dated December 14, 2016)

On order of the Court, effective immediately, the Honorable Richard E. Vollbach Jr. is appointed chief judge of the courts in Alcona, Arenac, Iosco, and Oscoda Counties for the remainder of a term ending December 31, 2017. The courts include:

23rd Circuit Court

Alcona County Probate Court

Arenac County Probate Court

Iosco County Probate Court

Oscoda County Probate Court

81st District Court



community service

access to justice

pro bono

