

Proposed Amendments of Rule 6.302 and Rule 6.610 of the Michigan Court Rules (Dated September 11, 2019)

On order of the Court, this is to advise that the Court is considering amendments of Rule 6.302 and Rule 6.610 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 6.302 Pleas of Guilty and Nolo Contendere

(A)–(C) [Unchanged.]

(D) An Accurate Plea.

- (1) If the defendant pleads guilty, the court, by questioning the defendant, must establish support for a finding that the defendant is guilty of ~~the offense charged~~ or the offense to which the defendant is pleading.
- (2) If the defendant pleads nolo contendere, the court may not question the defendant about participation in the crime. The court must:
 - (a) [Unchanged.]
 - (b) hold a hearing, unless there has been one, that establishes support for a finding that the defendant is guilty of ~~the offense charged~~ or the offense to which the defendant is pleading.

(E)–(F) [Unchanged.]

Rule 6.610 Criminal Procedure Generally

(A)–(D) [Unchanged.]

(E) Pleas of Guilty and Nolo Contendere. Before accepting a plea of guilty or nolo contendere, the court shall in all cases comply with this rule.

- (1) The court shall determine that the plea is understanding, voluntary, and accurate. In determining the accuracy of the plea,
 - (a) if the defendant pleads guilty, the court, by questioning the defendant, shall establish support for a finding that defendant is guilty of ~~the offense charged~~ or the offense to which the defendant is pleading, or
 - (b) [Unchanged.]
- (2)–(9) [Unchanged.]

(F)–(H) [Unchanged.]

STAFF COMMENT: The proposed amendments of MCR 6.302 and MCR 6.610 would eliminate the requirement for a court to establish support for a finding that defendant is guilty of the offense

charged as opposed to an offense to which defendant is pleading guilty or nolo contendere. The sentencing guidelines make clear that offense variables are to be scored on the basis of the “sentencing offense alone,” not the charged offense. Further, an “offense to which defendant is pleading” would include the charged offense (if defendant is pleading to the charged offense) as well as any other offense that may have been offered by the prosecutor, so the “charged offense” clause may well be unnecessary.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an 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 Supreme Court Clerk in writing or electronically by January 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2018-29. 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.

Proposed Amendment of Rule 8.301 of the Michigan Court Rules (Dated September 11, 2019)

On order of the Court, this is to advise that the Court is considering an amendment of Rule 8.301 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 8.301 Powers of Register of Probate, Deputy Registers, and Clerks

(A) [Unchanged.]

(B) Entry of Order Specifying Authority.

- (1) To the extent authorized by the chief judge of a probate court by a general order, the probate register, and the deputy probate register, ~~the clerks of the probate court, and other court employees designated in the order,~~ have the authority, until the further order of the court, to do all acts required of the probate judge except judicial acts in a contested matter and acts forbidden by law to be performed by the probate register.

(2) [Unchanged.]

(C) [Unchanged.]

STAFF COMMENT: The proposed amendment of MCR 8.301 would make the rule consistent with the statute (MCL 600.834) allowing only the probate registers and deputy probate registers to perform certain administrative tasks that would otherwise be performed by the probate judge.

The staff comment is not an authoritative construction by the Court. In addition, adoption of an 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 Supreme Court Clerk in writing or electronically by January 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2018-24. 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 1.109, 3.206, 3.931, and 3.961 of the Michigan Court Rules (Dated September 11, 2019)

On order of the Court, this is to advise that the amendments of Rules 1.109, 3.206, 3.931, and 3.961 of the Michigan Court Rules are adopted, effectively immediately, and are also the subject of comment during a public comment period. This notice is given to afford interested persons the opportunity to comment on the form or the merits of the amendments. 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.

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

Rule 1.109 Court Records Defined; Document Defined; Filing Standards; Signatures; Electronic Filing and Service; Access

(A)–(C) [Unchanged.]

(D) Filing Standards.

(1) [Unchanged.]

(2) Case Initiation Information. A party filing a case initiating document and a party filing any response or answer to a case initiating document shall provide specified case information in the form and manner established by the State Court Administrative Office and as specified in other applicable rules. At a minimum, specified case information shall include the name, an address for service, an e-mail address, and a telephone number of every party, and:

(a) [Unchanged.]

(b) in proceedings governed by chapters 3.200 and 3.900, except for outgoing requests to other states and incoming registration actions filed under the Revised Uniform Reciprocal Enforcement of Support Act, MCL 780.151 *et seq.* and the Uniform Interstate Family Support Act,

MCL 552.2101 *et seq.*, either of the following statements, if known:

(i) [Unchanged.]

(ii) There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person[s] who [is/are] the subject of the complaint or petition. I have filed/Attached is a completed case inventory listing those cases.

(3)–(8) [Unchanged.]

(E)–(G) [Unchanged.]

Rule 3.206 Initiating a Case

(A) Information in Case Initiating Document.

(1)–(2) [Unchanged.]

(3) When any pending or resolved family division case exists that involves family members of the person(s) named in the case initiation document filed under subrule (2), the filing party must complete and file/attach a completed case inventory listing those cases, if known. The case inventory is confidential, not subject to service requirements in MCR 3.203, and is available only to the party that filed it, the filing party's attorney, the court, and the friend of the court. The case inventory must be on a form approved by the State Court Administrative Office. This does not apply to outgoing requests to other states and incoming registration actions filed under the Revised Uniform Reciprocal Enforcement of Support Act, MCL 780.151 *et seq.* and the Uniform Interstate Family Support Act, MCL 552.2101 *et seq.*

(4)–(6) [Unchanged.]

(B)–(D) [Unchanged.]

Rule 3.931 Initiating Delinquency Proceedings

(A) Commencement of Proceeding. Any request for court action against a juvenile must be by written petition. The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D). When any pending or resolved family division case exists that involves family members of the person(s) named in the petition filed under subrule (B), the petitioner must complete and file/attach to the petition a completed case inventory listing those cases, if known. The case inventory is confidential, not subject to service requirements in MCR 3.203, and is available only to the party that filed it, the filing party's attorney, the court, and the friend of the court. The case inventory must be on a form approved by the State Court Administrative Office.

(B)–(D) [Unchanged.]

Rule 3.961 Initiating Child Protective Proceedings

(A) Form. Absent exigent circumstances, a request for court action to protect a child must be in the form of a petition. The form, captioning, signing, and verifying of documents are prescribed in MCR 1.109(D). When any pending or resolved family division case exists that involves family members of the person(s)

named in the petition filed under subrule (B), the petitioner must complete and file attach to the petition a completed case inventory listing those cases, if known. The case inventory is confidential, not subject to service requirements in MCR 3.203, and is available only to the party that filed it, the filing party's attorney, the court, and the friend of the court. The case inventory must be on a form approved by the State Court Administrative Office.

(B)–(C) [Unchanged.]

STAFF COMMENT: The amendments of MCR 1.109, 3.206, 3.931, and 3.961 enable family division courts to use the required case inventory form to administer cases while keeping the information confidential. This change is intended to prevent providing information that could affect the safety of domestic violence victims and their children.

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 amendment may be sent to the Supreme Court Clerk in writing or electronically by January 1, 2020, at P.O. Box 30052, Lansing, MI 48909, or ADMcomment@courts.mi.gov. When filing a comment, please refer to ADM File No. 2019-12. 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.

Supreme Court Appointments to the Attorney Discipline Board (Dated September 11, 2019)

On order of the Court, pursuant to MCR 9.110, Michael B. Rizik Jr. (attorney member) and Karen D. O'Donoghue (layperson member) are reappointed to the Attorney Discipline Board for terms commencing on October 1, 2019 and ending on October 1, 2022. Michael Hohausser is appointed as an attorney member of the Attorney Discipline Board for a term commencing on October 1, 2019 and ending on October 1, 2022.

Attorney Jonathan E. Lauderbach is appointed chairperson of the board and Michael B. Rizik Jr. is appointed vice chairperson of the board for terms ending October 1, 2020.

Supreme Court Appointments to the Attorney Grievance Commission

(Dated September 11, 2019)

On order of the Court, pursuant to MCR 9.108, Mary Chartier-Mittendorf (attorney member) and Jeffrey J. Sakwa (layperson member) are reappointed to the Attorney Grievance Commission with terms commencing on October 1, 2019 and ending on October 1, 2022. J. Paul Janes is appointed as an attorney member of the Attorney Grievance Commission for a term commencing on October 1, 2019 and ending on October 1, 2022.

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

(Dated September 11, 2019)

On order of the Court, pursuant to State Bar Rule 5, Section 2, Mark A. Wisniewski is appointed commissioner-at-large of the State Bar of Michigan Board of Commissioners to serve a three-year term commencing on adjournment of the 2019 annual meeting of the outgoing Board of Commissioners.

Appointment of Grievance Administrator

(Dated September 13, 2019)

On order of the Court, pursuant to MCR 9.109(A), Michael V. Goetz is appointed Grievance Administrator, effective September 23, 2019.

Assignment of Business Court Judges in the 3rd Circuit Court (Wayne County)

(Dated September 11, 2019)

On order of the Court, effective immediately, the Honorable David J. Allen and the Honorable Muriel D. Hughes are assigned to serve in the role of business court judge in the 3rd Circuit Court, for terms expiring April 1, 2025.

Valerie R. White is appointed as chairperson and Thomas G. Kienbaum is appointed vice chairperson of the commission for terms ending October 1, 2020.